

**TOWNSHIP OF HOWELL
ZONING BOARD OF ADJUSTMENT**

**RESOLUTION GRANTING C VARIANCE AND
MINOR SITE PLAN**

RESOLUTION NO.: 2022- 15
CASE NO.: BA18-23SP
APPLICANT: Home Sweet Home Day Care Center, Inc.
PROPERTY: 321 West Farms Road
Block 154, Lot 13
MEETING DATE: August 22, 2022
RESOLUTION DATE: October 3, 2022

WHEREAS, pursuant to the applicable provisions of the Township Code (herein defined as Howell Township Land Use Ordinance, Chapter 188 et seq.), an application has been submitted to the Township of Howell Zoning Board of Adjustment (the "Board") by Home Sweet Home Day Care Center, LLC (the "Applicant") for a 'c' Variance and Minor Site Plan to construct additions to a pre-existing day care facility including, a solar roof canopy, bathroom addition, classroom addition, pole barn, concrete pad for play structure, a refuse enclosure, stormwater devises, signs, and additional parking at the Property identified as Block 154, Lot 13, located at 321 West Farms Road in the Township of Howell and situated in the ARE-2 Zone District (the "Property");
an

WHEREAS, the Application reviewed by the Board consisted of the following plans, documents, and reports:

<u>EXHIBIT/DOCUMENT NO.</u>	<u>DESCRIPTION</u>
A-1	Development application
A-2	Application Checklist
A-3	A list of checklist waivers requested in letter from the Applicant's Attorney dated 5/20/22
A-4	Survey prepared by Charles Surmonte, PE, PLS dated 6/22/15
A-5	Minor Site Plan prepared by Geller Sive & Company dated 2/16/22 with no revisions.
A-6	Stormwater Management Report prepared by Geller Sive & Company dated 2/14/22 with no revisions.
A-7	Prior Howell Township Zoning Board Resolution No. 21-16 dated 6/28/21 granting Use and Bulk Variance Approval.
A-8	Proof of Service

INTEROFFICE REPORTS

- B-1 Farmers Advisory Committee site plan review dated 5/26/22
- B-2 Environmental Commission site plan review dated 6/8/22
- B-3 Shade Tree Commission site plan review dated 6/15/22
- B-4 Board Engineer’s review letter dated 6/17/22
- B-5 Monmouth County Board of Health memo 7/7/22
- B-6 Fire Bureau site plan review dated 6/14/22
- B-7 Board Planner’s review letter dated 7/20/22; and

WHEREAS, the Board held public hearings with regard to this application, at its regularly scheduled meetings, on July 25, 2022 and August 22, 2022, and the Applicant provided notice of the public hearing pursuant to and in full satisfaction of *N.J.S.A. 40:55D-12*; and

WHEREAS, the Board previously approved Resolution No. 21-16 dated June 28, 2021 granting a use variance for the expansion of the non-conforming day care use and certain bulk variances for this property, however, the application was bifurcated and the Applicant is now bringing the site plan portion of the application and a new application for a wall sign above the entrance; and

WHEREAS, the following new variances are requested by the Applicant in connection with this application:

C Variance:

Second Sign (CH 256-4A) a 5 foot by 6 foot wall sign is proposed above the entrance where only one sign is permitted, and a free standing sign was previously approved at the property.

WHEREAS, the Board took action on this application at its meeting of August 22, 2022 and this Resolution constitutes a memorialization of that action in accordance with *N.J.S.A. 40:55D-10(g)*; and

WHEREAS, the Board, after reviewing the evidence presented, as well as considering the testimony of the Applicant’s witnesses and the Board’s professionals makes the following findings of fact:

FINDINGS OF FACT

1. Mr. Walter Toto, Esq. introduced the application. He stated that this the second part of a bifurcated application and site plan approval and a bulk variance for a second sign near the entrance to the building is requested. On June 28, 2021 a use variance and various ‘c’

variances were granted, and the Applicant is prepared to comply with the prior approval and all reports from the Board's professionals.

2. Ms. Maria Camporeale, the owner of Home Sweet Home Day Care Center, was sworn and testified. She testified that a use variance was approved June 28, 2021 and that she will comply with all conditions of that approval and all comments in the professional's reports. Ms. Beahm asked why the dumpster has not been moved as required as part of the first approval. Ms. Camporeale said she did not know she was able to do any work until it was all approved. Ms. Beahm made it clear that the dumpster is in a location that is not permitted and needs to be removed. Mr. Toto acknowledged that the Applicant had not been advised appropriately regarding this issue and it will be moved tomorrow. The Board Chair also stated that the storm runoff was an issue for the neighbors and needed to be addressed. The Applicant's attorney confirmed that the Applicant will be complying with all stormwater conditions as part of this site plan application. Mr. Toto stated that the revised plans show that the 100 year storm is addressed.

3. Ms. Camporeale testified that she is requesting a new variance for a wall sign by the door. She testified that it is needed for the safety of the children. The front door is locked but people drive onto the property and come to the door not knowing where they are. On election day she had a lot of people coming up to the door asking if this was the voting location. It was not. A bigger sign by the front door indicating it is a day care should help so people do not come to the building who are not supposed to be there. The sign will not have illumination it is an aluminum sign, wall mounted, 5 feet by 6 feet and will fit in the alcove above the door. Sheet 2 of site plan submission shows the proposed extra sign. She also agreed to move the dumpster as close as possible to the corner where it is proposed for the future, until the construction of improvements is done.

4. Mr. Robert Sive, PE was sworn and qualified. He testified that the Applicant is prepared to comply with the conditions of all professional reports. He explained that the plans filed with the application are identical to the plan shown for the use variance except for two minor changes. The prior plans showed the rear canopy was saved and expanded, but now it will be totally reconstructed. The footprint is the same and there is no change in impervious coverage.

The second change is the wall sign. There is no difference with parking or impervious coverage compared with the original plan. He also testified that this plan complies with all of the conditions in the prior resolution. He acknowledge that the septic will need to be approved by the County Board of Health, and that the Applicant will get all outside agency approvals.

5. Ms. Erika Stahl, PP sworn and qualified. She testified that she visited the site, reviewed the Township ordinance, prior resolution, and the Master Plan. The Property is 2.045 acres, and is located in the ARE- 2 zone district. There are residential uses to west and south with a farm to east. The Property is currently developed with day care center. Prior approvals were granted for additions, solar, pole barn, play structure and 4 new parking stalls, etc. The application was bifurcated, and this portion is for the minor site plan. In addition, the Applicant is asking for a sign variance. The second sign requires a variance since the free- standing sign already approved is the one sign permitted in the zone. There is a small sign above the entrance now, but it is very difficult to see the existing wall sign and the new one will replace it. It is required for safety of the facility.

6. The Board's Professional Planner, Ms. Beahm, testified that the Board and its professionals already evaluated the site and determined it was appropriate to make these changes during the first part of the application. The plans have been updated to comply with the prior approval. She does not have any issue with the sign being added, it is for safety. She also has no issue if the Board acts in the affirmative on the site plan and for the sign variance.

7. Board discussed the application and agreed that the sign is appropriate and is for the safety of the children. The hearing was opened to the public, but none appeared.

8. The Board Engineer Mr. Cunliffe requested that the Applicant confirm it would comply with all of the review memos of the Board's professionals including from the Fire and Farm Boards. Mr. Pape indicated that the Applicant would comply. Mr. Cunliffe noted that the Farm Board pointed out a pre-existing encroachment by the pool, which was not applicable because it is pre-existing. Mr. Cunliffe reminded the Applicant that they need Freehold Soil Conservation approval, Monmouth County Board of Health approval and all building permits. He also confirmed that the Applicant will send the architectural plans to the Board's professionals for review, to ensure they are consistent with the existing structures. The Board reiterated that

the stormwater improvements must be installed and then voted to approve the application subject to the conditions listed below.

CONCLUSIONS OF LAW

NOW, THEREFORE, BE IT RESOLVED that the Township of Howell Zoning Board of Adjustment, based upon the above findings of fact, makes the following conclusions:

1. The Board finds and concludes that the site plan application is substantially compliant with the ordinances of the Township and complies with the conditions set forth in the prior resolution dated June 28, 2021, as such the site plan approval can be granted.
2. The Board finds and concludes that the Applicant satisfied its burden as to the 'c' variance for the additional signage. The wall sign is appropriate for the use, it will assist the public in identifying the day care center and help avoid strangers arriving at the front door of the facility while children are present. The sign variance can be granted without substantial detriment to the zone plan or zone ordinance and there are only positives, no negatives from the granting of the sign variance.

NOW, THEREFORE, BE IT RESOLVED by the Township of Howell Zoning Board of Adjustment this 12th day of September 2022, that the Board hereby memorializes, by the adoption of this Resolution, the action taken by the Board on August 22, 2022 for a 'c' variance and minor site plan approval, as more particularly set forth above, subject however to the following conditions:

Conditions of Approval

1. The Applicant shall construct the improvements in compliance with the testimony provided at the hearing. The construction of improvements at the Property must also comply with all other applicable Ordinances of the Township, and all building department requirements.
2. The Applicant shall comply with all of the comments in the reports of the Board Engineer dated June 17, 2022; Board Planner dated July 20, 2022; the Board's Certified Tree Expert dated June 15, 2022; and the Fire Bureau Letter dated June 13, 2022, including but not limited to following:

- a. The Applicant shall comply with all of the variances and conditions of approval of the June 28, 2021 resolution of the Board with regard to this Property and this project, including but not limited to compliance with the stormwater conditions.
- b. The Applicant shall provide architectural plans to the Board's Engineer and Planner for review and those plans shall be revised to the satisfaction of the Board's professionals.
- c. The Applicant shall comply with all of the conditions of approval of the Monmouth County Planning Board, Freehold Soil Conservation District, Monmouth County Board of Health, Howell Township Municipal Utilities Department, NJ American Water, and shall submit proof of same to the Board Administrator.
- d. The Applicant shall make all additional changes requested by the Board's Professionals in their review letters except where explicitly modified in this resolution and shall update all plans to reflect same.

3. The Applicant shall pay all taxes, fees, required escrow deposits, and inspection fees that may be due and owing prior to the issuance of any building permits.

4. The Applicant shall be required to obtain any and all other approvals, licenses and permits required by any other board, agency or entity having jurisdiction over the application or over the Property.

5. The Applicant shall publish notice of this decision, in one of the official newspapers of the Board, within 10 days of the date of the Applicant's receipt of a certified copy of this resolution and provide proof of publication to the Board Administrator.

6. The Applicant shall record a certified copy of this resolution with the Monmouth County Clerk's Office Real Property Records within 30 days of the date the Resolution and shall provide proof of such recording to the Board Administrator within forty-five (45) days, in no event shall building permits for this project be issued before the resolution is recorded.

BE IT FURTHER RESOLVED, that the protections provided by this Site Plan approval shall expire on September 13, 2024, two years from the date of this resolution, if construction has not commenced or an extension is not granted by the Board as provided for in N.J.S.A. 40:55D-52d.

BE IT FURTHER RESOLVED, that all representations, commitments, and agreements made by the Applicant or his/her representatives at the hearing in this matter or contained in any document, plat, sketch or submission submitted to the Board at any time prior to this approval, including notes contained in original or revised submissions, are hereby incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Board are authorized to sign any and all documents necessary to effectuate the purposes of this resolution, provided there is compliance by the Applicant with the conditions identified herein.

BE IT FURTHER RESOLVED, that in the event any condition herein is held to be invalid, unenforceable, or unlawful, the variances/waivers/exceptions, if any, and all other approvals herein shall be void. It is the intent of the Board that this approval be subject to fulfillment of all conditions, and that the conditions are not severable from any variances/waivers or other relief granted herein; and

BE IT FURTHER RESOLVED, that the Board reserves the right to require an amended or revised application in the event that federal, state or county permits or approvals require any significant revision in approved plans.

BE IT FURTHER RESOLVED, that the Board Administrator shall provide a certified copy of this resolution to the Township Construction official, Township Engineer, Township Clerk, Zoning Board Engineer, Township Manager, Township Assessor, Township Water and Sewer Department, Township Attorney, and the Applicant within 10 days of the date of this resolution.

October 3, 2022 Vote for Approval

Motion: Hughes

Second: Stahnten

Yes: Cantor, Hughes, Mertens, Moretti, Stahnten, Wrubel, Sayah

No:

Abstain:

October 3, 2022 Vote for Memorialization

Motion: Moretti

Second: Stahnten

Yes: Cantor, Hughes, Mertens, Moretti, Stahnten, Wrubel, Sayah

No:

Abstain:

Certification

I hereby certify that the above Resolution is a true copy of the memorializing Resolution adopted by the Zoning Board of Adjustment of the Township of Howell on October 3, 2022.



Richard Mertens
Zoning Board Secretary

State of New Jersey:

SS:

County of Monmouth:

I hereby certify that on October 3, 2022 RICHARD MERTENS personally came before me and acknowledged under oath, to my satisfaction that this person:

- (a) Is the Secretary of the Howell Township Zoning Board of Adjustment; and
- (b) Signed this Resolution as his own act and deed.



Eileen Rubano
Notary Public of New Jersey
2392030
12/14/2024

