

**TOWNSHIP OF MANSFIELD
PLANNING BOARD
REGULAR MEETING
Monday, October 22, 2018**

The Regular Meeting of the Mansfield Township Planning Board was held on the above shown date with the following in attendance: Randy Allen, Douglas Borgstrom, Shane Fleming, Mayor Higgins, John Kampo, Delpat Patel, Chairman Preidel, Secretary Ashley Jolly, Attorney Thomas Coleman, Engineer Robert Stout, Planner Edward Fox, and Traffic Engineer Alexander Litwornia. Frederick Cain and Gary Lippincott were absent.

The meeting was called to order by Chairman Preidel followed by the flag salute and the following opening statement:

The Notice requirements provided for in the Open Public meetings Act have been satisfied. Notice of this meeting was properly given in the annual notice which was adopted by the Mansfield Township Planning Board on January 22, 2018. Said Resolution was published in the Burlington County Times, e-mailed to the Burlington County Times, and Trenton Times, filed with the Clerk of the Township of Mansfield, posted on the official bulletin board at the Municipal Complex, filed with the members of this body, and mailed to each person who has requested copies of the regular meeting schedule and who has prepaid any charge fixed for such service. All the mailing, posting and filing having been accomplished on January 25, 2018.

Chairman Preidel asked to amend the agenda to move application PB2018-7 Ad-Dawah Center of New Jersey up to the first item. All members agreed.

APPLICATION PB2018-7: Ad-Dawah Center of New Jersey Block 30, Lot 13.01 – 3191 Route 206

Chairman Preidel explained that this application is for preliminary and final site plan and the applicant has asked to carry over the November 26th meeting. **Attorney Coleman** stated that he has been in contact with the applicant's attorney Mr. Roselli as well as Township Solicitor John Gillespie. He explained that they are asking for the application to be carried because Mr. Roselli was unable to attend the meeting because of a personal matter.

A motion to carry the above application to November 26, 2018 was offered by **Vice-Chairman Borgstrom** and was seconded by **Chairman Preidel**. Motion carried on a roll call vote recorded as follows:

AYE: Allen, Borgstrom, Fleming, Higgins, Kampo, Patel, Preidel

NAY: None ABSENT: Cain, Lippincott

Chairman Preidel made it clear to the public that no comments can be heard regarding the above application, until they come before the board in November.

REQUEST FOR EXTENSION OF APPROVAL: VA Florence Company, LLC, Block 47.01, Lots 11 & 12

Chairman Preidel stated the above applicant was here for an extension of their 2009-03-07 resolution of approval for preliminary site plan approval. The extension request was for an additional 5 years, until March 22, 2023. **Attorney Zimmerman** representing the applicant explained they are making a request for an extension of preliminary approval. In their letter they had requested an extension of 5 years, however he is asking to amend that request to be just less than 5 years as Municipal Land Use Law requires notice on an application requesting extension of approval greater than 5 years. He is requesting an extension of 4 years and 11 months.

Attorney Coleman stated that was correct; if the applicant wants an extension without noticing, it would need to be less than 5 years.

Attorney Gracy Wynter with Hulse & Wynter 1624 Jacksonville Road – stated that she was representing NB Cares, and wanted to state on the record that they have no objections to the application for extension. They only request that the resolution reflect the history which includes; the minor subdivision, amended and final site plan application that was recently approved, and also the underlying settlement agreement between the parties. **Attorney Coleman** stated that was a fair request.

A motion to approve the extension of 4 years 11 months for the above applicant was offered by **Vice Chairman Borgstrom** and was seconded by **Mr. Allen**. Motion carried on a roll call vote recorded as follows:

AYE: Allen, Borgstrom, Fleming, Higgins, Kampo, Patel, Preidel

NAY: None ABSENT: Cain, Lippincott

RESOLUTION 2018-9-13:

**PLANNING BOARD OF THE TOWNSHIP OF MANSFIELD
RESOLUTION NO. 2018-9-13
RESOLUTION OF THE TOWNSHIP OF MANSFIELD PLANNING BOARD
CONCERNING THE APPLICATION OF
SUZANNE LEECHONG
FOR VARIANCE AND PRELIMINARY AND FINAL SITE PLAN APPROVAL**

WHEREAS, Suzanne Leechong has applied to the Planning Board of the Township of Mansfield for Preliminary and Final Site Plan Approval for property located on Route 206, known as Block 4, Lot 8.02 on the Official Tax Map of the Township of Mansfield (the “Property”), for the purpose of constructing a day care center on the Property; and

WHEREAS, the Property is located within the Highway Commercial (C-2) Zoning District of the Township of Mansfield; and

WHEREAS, child care centers are permitted uses in the C-2 Zone; and

WHEREAS, variances are required as the proposed development of the Property does not satisfy the Ordinance requirements pertaining to outdoor play area, improvement setback, public sewer and fence location; and

WHEREAS, the Applicant is proposing to construct a 12,467 square foot day care center with a 6,500 square foot gymnasium, on the Property; and

WHEREAS, the application was deemed conditionally complete by the Planning Board on June 25, 2018 and the Applicant has submitted the additional information required by the Board’s conditional completeness determination; and

WHEREAS, a public hearing to consider the application was held by the Planning Board on September 24, 2018, after public and personal notice was provided to all property owners within 200 feet of the Property and published in the Official Newspaper of the Township, as required by the land development regulations of the Township of Mansfield and the statutes of the State of New Jersey; and

WHEREAS, the Applicant presented evidence to the Board through testimony, plans and other evidence; and

WHEREAS, the following exhibit was presented by the Applicant during the Public Hearing:

A-1 Color rendering of Site Plan; and

WHEREAS, the following review letters were submitted to the Board by its Professionals:

- September 19, 2018 Review Letter of the Board Engineer, Stout & Caldwell Engineers and Surveyors, by Robert S. Stout, PE, PLS;
- August 22, 2018 Review Letter of the Board Planner, Environmental Resolutions, Inc., by Barbara J. Fegley, AICP, PP; and
- August 21, 2018 Review Memorandum of the Board Traffic Engineer, Litwornia Associates, Inc., by Alexander J. Litwornia, PE, PP, and

WHEREAS, the Board after carefully considering the evidence presented by the Applicant in support of her application for Preliminary and Final Site Plan Approval, and after the meeting was opened to the public for their questions, comments and input, has made the following findings of fact:

1. The Applicant is the contract-purchaser of the Property, located on Route 206 in the C-2 Highway Commercial Zoning District. The Property is 3.22 acres in area and is undeveloped, wooded land, with wetland areas extending into the rear of the Property.
2. The Property and adjacent Lots 8.01 and 8.03 were the subject of a subdivision approval granted by the Board which required cross easements for shared driveways and vehicular movement between the properties.
3. Access to the Property from Route 206 would be by a driveway shared with adjacent Lot 8.03, in accordance with the prior subdivision approval and the recorded Declaration of Cross Easements for Driveway Access and Service Road Use.
4. Site Plan Approval was granted in 2010 for the development of a car wash on adjacent Lot 8.03.
5. The Applicant is proposing to develop the Property with a 12,467 square foot New Jersey licensed day care center, including a 6,500 square foot gymnasium, and a 3,155 square foot basement.

6. The Applicant has submitted an application for Preliminary and Final Site Plan Approval for the proposed development of the Property, providing the Board with a proposed set of plans, reports, studies and testimony.
7. The taxes on the Property are current or exempt.
8. The Applicant has paid and/or posted all required fees and agreed to keep the review escrow current.
9. Proper notice of the application for Variance and Preliminary and Final Site Plan Approval has been given, based upon the certified list from the Office of the Mansfield Township Tax Assessor.
10. The Applicant requires the following design standard waivers for the development of the Property as proposed:
 - a. Parking space dimension – 9.5 feet by 18 feet required, 9 feet by 18 feet proposed;
 - b. Piping – standard headwalls required; flared end sections proposed;
 - c. Pipe sizes – 15 inch minimum required, 12 inches proposed;
 - d. Sidewalk – Sidewalk required along the Route 206 frontage, none proposed.
11. The Applicant requires the following variances to develop the Property as proposed:
 - a. Size of outdoor play area – 17,250 square feet required (150 SF/child), 3,800 square feet proposed;
 - b. Improvement setback from right-of-way – 25 feet required; 8 feet proposed;
 - c. Public sewer – required prior to the issuance of a Certificate of Occupancy, subsurface disposal system proposed;
 - d. Fencing – prohibited in front yard areas, proposed along northerly property line in front yard.
12. The Applicant revised the building design and eliminated the canopy that encroached into the required front yard setback area.
13. The Applicant was represented at the September 24, 2018 Public Hearing by David Frank, Esquire. The Applicant, Kevin Shelly and Deanna Drumm testified.
14. The Applicant provided the following sworn testimony during the Public Hearing:
 - a. The day care center will require the issuance of a license from the State of New Jersey to operate;
 - b. The day care center is not recognized by the State as a school and is not a co-op;
 - c. The day care center will accommodate 115 children broken down by age group with approximately 30 children being 10 months or younger, 30 children between 1 and 2 years of age, 30 children between 2 and 3 years of age and 25 children being pre-k age;
 - d. There is no specific start time and children will be dropped off at staggered times; pick-ups will also be staggered;
 - e. 6:30 a.m. to 7:30 a.m. will be the peak drop-off time;
 - f. Staff will assist in getting the children from the drop-off parking spaces into the center;
 - g. The child care center will have 10 to 12 employees, spread over 2 shifts;
 - h. The only deliveries expected would be FedEx and UPS deliveries;
 - i. Trash will be picked up once a week, more if necessary;
 - j. The day care center will be for children only, no adults;
 - k. The gymnasium is for the day care center use only and will be utilized during times of inclement weather.
15. Mr. Shelly testified as follows:
 - a. He is a professional engineer, licensed in the State of New Jersey and has been qualified by New Jersey Land Use Boards to offer expert testimony in the area of land engineering;
 - b. He is the Applicant's design engineer for the proposed day care center;
 - c. He describes the existing condition of the Property, the location of the Property and the neighboring uses;
 - d. He describes the improvements proposed for the Property, the design of the site and how the site will function in relationship to adjacent Lots 8.01 and 8.03;
 - e. Twenty-one (21) parking spaces are required by the Ordinance and twenty eight (28) are provided; the 7 additional parking spaces will be reserved for drop-off and pick-up;
 - f. The entrance drive design shown on the Applicant's Site Plan did not utilize the design previously approved by the site plan approval granted by the Board to MLC Developers for the development of a car wash on adjacent Lot 8.03;
 - g. The owner of Lot 8.03 has signed off on the plans and application the Applicant filed with the New Jersey Department of Transportation ("DOT") for highway access;
 - h. The Property will be serviced by private well and septic as public water and sewer is not available in this area of the Township;
 - i. Stormwater management will be handled by an infiltration system located under the parking area;
 - j. The sign height will be revised to comply with the ordinance requirement limiting signage and its support structure to 5 feet above ground level;
 - k. The 9 by 18 parking space dimension is typical for this type of low turnover use and results in less impervious coverage than the 9.5 by 18 sized space;
 - l. Sidewalk is not proposed along the Route 206 frontage because of the general absence of sidewalk in this area of the Township;
 - m. The flared ends and 12 inch pipe width will not impact functionality, the pipes will work as designed;

- n. The size of the outside play area is more than sufficient for the needs of the proposed day care center as all children enrolled will not utilize the play area at the same time; times of use of the play area will be staggered;
 - o. The regulations of the New Jersey Department of Community Affairs (“DCA”) governing the outdoor play areas for day care centers would allow 85 children to play at one time on an outdoor play area the size proposed by the Applicant; at no time will the Applicant have 85 children using the outdoor play area at the same time;
 - p. The outdoor play area will have age-appropriate equipment and the equipment will comply with all State requirements;
 - q. The improvements proposed for the Property are setback as far from Route 206 as possible as the existing environmental constraints of the Property do not allow for the improvements to be setback further and be developed as proposed;
 - r. A Letter of Interpretation (“LOI”) was issued by the New Jersey Department of Environmental Protection (“DEP”) for the Property;
 - s. Topography conditions require the construction of the retaining wall and the fence on the retaining wall that encroaches into the front yard area is for added safety.
16. Ms. Drumm provided the following sworn testimony during the Public Hearing:
- a. She is a Professional Engineer licensed in the State of New Jersey and has been qualified by New Jersey Land Use Boards to provide expert testimony in the area of traffic;
 - b. She is the Applicant’s Traffic Engineer and prepared the Traffic Assessment Report submitted for the Applicant’s proposed development of the Property as a child day care center;
 - c. Acknowledges that there is a serious traffic problem on Route 206 but it is a State Highway with DOT jurisdiction;
 - d. Drop offs and pick ups will be staggered; approximately 45 cars will enter and exit the site during peak hours;
 - e. Fifty percent (50%) of the parents dropping their children off will already be on Route 206;
 - f. There is one existing traffic signal on Route 206 and a second signal is planned for the approved warehouse project to be constructed on Route 206;
 - g. The developer of the warehouse project has an active Application before the DOT which, when approved, will be valid for 2 years;
 - h. The expense of the DOT permitting process for the warehouse developer is a good indication that the developer is close to proceeding with the development of its site as expiration of the 2 year period of approval would require that developer to file a new DOT application and start its permit process over;
 - i. The traffic signals will assist cars exiting the child care center site and proceeding north as breaks in traffic will occur, especially with the addition of the second signal;
 - j. There are no turning restrictions proposed for the site, cars exiting the site can go north or south, similar to the approval of the site plan for the car wash approved for Lot 8.03;
 - k. The DOT has deemed the Applicant’s Application complete but has not issued any comments;
 - l. She has not analyzed whether a left hand turn lane would be warranted for access to the site from Route 206;
 - m. The proposed parking space size is appropriate for this type of use; the larger spaces are typical for higher turnover sites, like grocery stores;
 - n. She is of the opinion that the off tract improvement contribution as calculated is incorrect as the proposed child care center’s percentage of volume will be less than the percentage used in the calculation; she will work with the traffic engineer to confirm the correct percentage.

17. The Board Professionals reviewed their respective review letters for the Board and the Applicant indicated her willingness to satisfy the outstanding review comments, including the utilization of the shared driveway entrance design as approved by the Board for the car wash on Lot 8.03 and to amend her DOT Application to include the approved shared driveway entrance design, which will also provide an emergency access to the site. The Board Professionals had no objection to the granting of the design standard waivers and variances as requested by the Applicant, provided the Applicant complied with their respective review comments

18. Board Members expressed significant concerns regarding traffic safety on Route 206, they felt that the lack of a left hand turn lane would result in an increase in the number of accidents on Route 206, recommending the Applicant request the DOT to consider an accel/decel lane and directing the Board Traffic Engineer to communicate with the DOT the Board’s concerns.

19. The September 24, 2018 Hearing was opened to the Public and Robert Tallen raised concerns regarding the streams and wetlands on the Property, the proposed septic system and Route 206 traffic.

20. Mr. Frank questioned the analysis utilized to calculate the Applicant’s pro-rata share for the off tract improvement and the legality of the requested contribution in lieu of sidewalk along Route 206. Mr. Frank represented that the Applicant would make the sidewalk contribution if such a contribution is legal under current New Jersey law and would make the off tract improvement payment after the Applicant’s Traffic Engineer and the Board’s Traffic Engineer confirm the volume percentage to be utilized in the calculation.

AND WHEREAS, based upon the above factual findings, the Planning Board has come to the following conclusions:

1. The Applicant has submitted a Complete set of plans in connection with its application so that the Board has the necessary information to make a decision on the application for Design Standards/Variances and Preliminary and Final Site Plan Approvals.

2. The Property is located on Route 206, a State Highway, limiting the Board's review authority concerning off-site traffic impacts.

3. This application relates to a specific piece of property and the purposes of the zoning laws of the State of New Jersey and of the Zoning Ordinance of the Township of Mansfield would be advanced by the deviation from the Zoning Ordinance requirements and standards for size of the outdoor play area, setback of improvements, public sewer, fencing, parking space size and piping, as described herein and requested by the Applicant.

4. The benefits of the deviation from the Zoning Ordinance requirements/standards specified herein would substantially outweigh any detriment to the public good as variance approval and design standard waivers allow for the development of the Property, and otherwise promote the safety, health and general welfare of the community.

5. Relief as requested by the Applicant can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance of the Township of Mansfield.

6. The granting of the submission waivers, as identified in the September 19, 2018 Review Letter of the Board Engineer is warranted, as the Applicant provided the testimony requested, the waiver has been recommended and/or can be a condition of approval.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Mansfield, on the 24th day of September, 2018, that this Board hereby grants to the Applicant the following:

1. Design standard waivers to permit (i) the 28 parking spaces to measure 9 feet by 18 feet; (ii) pipes to be 12 inches with flared ends as shown on the plans; and (iii) no sidewalk along the Route 206 frontage;

2. Variances to permit (i) the outdoor play area to be 3,800 square feet in size; (ii) improvements to be setback 8 feet from the Route 206 right-of-way; (iii) the child care center to be serviced by a private septic system; and (iv) fencing to be installed in the front yard area of the Property; and

3. Preliminary and Final Site Plan Approval for the construction of a 12,467 square foot New Jersey licensed day care center, including a 6,500 square foot gymnasium, a 3,155 square foot basement and a 3,800 square foot outdoor play area, together with the required site improvements for stormwater management, utilities, parking, landscaping, lighting and security, in accordance with the Application, Plans, Reports, Studies, Letters and Testimony submitted by the Applicant, which approval is subject to the following conditions:

a. Subject to the Applicant obtaining all other approvals that may be required for the development, including, but not limited to Burlington County Planning Board approval, Burlington County Soil Conservation District approval, Burlington County Board of Health approval, New Jersey Department of Environmental Protection approval and New Jersey Department of Transportation approval. Copies of all other approvals shall be submitted to the Township upon receipt.

b. Subject to the testimony of the Applicant and her agents and representatives at the September 24, 2018 Planning Board Public Hearing.

c. Subject to the submission of revised plans complying with the comments of the Board's Professionals and with this Approval.

d. Subject to the comments of the Board Engineer as contained in the September 19, 2018 Review Letter of Stout and Caldwell Engineers, LLC, by Robert R. Stout, PE, PLS, except as may be modified in this Resolution.

e. Subject to the comments of the Board Planner as contained in the August 22, 2018 Review Letter of Environmental Resolutions, Inc., by Barbara J. Fegley, AICP, PP, except as may be modified in this Resolution.

f. Subject to the comments of the Board Traffic Engineer as contained in the August 21, 2018 Review Memorandum of Litwornia Associates, Inc., by Alexander J. Litwornia, PE, PP, except as may be modified in this Resolution.

g. Subject to the Applicant's escrow account for the review of her Application being current. Failure of the escrow account to be current may result in the non-issuance of permits.

h. Nothing herein contained shall be deemed to waive or modify the requirement that the Applicant obtain from any and all other agencies having jurisdiction in this matter, any and all approvals required by law and this approval is specifically conditioned upon the Applicant obtaining those approvals.

i. Subject to this approval not guaranteeing the issuance of any zoning permit, construction permit or certificate of occupancy; the Applicant is subject to all applicable codes, statutes, ordinances, rules and regulations for the issuance of said permits and certificates.

j. Subject to the Applicant's professionals working with the Board's professionals to address all outstanding review comments, including, but not limited to, sidewalk contribution, off-tract improvement share and trash dumpster location.

k. Subject to the design of the shared entrance drive being revised to utilize the entrance design as approved by the Board for the development of a car wash on adjacent Lot 8.03.

l. Subject to the Applicant amending her DOT Application to include the re-design of the shared entrance drive as required herein, with the amended DOT Application also requesting that the DOT consider the addition of an acceleration/deceleration lane as part of the State Highway Access Permit.

m. Subject to the Applicant submitting a copy of the DOT Application and the Amended DOT Application, confirming that the owner of Lot 8.03 has signed off on the Applications and the Plans submitted to DOT.

n. Subject to the building, as approved, not including the canopy that was removed from the revised plans.

- o. Subject to the freestanding identification sign and its support structure complying with the 5 foot above ground height limitation; details for the proposed façade sign(s) shall be added to the plans and shall comply with the ordinance requirements for building mounted signs.
- p. Subject to all play equipment complying with the requirements of the DCA or other applicable state agency for day care centers with documentation of compliance from the DCA/agency submitted to the Township prior to the issuance of a certificate of occupancy for the day care center.
- q. Subject to submission of the LOI issued by the DEP.
- r. Subject to the Applicant making her pro-rata share for the off-tract improvement prior to the issuance of a building permit for the day care center. The amount of the Applicant's pro-rata share shall be resolved between the Board's Traffic Engineer and the Applicant's Traffic Engineer and shall be based on the "new" trip volume attributed to the day care center use.
- s. Subject to the Applicant making a contribution to the Township's Sidewalk Fund if it is determined that such a contribution is legal under current New Jersey Law. The Applicant's Attorney shall provide the Board Attorney with applicable New Jersey Law confirming his position that such a contribution is an illegal condition. If required, the amount of the contribution shall be calculated by the Board Engineer and based on the cost of the sidewalk that would otherwise be required.
- t. Subject to all internal sidewalks being at least 6 feet in width.
- u. Subject to a Construction Easement being provided for the future development of adjacent Lot 8.01, a copy of which shall be provided for the review and approval of the Board Engineer and Solicitor prior to recording.
- v. Subject to the recorded Declaration of Cross Easements for Driveway Access and Service Road Use, as submitted by the Applicant, being revised if the review of the Declaration reveals that the Declaration does not satisfy its intended purpose.
- w. Subject to a guardrail being added to the site from the beginning of the fence to the building.
- x. Subject to the gymnasium being utilized as an accessory use for the day care center only.
- y. Subject to seven (7) of the twenty-eight (28) parking spaces being reserved for drop-off and pick-up only, with applicable signage provided.
- z. Subject to the submission of a stormwater maintenance plan for the review and approval by the Board Engineer, for the stormwater management system to be utilized for the developed Property. A Stormwater Maintenance Declaration referencing this Approval and the approved stormwater maintenance plan shall be recorded in the Burlington County Clerk's Office.
- aa. Subject to the day care center being for children only and not for adults.
- bb. Subject to the Applicant receiving all required New Jersey State Licenses required for the proposed day care center to operate. All required State licenses shall be submitted to the Township prior to the issuance of a Certificate of Occupancy or prior to "opening" as a day care center if the municipal Certificate of Occupancy is required prior to the issuance of the State licenses.
- cc. Subject to the Applicant being advised that the Board will communicate with the DOT regarding its Route 206 traffic concerns, and that such communication may require additional revisions to the Applicant's Site Plan.
- dd. Subject to the Applicant posting any performance guarantee, maintenance guarantee and inspection fees required by the Municipal Land Use Law of the State of New Jersey for the development of the Property as approved.

A motion to memorialize the above resolution was offered by **Chairman Preidel** and was seconded by **Mr. Allen**. Motion carried on a roll call vote recorded as follows:

AYE: Allen, Patel, Preidel

NAY: None ABSTAIN: Borgstrom, Fleming, Higgins, Kampo

ABSENT: Cain, Lippincott

APPROVAL OF MINUTES:

Motion to approve the minutes from March 26, 2018 was offered by **Chairman Preidel** and seconded by **Mr. Allen**. Motion carried on a roll call vote recorded as follows:

AYE: Allen, Kampo, Patel, Preidel

NAY: None ABSTAIN: Borgstrom, Fleming, Higgins ABSENT: Cain, Lippincott

COMMENTS FROM THE BOARD:

The board members had no comments.

PUBLIC COMMENTS:

There were no comments from the public.

MOTION FOR ADJOURNMENT:

A motion to adjourn the meeting was offered by **Mr. Allen** and seconded by **Vice Chairman Borgstrom**. All ayes. Motion carried.

Respectfully Submitted by:

Dated Approved:

Ashley Jolly, Land Use Coordinator
