

# DOLAN AND DOLAN

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March 16, 2021

**Via Electronic Mail Only**  
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Thomas J. Molica Jr., Esq.  
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25 Lindsley Drive, Suite 200  
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**RE: BHT Properties**  
**Andover Township Land Use Board**  
**248 Stuckles Pond Road**  
**Block 151, Lot 21**

Dear Mr. Molica:

I received your letter dated March 15<sup>th</sup>. My client filed an Amended Application for a permitted use of the zone. Impervious coverage, ingress and egress, and lighting would not change. My client no longer proposes vehicle storage use, but rather a permitted use as a contractor's yard which would involve storage of construction vehicles and equipment and material storage in accordance with the applicable zoning standards for that use. The proposed business operation originally submitted and the now proposed operation both involve storage of vehicles, but the business now proposed would be a conforming use and involve storage on a much smaller scale.

For that reason, we deem the application to be an amendment of the currently pending Application.

Since the proposal would require new analysis as to conformance in the permitted use, my client confirms that the review process and time periods provided for in the Municipal Land Use Law would commence as of the date that the materials provided are deemed to be sufficient to proceed to hearing. All timeframes would commence as of March 10, 2021.

The request for approval of a vehicle storage yard is withdrawn.

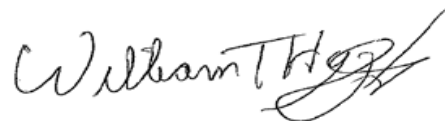
My client will be obligated to pay such escrow fees and Application fee as may be necessary.

The case cited in your letter Ten Sary Dom Ptp. v. Mauro, 216 N.J. 16, 38-40 (2013) discussed the issue of res judicata in the context as to whether an Application would be similar or substantially similar to a prior Application thereby prohibiting what would essentially be a rehearing of the same Application. Hearing of the existing Application was never completed so this doctrine would not apply. The proposed use now before the Board though is sufficiently similar to the proposed prior use that the Application should be considered an Amended Application rather than a new Application.

Again, so that my client's position is clear for the Board, the request for the approval of a vehicle storage use of the premises is withdrawn and replaced with a proposal that is a permitted use in the zone as an Amended Application.

Very truly yours,

DOLAN & DOLAN, PA



William T. Haggerty

WTH:jm

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