

**RESOLUTION OF DENIAL FOR SITE PLAN APPROVAL  
WITH BULK VARIANCES, AND/OR WAIVERS**

**APPLICANT:** KYD HOLDINGS, LLC

**PREMISES:** 47 E. MADISON AVENUE  
BLOCK 1221; LOT 1

**WHEREAS**, the within Application is brought before the Board by KYD Holdings, LLC, (“KYD”) for the development of the above referenced Property (the “Property”) as a medical and general office; and

**WHEREAS**, the Property is owned by Eva Megerle and KYD makes the within Application with the consent of the Property Owner: and

**WHEREAS**, KYD seeks the renovation of the Property to create dental and general offices. The aforesaid renovation requires a Site Plan Approval; waivers for the configuration and dimension of parking spaces – though the total number of parking spaces conforms; and a “use” variance pursuant to NJSA 40:55D-70(d) for commercial use of the garage – located in the RA Zone – to be utilized in connection with the subject commercial Site Plan; and

**WHEREAS**, the Applicant has made application to the Joint Land Use Board of the Borough of Dumont for Site Plan Approval, and the continuation of variances, and was heard by the Board at public hearings on March 26 and April 30, 2019 (hereinafter, “the Hearings” or “Public Hearings”) for the required approvals; and

**WHEREAS**, the Applicant and the Board introduced the following Exhibits into evidence:

**Exhibit A-1** Site Plan, prepared by Michael Hubschman, PE, dated January 7, 2019, and revised through April 3, 2019.

**Exhibit A-2** Architectural Plans, prepared by Chris Blake, AIA, dated January 9, 2019, and revised through April 3, 2019.

**WHEREAS**, Planning Board Engineers, Boswell McClave Engineering, Dennis Harrington, PE, submitted Letter Reports, dated February 11, 2019 and April 24, 2019, which reports were accepted into evidence and made part of the submission; and

**WHEREAS**, at Public Hearings, the following relevant testimony was adduced through Applicant’s counsel, Matthew Capizzi, Esq., (“Capizzi”), utilizing the following witnesses: 1)

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Robert Muller, LS (“Muller”); 2) Michael Hubschman, PE (“Hubschman”); 3) Chris Blake, AIA (“Blake”); 4) Yael Kryzman, DDS. Additional testimony was provided by Dennis Harrington, PE of Boswell Engineering (“Harrington”); and

The proceedings in this matter were voice recorded. The Testimony, Statements of Fact and Findings of this Resolution are not intended to be all inclusive but merely a summary and highlight of the complete record made before the Board.

1. Capizzi set forth the background of uses on the Property.
2. Muller and Hubschman, testified that the Property was 15,000 square feet located in both the B-2 and RA zones. The use in the RA Zone is a garage that will provide parking for the medical and general office uses on the Property. As a result, the applicant requires a “d” variance. The footprint of the building and the layout of the Property remains unchanged as a result of the within Application. The Applicant seeks to provide 14 parking spaces – where 14 parking spaces are required – but that the parking stalls are undersized (9’ x 18’, rather than 10’ x 20’). This deviation requires a waiver as to the site plan requirement. Parking is located in the parking lot (both along the building and along the curb line) as well as inside the garage in the RA Zone. Staff parking is located behind the building. Traffic flow is “in only” from East Madison Avenue and out onto Brook Street.
3. Blake testified that the Dental Office contains 2519 square feet and the General Office contains 1476 square feet. No tenant or rental area is permitted in the Basement. The Dental office contains treatment rooms, waiting areas, bathrooms, reception areas, offices and consultation rooms. The General Office area is vacant “open” space but could be divided in the event of interior improvements.
4. Kryzman testified as to the nature and extent of her practice. She testified as to her existing office operations and the use of the medical office suite.
5. It was testified that all improvements are interior.

### **CONCLUSIONS AND DETERMINATIONS**

1. The Applicant requires the following approvals, variances or waivers:
    - Site Plan Approval.
    - Waivers for parking stall size.
    - The waiver of various submission requirements.
    - A variance pursuant to NJSA 40:55D-70(d) to utilize the garage for the parking of 2 vehicles related to the medical office.
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2. N.J.S.A. 40:55D-70(c) (2) provides that a variance may be granted where the Board finds that the purposes of the Municipal Land Use Law ("MLUL") would be advanced by a deviation from the zoning requirements and that the benefits of the deviation would substantially outweigh any detriment. The standard is no different for waivers.
3. N.J.S.A. 40:55D-70 (c) (1) provides that a variance may be granted where the Board finds that property is burdened by a unique hardship or condition.
4. The Board must also find that there is no substantial detriment to the zone plan or zoning ordinance to the granting of the requested variances, waivers or deviations.
5. Upon hearing all of the evidence, the Board voted to approve the Application. The variance for parking waivers is de minimus. The Board found that the use of the garage – though located in the RA Zone – is warranted.
6. The aforesaid approval is subject to the following:
  - A. All Affordable Housing Requirements as may apply.
  - B. Compliance with the requirements contained in Borough review letters or as directed by Borough Professionals.
  - C. Subject to all other necessary approvals, including County Approval.
  - D. The Applicant shall immediately publish notice of the within approval.
  - E. The Basement shall be used for storage of existing tenants only. It may not be rented to Third Parties.
  - F. All Tree Removal and evaluation is subject to the Shade Tree Commission.

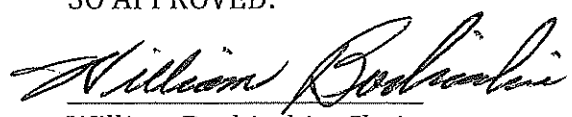
**This is to certify that the above and foregoing Resolution was duly adopted by the Joint Land Use Board of the Borough of Dumont on the 29<sup>th</sup> day of May, 2019.**

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

ATTEST:

  
Rebecca Vazquez, Secretary

SO APPROVED:

  
William Bochicchio, Chairman

Adopted:

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