

RESOLUTION MEMORIALIZING A DETERMINATION BY THE JOINT LAND USE BOARD OF BELLMAWR THAT THE APPLICANT'S PROPOSED USE IS A PERMITTED USE AND FURTHER MEMORIALIZING A CONDITIONAL SITE PLAN WAIVER AND FURTHER MEMORIALIZING THE GRANT OF VARIANCES FOR LITTLE VIPS INC., FOR PROPERTY AT 318 AND 330 EAST BROWNING ROAD, BLOCK 136, LOTS 5 AND 6

WHEREAS, on August 5, 2024, consideration was given the application of Little VIPS Inc. for a use variance if necessary, and a site plan waiver and variances for existing improvements for property located at 318 and 330 East Browning Road, Block 136, Lots 5 and 6;

WHEREAS, the applicant appeared and was represented by Beth Marlin, Esquire and the Board heard testimony from the applicant/owners Beth McCallum and Shannon Hodson and having heard from Board Planner/Engineer Steven Bach, and having reviewed documentation submitted with the application and during the hearing, the Board makes the following factual findings in conditionally approving the subject application for a site plan waiver, variances, and existing nonconforming entitlements:

1. The application has been properly noticed and applied for, and all conditions precedent to the Board's jurisdiction have been satisfied.
2. The Board had before it the following items:
 - Borough of Bellmawr Land Development Application and Rider.
 - Cover letter prepared by Brown & Connery, LLP, dated May 30, 2024.
 - Legal Description for Block 136 Lot 5 prepared by Cleo E. McCall, PLS, dated April 17, 2024.
 - Legal Description for Block 136 Lot 6 prepared by Cleo E. McCall, PLS, dated April 16, 2024.
 - Survey entitled "Plan of Survey, Lot 5, Block 136, Borough of Bellmawr, Camden County, New Jersey", prepared by Apex Surveys, dated 4-16-24, no revision.
 - Survey entitled "Plan of Survey, Lot 6, Block 136, Borough of Bellmawr, Camden County, New Jersey", prepared by Apex Surveys, dated 4-16-24, no revision.
 - Architectural plan entitled "Proposed Renovation of an Existing Dwelling for: Little V. I. P. Day Care, 330 E. Browning Rd, Bellmawr, NJ 08031" prepared by Grayling L. Johnson, Architect, dated 2-06-24, no revision (2 sheets).
 - Child care center license for "Little VIP's Inc." at 318 East Browning Road expiring 12/21/26.
3. However, at the commencement of the hearing, the Board Solicitor offered a legal opinion in response to the argument of applicant's counsel that the use variance was, in fact, not required. The Board planning engineer joined in this opinion.
4. Specifically, the Board Solicitor referred to NJSA40:55D-66.6 child care centers located in non-residential municipal districts; permitted.

Child care centers for which, upon completion, a license is required from the Department of Human Services pursuant to P.L.1983, c.492 (C.30:5B-

1 et seq.), shall be a permitted use in all nonresidential districts of a municipality. The floor area occupied in any building or structure as a child care center shall be excluded in calculating: (1) any parking requirement otherwise applicable to that number of units or amount of floor space, as appropriate, under State or local laws or regulations adopted thereunder; and (2) the permitted density allowable for that building or structure under any applicable municipal zoning ordinance.

5. The Board heard testimony that the applicant has used Lot 5 for a daycare facility since 1987 and absent any proof to the contrary, the Board accepts the applicant's sworn testimony that Lot 5 has been used for daycare purposes since 1987 and the entirety of Lot 5 used for those purposes since 2000.
6. The Board heard testimony that the applicant desires to use Lot 6 to expand the daycare facility and heard testimony regarding the interior renovations that will be made to the building on Lot 6 to renovate the existing residence for daycare use.
7. The applicant has provided the Board with documentation that indicated that they are, in fact, licensed consistent with the requirements of the statute, and a continued licensure must be extended to the new lot being utilized for this purpose, and evidenced by a subsequent license issuance as a condition of this approval.
8. The Board heard testimony of the applicant with respect to hours of operation. The operational statements submitted by the applicant with its application generally describe 10 existing classrooms with one to be added, 130 students, with hours of operation from 6:30 a.m. to 6:00 p.m., drop-off and pickup procedures (including staggered times), as well as deliveries. Reference was made to weekly trash pickup by Waste Management at an hour earlier than permitted by Borough ordinance. As a condition of approval, the applicant agreed to see to it that the trash hauler will pick up only during hours consistent with Borough ordinances.
9. The Board heard testimony of the applicant regarding the sufficiency of the existing parking.
10. The balance of the hearing generally dealt with the proposed minor improvements, for which the applicant sought a waiver of site plan approval. Initially, the applicant stated the only exterior improvement would be a handicap ramp. As the hearing went on and the Board Engineer's report was discussed, it became clear that there would be other improvements required. The Board favorably found given the inherently beneficial use, the long-term use of the property for a daycare facility, the long-term existence of the buildings and site improvements, and the minimal new improvements to the property, that while a full formal site plan per se would not be necessary, a plan depicting existing and proposed lighting additional information set out below would be required as a condition of site plan waiver. Put differently, this is not a "waiver of site plan" but rather a conditional waiver of a full site plan and plan details.
11. These agreed upon site improvements include, but are not limited to, the encapsulation of the trash bin that is on the subject site, which shall include gates; the best efforts by the applicant to have the neighbor remove an encroaching propane tank occupied by the adjacent property; various driveway improvements would be provided; a shed would be removed; steps would be repaired; the applicant will provide a schedule of existing lighting to be augmented when and where needed, including, but not limited to, at the proposed handicap ramp on the side of Little VIPs and at the rear of the new building. The new lighting shall have no glare off-site nor any off-site light spillage whatsoever; a barrier would be required between the parking lot and the

pedestrian walkway between the two buildings, by materials to be agreed upon by the board engineer and applicant; a fence would be required between the property and the adjacent commercial property where the gas station is and along the back of Lot 6.

12. Reference was made to seeking of variances "ratifying" various existing nonconformities, including fence height, sign size, sign location, and setback of trash enclosures. These are all in existence, and have been for many years with no negative consequences.
13. The Board heard testimony of the applicant regarding the need for a higher fence for safety, security and privacy purposes, the need for larger sign for visibility and the need for the sign setback to avoid interference with parking spaces and drive aisles. These new variances are appropriately sought and granted.

NOW, THEREFORE, after considering the foregoing testimony and facts, the Board concludes that 1) the use variance is not necessary as the uses are deemed permitted on both Lots 5 and 6 subject to licensure as hereinabove stated; and 2) approval for full site plan waiver is conditionally granted subject to the provision of a plan showing lighting details and other minor details as agreed upon by the applicant for the review by the Board Engineer and the request for variances and recognition of existing non-conformities is appropriate and approved. Accordingly, waivers, ratifications and variances referred to in fact finding paragraph 12 and 13 above are

hereby conditionally granted, subject; however, to the following conditions:

1. The applicant must contact the Joint Land Use Board office to settle any outstanding review escrow accounts prior to the issuance of building permits.
2. Approval of all appropriate reviewing agencies.
3. Compliance with all Borough, County, State and Federal rules, regulations and ordinances.
4. Compliance with the Board Engineer's report and comments at the public hearing.
5. Compliance with all representations made by the applicant at all public hearings, including the testimonies and agreements set out above.
6. Provision of a lighting plan depicting existing and proposed lighting together with such other minor details as agreed upon between the Board Engineer and the applicant such plan subject to the review and approval of the Board Engineer (see paragraph 11).
7. Posting any required additional performance and maintenance bonding.
8. Compliance with the conditions of approval set forth in this resolution.
9. Proof of licensure for new premises.

The Board further concludes that the applicant has established bases for the waiver of site plan details under NJSA 40:55-D-51 and has likewise established entitlement to the new variances as well as the right to continue existing non-conformities referred to in fact finding paragraph 12 and 13 above under NJSA 40:55D-68. and 40:55D-70(c).

Those Eligible to Vote

Those in Favor

Those Opposed

8

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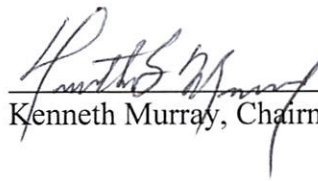
Ken Murray
Emil Andrae
Raymond Staszak
Joshua Haas
Mark DeBerardinis
John Scarborough
Harry Corcoran
Mayor Sauter
Councilman Wilhelm

ATTEST:

JOINT LAND USE BOARD:



Mark DeBerardinis, Secretary



Kenneth Murray, Chairman

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution adopted by the Borough of Bellmawr Joint Land Use Board at a meeting held on the 9th day of September, 2024.



Mark DeBerardinis, Secretary