

JOINT LAND USE BOARD OF THE BOROUGH OF DUMONT

RESOLUTION OF APPROVAL FOR BULK VARIANCES/WAIVERS AND SITE PLAN

APPLICANT: 24 GRANT AVENUE, LLC

PREMISES: 24 GRANT AVENUE
BLOCK 24; LOT 601

WHEREAS, 24 GRANT AVENUE, LLC (the "Applicant" or "Owner") is the Applicant upon property located at 24 Grant Avenue, and designated as Lot 24 in Block 601 on the Tax Map of the Borough of Dumont (the "Property"); and

WHEREAS, the Property is located in the B2 Business District of the Borough and is presently developed with a medical office structure; and

WHEREAS, the Property is an interior lot that is approximately 9,422 square feet in dimension. The subject medical office structure is presently existing and the applicant – subsequent to construction – seeks Site Plan Approval as well as 3 minor variances or waivers for the existing structure; and

WHEREAS, the Applicant appears to have received a Building Permit for the construction of the structure – with the 3 variances/waivers – without having obtained variance/waiver approvals and Site Plan Approval. At the time the Applicant sought a Certificate of Occupancy to occupy and utilize the structure, Zoning Officer, Paul Renaud, required the Applicant to obtain necessary Site Plan, variance and waiver approvals;

WHEREAS, the Applicant has applied to the Joint Land Use Board of the Borough for Site Plan Approval, as well as waiver and variance approval and public hearings were held on April 24 and May 29, 2018; and

WHEREAS, during public hearings the Applicant presented the matter through counsel, David Watkins, Esq., who presented the following:

A-1	Site Plan, prepared by Hubschman Engineering, and dated January 18, 2018.
A-2	Construction Permit, No. 16-0470, dated 7/20/16, granting permission to commence construction at the Property
A-3	Application
A-4	Deed for sale of Property to Applicant, dated 3/31/16

A-5	Various Sign Drawings
B-1	Letter Report of Boswell Engineering, dated April 16, 2018 to the Joint Land Use Board
B-2	Letter Report of Boswell Engineering, dated April 27, 2018, to Remington Vernick & Arango, Borough Engineers
0-1	Photos of Neighbor's Property

WHEREAS, at the aforesaid public hearings, the Applicant presented the testimony of:

- (a) Dr. David Schwartz, Building Tenant and principal of 24 Grant Avenue, LLC, (hereinafter, "Schwartz");
- (b) Michael Hubschman, PE, (hereafter, "Hubschman");
- (c) Dennis J. Harrington, P.E., Boswell Engineering ("Harrington");
- (d) Marie K. DiGiorgio, neighbor, ("DiGorgio");
- (e) Paul Renaud, Zoning Officer, ("Renaud").

NOW, THEREFORE, BE IT RESOLVED that the Board makes the following findings of fact with respect to the within Application:

1. The Property is located on the North side of Grant Avenue and is 9,422 s.f. in the B-2 Business Zone. It is fully improved under permits issued by the Building Department and it has been determined that the Building Permits, and construction of these improvements, should have required an application for Site Plan Approval, with variances/waivers, from the Joint Land Use Board.

2. Watkins provided the background of the Application and development on the Property. The Board was informed by both the Applicant and the Borough's Zoning Officer Paul Renaud, that the Applicant had obtained a Building Permit for the construction of the Medical Office Building on the Property. It was only upon seeking a Certificate of Occupancy that the Applicant required Site Plan Approval and waiver/variance approvals.

3. The Applicant seeks Site Plan Approval as well as waivers variances for: A) Side Yard Setback, since 10' is required and 3.2' is provided; B) Buffer, since either 5' or a 4' fence is required; C) Rear Yard Setback, since 1.1' is required; D) Ground Sign because the square footage and lighting exceeds permitted.

4. During the course of public hearing, the following variances were eliminated: B) Buffer, since the Applicant is providing a 4' fence; C) Rear Yard Setback, since none is required in the B Zone; D) Ground Sign Lighting, because the Applicant has agreed to eliminate lighting.

5. The Applicant seeks now only: Site Plan Approval as well as waivers or variances for: A) Side Yard Setback, since 10' is required and 3.2' is provided; D) Ground Sign because the square footage proposed is 24 sf and 16 sf is permitted.

6. Hubschman testified that the signage was slightly over permitted square footage and was set back approximately 15' behind the curb line. Hubschman testified that the sign was appropriate, necessary for safe vehicle flow and property identification and not a detriment to the public good or purposes of zoning in this Business Zone.

7. Hubschman testified that the proposed side yard setback was sufficient and consistent with a commercial zone. He testified that this was consistent with the purposes of the Ordinance and the Master Plan.

8. Hubschman testified as to all site plan issues. It was testified that the existing construction met all of the requirements of site plan approval. The Board could personally observe the existing conditions and evaluate the impacts of the variances/waivers.

9. DiGiorgio appeared before the Board. She testified that she owned the adjoining property and provided the Board with photographs demonstrating that the construction on the Property caused significant ponding of water in her rear yard and that she believed that the construction of the Applicant's Parking Lot had created a damming effect stopping the normal sheet flow of water from her Property.

10. As a result of DiGiorgio's testimony, the Board requested that the Board Engineer contact the Borough Engineer to determine if all necessary approvals had been obtained for the construction of the improvements on the Property.

CONCLUSIONS AND DETERMINATIONS

1. All findings of fact set forth above are made a part hereof as if set forth herein at length.

2. The proceedings in this matter were voice recorded. The foregoing facts in this Resolution are not intended to be all inclusive but merely a summary and highlight of the complete record made before the Board.

3. N.J.S.A. 40:55D-70(c) (2) provides that a variance may be granted where the Board finds that the benefits of the granting of the variances outweigh any detriments. The Board finds that the Applicant has demonstrated that the variances as to side yard and signage are warranted and are granted by the Board.

4. The Board finds that the variance can be granted without detriment to the public good or any neighboring properties, as the non-conforming conditions are de minimus in nature. The Board further finds that this approval will not substantially impair the intent and purpose of the Dumont Zone Plan and Zoning Ordinance and is in the furtherance of the purposes set forth in N.J.S.A. 40:55D-2.

5. The Board finds that the Applicant has met the requirements of Site Plan Approval and that Site Plan Approval.

CONDITIONS

- A. The Applicants shall comply with all of the ordinances of the Borough of Dumont and all applicable county, state, and federal ordinances, rules, statutes and regulations including the payment of real estate taxes.
- B. The Applicant shall comply with all requirements of the Borough or Board Engineer to assure that development upon the Property does not provide a negative impact – including ponding, flooding or other water related impacts – on all adjoining properties.
- C. The Applicant shall comply with all requirements of the NJDEP including, but not limited to, those that apply to “Flood Plains”, “Flood Zones” and “Flood Areas”. The Board is including this condition without limitation in any manner as a result of the fact that the Building is existing. The Applicant must comply with all regulations as if the structure were not yet completed and this is a specific condition of the Approval.
- D. The Applicant shall determine if they have failed to comply with various NJDEP regulations and they shall comply therewith in the same manner and to the same extent as if the structure were not yet present on the Property. The construction

without necessary approvals shall in no regard be construed as a waiver of the requirement to obtain these approvals.

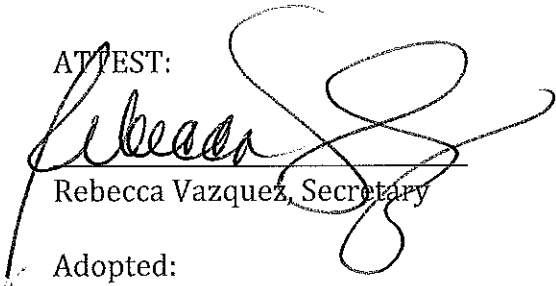
This Application was approved by the Dumont Joint Land Use Board upon a roll call vote of all members eligible to vote at its regular meeting on May 29, 2018.

IT IS HEREBY CERTIFIED that this is a true and correct copy of a Resolution adopted by the Joint Land Use Board of the Borough of Dumont upon a roll call vote at its regular meeting held on August 28, 2018.

A copy of this Resolution shall be given to the Tax Assessor, Applicants (through counsel), Borough Clerk, Building Department, Zoning Officer and Borough Engineer.

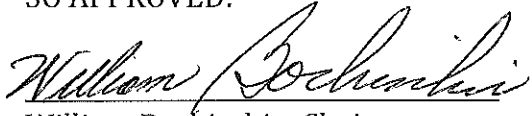
A NOTICE OF THE ADOPTION OF THIS RESOLUTION AND THIS DETERMINATION SHALL IMMEDIATELY BE PUBLISHED IN THE BOROUGH'S NEWSPAPER OF RECORD BY THE APPLICANT.

ATTEST:


Rebecca Vazquez, Secretary

Adopted:

SO APPROVED:


William Bochicchio, Chairman