

ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF HOWELL

RESOLUTION NO. 21-16  
CASE NO. BA 18-23  
DATE: JUNE 28, 2021

RESOLUTION OF MEMORIALIZATION GRANTING USE VARIANCE, AND BULK  
VARIANCES ON APPLICATION OF  
HOME SWEET HOME DAY CARE CENTER, INC.  
BLOCK 154, LOT 13

Mr. Sayah offered the following Resolution and moved its adoption, which was seconded by Mr. Orozco.

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**WHEREAS**, Home Sweet Home Day Care Center, Inc., as Applicant and Camp Royal, LLC, as Owner of property located at 321 West Farms Road, known as Block 154, Lot 13, as shown on the Tax Map of the Township of Howell, located in the ARE-2 Zone have made application to the Zoning Board of Adjustment for development approvals; and

**WHEREAS**, the Applicant is proposing to expand the existing day care center by adding a solar roof canopy, a 140 sf bathroom addition, a 520 sf classroom addition, a 20 ft x 40 ft pole barn, a 20 ft x 20 ft concrete pad for play structure, a refuse enclosure, an ID sign, and 4 additional parking stalls, said application having been assigned Case No. 18-23; and

**WHEREAS**, the Applicant having complied with the statutory requirements with reference to service of notice upon property owners of all property within two hundred (200') feet from the premises in question, with publication of said notice being

placed in an official newspaper of the municipality as required by law; and the Zoning Board having established jurisdiction over this application; and

**WHEREAS**, the Zoning Board of Adjustment conducted public hearings on the application on March 8, 2021, May 24, 2021, and June 14, 2021, with deliberations on June 14, 2021; and

**WHEREAS**, the Applicant was represented by Walter Toto Esq., who presented the testimony of Maria Camporeale, Home Sweet Home Day Care Center Inc.; Robert Sive, P.E., and Allison Coffin, P.P. AICP,; and

**WHEREAS**, after hearing the testimony of the Applicant's witness, the Zoning Board of Adjustment, from the evidence presented found, among other things, the following facts and conclusions:

1. The following exhibits were entered into evidence:
  - A-1 Development application
  - A-2 Application Checklist
  - A-3 A list of checklist waivers requested by the applicant
  - A-4 Survey prepared by Fletcher Engineering Inc. dated 6/20/18, unrevised
  - A-5 Plot plan entitled "plan to accompany variance application" prepared by Geller Sive & Company dated 10/2/20, unrevised
  - A-6 Proof of Service dated 3/2/21
  - A-7 Sign Exhibit prepared by Mark-O-Lite Signs
  - A-8 Building Layout Plan, undated

- A-9 Plan to Accompany Variance Application prepared by Geller Sive & Company dated 12/2/20, last revised 5/21/21
- A-10 Colored Aerial Exhibit as prepared by Geller Sive & Company dated 5/21/21
- A-11 Series of three photos showing the front yard looking from the entrance driveway east, the rear yard looking from the southwesterly building corner east and the rear yard looking from the west side of the building south.
- A-12 Photo of the rear yard looking from the concrete patio south
  
- B-1 Environmental Commission site plan review dated 9/12/18
- B-2 Fire Bureau site plan review dated 9/18/18
- B-3 Farmers Advisory Committee site plan review dated 9/27/18
- B-4 Monmouth County Board of Health memo dated 10/11/18
- B-5 Board Engineer's review letter dated 10/15/18
- B-6 Fire Bureau site plan review dated 10/16/20
- B-7 Shade Tree Commission site plan review dated 10/21/20
- B-8 Board Engineer's review letter dated 11/17/20
- B-9 Environmental Commission site plan review dated 11/12/20
- B-10 Monmouth County Board of Health memo dated 11/16/20
- B-11 Board Planner's review letter dated 3/3/21

2. The subject property is located at 321 West Farms Road, and at present is operated as Home Sweet Home Day Care Center, Inc (HSH). The property comprises 2.045 acres, and is

occupied by a two story masonry building with a concrete pad, a pool, three sheds, a play structure, asphalt driveway and parking area. Residential uses are located to the west and south of the property, a farm assessed property is located to the east of the property, and vacant and mostly wooded property is located across West Farms Road to the north.

3. The Applicant proposes to construct a 146 sf addition to the principle structure for a bathroom facility; a 520 sf addition to the principal structure for an additional classroom; a solar roof canopy at the rear of the structure; a 40 ft x 20 ft pole barn in the rear left (southeast corner) of the property; a 20 ft x 20 ft concrete pad; a 10 ft x 17 ft refuse enclosure, an ID sign, and 4 new parking stalls located on the left side of the property just north of the existing parking stalls.

4. A d(2)use variance is required for the proposed addition as it represents an expansion of a non-conforming use. Additional bulk variances are required as follows: Lot coverage, whereas 28.6% appears to be proposed, and the maximum permitted coverage in the ARE-2 Zone is 15%; Side yard setback, whereas 15 ft is proposed for the solar canopy, and 30 ft is required; Minimum side yard and rear yard setback for accessory structures (the height of the structure as measured from required buffers), and whereas the pole barn is set 55 ft from the eastern property line and the rear property line, but as

measured from the 50 ft buffer, 5 ft. is proposed; for an accessory structure (refuse enclosure in the front yard setback) where none is permitted; for the proposed additions, solar roof and parking located within the 50 ft buffer area; for the proposed ID sign, whereas a single sign advertising a permitted use in a residential zone is allowed, and the present use is not permitted; for proposing a 12 sf sign, where signs shall not exceed 4 sf; and for a sign proposed at 5ft, whereas a maximum 4 ft is permitted.

Additional waivers are required as set forth in the Board Engineer's revised letter of November 17, 2020. The Applicant has elected to bifurcate this application and is seeking only use variance and bulk variance approval at this time, and will return to the Board for minor site plan approval.

5. Ms. Camporeale, the owner and operator of the day care center, testified that the LLC, of which she is the sole member, purchased the property in 2015. HSH was established in 1997, and operated from a different location until 2015, at which point the operation moved to the subject property. The facility is licensed by the State of New Jersey as a child care facility from ages 0 to 13, and has been approved by all required state and local agencies. The employees are all background checked for any prior criminal records. The facility is licensed for 52 children. The present facility was the prior location of the Voyager's School, a K-12 operation.

The witness described the facility as providing nursery, before, and after school child care for infants and children up to age 13, with a maximum enrollment of 52 as permitted by the state. She testified that the additional classroom space and bathroom facility would enable the facility to provide appropriate age space and a bathroom for infants. Each other age group will have more space for activities and other functions with the addition of the infant classroom. It was further indicated that the state requires 35 sf of space per child within the facility. On an average day approximately 46 children are in attendance, representing approximately 32 families. The witness agreed to a condition of approval to have not more than 52 students attend the facility.

The proposed bathroom would increase toilet availability for the children, primarily those under the age of two. She described the pole barn as being necessary for storage of shade activities, slip slides and other recreational equipment associated with the operation of the facility. The pole barn will be serviced only by electricity, will not have water, bathroom, or kitchen facilities, and will not be used as a classroom. Children will not be permitted to conduct any activities in the pole barn. The existing three sheds on the property are presently insufficient for storage of all recreational materials.

With regard to site operation, there are no weekend

hours. The facility has 12 full and part-time employees. At any given time, between 8 to 10 employees are on site. The employees generally work a four day week, and have staggered hours. She described the children arriving either by school bus, or by private car. There presently exist 5 classrooms, and with the expansion of a sixth classroom will be added. There are no kindergarten classes at this facility. All classrooms are located on the ground floor. The proposed building addition is located on the east side, which is the only available space on the property for the expansion. At the west side, there are parking facilities, an above ground oil tank, bathrooms, and mechanical equipment which make expansion impractical at that location.

The facility occasionally hosts pre-k graduation ceremonies for attendance by families. It was noted that parking has always been adequate for these events, with no parking ever on West Farms Road.

6. Mr. Sive, the project's engineer testified regarding the existing conditions and proposed improvements. He described the present structure as a one story, 3,221 sf structure containing 5 classrooms. An in-ground swimming pool is located at the eastern portion of the facility at the rear. The property also contains three sheds, and parking facilities. The site is served by an existing on-site septic disposal system, and an on-site well. Access to the property is via

West Farms Road, with a U shaped drive opening into the site. He noted that the present driveway functions well and the Fire Department had no objection to same.

7. The location of the pole barn has been shifted 55 ft toward the western property line per the Fire Department for emergency access. He noted that the pole barn is proposed at 15 ft in height, and located on a concrete slab. There is an adjacent 20 ft x 20 ft concrete slab proposed for a play structure. The proposed roof recharge system will be sized for the 100 year storm runoff from the new roof and concrete slab area, with the exact size to be coordinated with the Board Engineer and subject to pending soils evaluation.

In further review of the proposed improvements, he noted the purpose of the proposed expansion of the canopy at the eastern side of the property is to provide shade to the children and staff while outdoors. He noted the Applicant agreed to move the proposed trash enclosure out of the buffer area on the eastern side of the property and relocate to the western side. He agreed to provide a masonry enclosure for the proposed trash enclosure as requested by the Board Professionals. The proposed overflow parking will also be constructed of permeable pavers to stabilize the overflow area.

At the March 8<sup>th</sup> hearing, members of the public testified regarding the proposed project. Mr. Layton, owner of Lot 14 immediately adjacent to the east of the subject site, noted

that his property is a Q farm and has experienced flooding across his property from the subject site in the past. He was concerned that the 50 foot buffer area is presently violated, and with the addition of the expansion of the building and canopy, will be further violated. His major concern was the stormwater flowing onto his property from the subject site. The Applicant's attorney pointed out that the site presently has no stormwater management, and advised that the proposal will capture runoff from the building to stem the flooding onto his property. Mr. Layton was further concerned with trash which blows onto his property, and pool water backwash which flows onto his property from the subject site.

Mr. and Mrs. Brinkman, the owners of Lot 14 at the rear of the property, expressed concerns about the noise levels emanating from the camp. They believed that the pole barn would be unsightly, and the addition of the concrete pad at the rear for play activities would increase noise.

Ms. Coney appeared in support of the Applicant, stating that the expansion of the facility will help to keep infants apart from the older children, which is a major benefit.

8. Ms. Coffin, the project's planner noted that the property has long been in operation at this location as a school facility, most recently being operated by HSH. She noted that the proposed improvements will not significantly impact the zone or zone plan, and noted special reasons in support of

the granting of the necessary relief. She described the day care facility as an inherently beneficial use, which was agreed to by the Board Planner. She noted the pre-existing use of the facility as a school, with no substantial negative impact upon the surrounding properties. The additions to the main building will also provide classroom space and bathroom facilities to improve the facility's functionality.

As to the positive criteria, she noted that adding a solar panel to the proposed canopy is not only an esthetic improvement, but represents the use of a renewable energy resource, thereby satisfying purpose n of the MLUL. She also noted that purpose a, the appropriate use and development of land is supported by constructing a needed additional classroom and ADA compliant bathroom facility within the day care center. Purpose g is also noted as the site, which is over 2 acres in area, provides sufficient space in an appropriate location for recreational uses by the children of local residents. The proposed improvements do not increase either the staff numbers or the number of children at the facility. The additional parking stalls will prevent overflow parking on West Farms Road. The proposed increase in site coverage is required in order to construct the additions, which in themselves are minimal in nature. It was also noted that the proposed ID sign is appropriate in size and location as none presently exists. The site itself is of a sufficient size to accommodate all of

the proposed improvements without any detriment.

In sum total, it was her opinion that the proposed improvements improve the functionality of the existing child care facility. There are no increases in staffing or children, and the use itself is inherently beneficial. The expansion does not substantially impair the intent of the zone or zone plan. The benefits of departing from the standards of the ordinance substantially outweigh any detriment to the public good. It was further noted that the Applicant has agreed to a number of conditions of approval which would further serve to minimize any impact the proposed improvements would have.

9. Mr. Sive continued his testimony at the May 24<sup>th</sup> hearing date to describe the changes made to the site plan based upon the input of the Board Professionals, and the concerns of the two adjacent property owners who testified at the earlier hearing. He presented Exhibit A-9, which is the revised Plan to Accompany Variance, which depicted the relocated trash enclosure. He further indicated that a generator is now proposed and will be located on a slab at the southwest corner of the building, and will be fully compliant with all applicable ordinances. He indicated the furthest face of the generator will be 7 ft. from the building, requiring a variance where a maximum of 5 ft. is permitted. The Board Engineer indicated he did not take exception to this relief as it has been granted on similar commercial applications. The 5

ft. restriction is more so intended to mitigate negative impacts of generators on small lot residential construction.

He further presented Exhibit A-11 which depicted heavy vegetation along the eastern property line, as well as at the west side of the property. He noted that the two proposed recharge areas will be relocated out of the buffer area. The proposed septic disposal area will be relocated out of the ROW easement and obtain MCBOH approval. The proposed new parking stalls will also consist of grass pavers and provide stone stormwater management storage beneath subject to Board Engineer review and approval. Drywells will also be installed on the proposed building addition to collect additional roof runoff.

The engineer indicated further that the addition of stormwater management facilities will also mitigate any off-site flow of water from the subject site. He noted that the system will be oversized for the 100 year storm, with the final design subject to the Board Engineer's approval. He also indicated that the additional vegetation proposed for the site will also mitigate sheet flow from the subject property.

10. The Applicant's planner concurred with the engineer, noting that the proposed plan modifications and concessions further serve to mitigate the negative criteria.

11. The Zoning Board of Adjustment finds that the Applicant has met the burden of proof required for the granting of a conditional use variance in accordance with the decision

of Coventry Square v. Westwood Zoning Board of Adjustment, 138 N.J. 285 (1994). Essentially, this Court held that relief can be granted even if an Applicant did not comply with each and every aspect of the conditional use variance, provided that the use is compatible with other uses in the zone and the proposed use is particularly suited to the site, notwithstanding the deviations from the condition of the ordinance.

Preliminarily, the Board finds that the site, which has been operated as a school facility for a number of years, will be upgraded by the addition of the proposed improvements.

The conditional use deviation in this case is insignificant particularly in view of the fact that the improvements will not increase staffing, or pupil enrollment, and as such there is no intensification of use of the property.

The Board concurred with the planner's testimony as to the need for the proposed additions. The school presently does not have a bathroom specifically for the use of infants, and the addition of the classroom for infants frees up additional space for the balance of the children of other ages to enjoy activities and the like. The location of the proposed improvements is also dictated by site constraints, such as mechanicals, an above ground oil tank, and parking facilities located at the west side of the property.

The pole barn, proposed canopy, ID sign, and play area also help to increase the functionality of the present

operation without intensifying the use. These improvements will also be further subject to minor site plan review and approval by the Board at a future hearing.

It should also be noted that the Applicant's professionals took the comments of the Board's professionals, and the adjoining property owners into consideration and developed a plan which serves to eliminate many of their concerns. As pointed out by the Board Engineer, the site has existed in its present state since 2002, thereby predating the stormwater regulations that came into effect in 2004. At present there are no stormwater controls on the site. The Applicant's engineer is proposing to work with the Board Engineer to develop roof recharge systems which will be designed for the 100 year storm generated by all proposed impervious cover, representing a significant improvement for stormwater runoff control onto the adjacent farm property.

The Applicant has also agreed to a number of conditions set forth below which will serve to minimize any negative impact the proposed improvements may have on adjacent properties. The balance of the required bulk variances, and waivers may also be granted as same are necessary for site development.

12. Accordingly, the Board found that conditional use variance, bulk variances, and waiver requests may be granted as appropriate for site development. The Board is satisfied that

the proposed improvements serve the purposes of zoning, and also that the site can easily accommodate the proposed improvements. As the Applicant has chosen to bifurcate this application, all plat details, including but not limited to landscaping, parking details, stormwater management and other site improvements are subject to further review by the Board at the time of minor site plan approval. This shall also include any remaining bulk variances necessitated by site plan review and approval.

**NOW, THEREFORE, BE IT RESOLVED** by the Howell Township Zoning Board of Adjustment, based upon the foregoing findings of facts and conclusions of law that approvals be granted to Home Sweet Home Day Care Center, Inc., and Camp Royal, LLC, to construct a solar roof canopy, a 140 sf bathroom addition, a 520 sf classroom addition, a 20 ft x 40 ft pole barn, a 20 ft x 20 ft concrete pad for play structure, a refuse enclosure, an ID sign, and 4 additional parking stalls on property located at Block 154, Lot 13, 321 West Farms Road, also known as Case No. 18-23, subject however to the following conditions:

- A. Publication by the Applicant of a Notice of this decision in the official newspaper of the municipality and the return of proof of said publication to the Administrative Officer of the Howell Township Zoning Board of Adjustment.
- B. Payment of any taxes and assessments due and owing

to the Township.

- C. Subject to payment of all outstanding application and escrow fees.
- D. Subject to all representations made by Applicant and witnesses during the hearing of this application.
- E. The Applicant is required to provide a roof recharge system for the proposed pole barn, concrete pad, and building addition sized for the 100-year storm, subject to the Board Engineer's approval.
- F. The proposed bathroom shall be ADA compliant.
- G. No more than 50 total enrolled children are permitted at this location.
- H. The pole barn is exclusively for the use of storage of equipment associated with the facility. No children, classrooms, recreational activities, cooking facilities or bathrooms are permitted within the facility.
- I. Overflow parking is not permitted along West Farms Road.
- J. The trash enclosure which is now relocated to the west side of the property shall be of split faced masonry block construction.
- K. All proposed new parking stalls shall have a permeable paver surface over a stone storage base. The stone storage shall be sized to accommodate the

100 year storm runoff volume for these areas, subject to Board Engineer review and approval.

- L. All supplemental site landscaping along the easterly farm buffer and rear residential buffer shall be at the direction and satisfaction of the Board's CTE.
- M. The proposed septic disposal area will be relocated out of the R.O.W. easement along West Farms Road and is subject to MCBOH review and approval.
- N. The proposed stormwater recharge area shall be relocated outside of the buffer areas.
- O. The proposed emergency generator shall be in compliance with all applicable state and local ordinance requirements with respect to noise and hours of operation for testing.
- P. The pool backwash shall be either on filter cartridges or directed into one of the proposed drywells/recharge systems.
- Q. No pesticides shall be permitted to be utilized on the subject property.
- R. The Applicant agrees to comply with the Board Engineer's revised review letter of November 17, 2020, as follows: C. Plat Details, all items; E Conditions, Paragraph 2.
- S. Subject to the following outside agency approvals as required:

1. Monmouth County Board of Health.
2. Howell Township Board of Health.
3. Howell Township Municipal Utilities Department.
4. Freehold Soil Conservation District.
5. Howell Township Environmental Commission.
6. Howell Township Police Department.
7. Howell Township Bureau of Fire Prevention.
8. Howell Township Shade Tree Commission.
9. Monmouth County Planning Board.

T. The Applicant shall cause this Resolution to be recorded with the Monmouth County Clerk in the Book of Deeds within thirty (30) days and file a copy of the recorded Resolution with the Administrative Officer of the Board within forty-five (45) days.

**BE IT FURTHER RESOLVED** that the protections afforded by this approval shall expire in two years from the date of this Resolution on June 28 2023, unless further extended by the Zoning Board of Adjustment.

**BE IT FURTHER RESOLVED** that this Resolution memorializes an action taken by the Zoning Board of Adjustment at its meeting of June 14, 2021.

**BE IT FURTHER RESOLVED** that the Chairman and Secretary are hereby authorized to sign any and all documents necessary to effectuate the purpose of this Resolution, provided there is compliance by the Applicant with the above conditions.

**BE IT FURTHER RESOLVED** that a copy of this Resolution, certified by the Secretary of the Zoning Board to be a true copy, be forwarded to the Township Construction Official, Township Engineer, Township Clerk, Zoning Board Engineer,

Township Manager, Township Assessor, Township Water and Sewer Department, Township Attorney and Applicant within ten (10) days of the date herein.

**BE IT FURTHER RESOLVED** that nothing herein shall excuse compliance by the Applicant with any and all other requirements of this Township or any other governmental subdivision as set forth in any laws or regulations.

YES: Mr. Cantor, Mr. Mertens, Mr. Orozco and Mr. Sayah

NO:

ABSENT: Mr. Hughes and Mr. Gonzalez

ABSTAINED:

DISQUALIFIED:

DATED: June 28, 2021

I hereby certify that the within is a true copy of a memorialization Resolution adopted by the Zoning Board of Adjustment of the Township of Howell at its meeting of June 28, 2021.



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RICHARD MERTENS  
Secretary of Zoning Board of  
Adjustment of the Township of Howell



