Resolution
Township of South Orange Village
Planning Board
In the Matter of Bobbie's Playhouse LLC
Application #262
Decided on May 24, 2018
Memorialized on June 4, 2018
Minor Site Plan Approval and Bulk Variance

WHEREAS, Bobbie's Playhouse, LLC (hereinafter the "Applicant") has made an application for minor site plan approval and variance to install a fire escape, basement staircase, play area and wider driveway in connection with a proposal to operate a childcare facility at property located at 68 Vose Ave., Block 1005 Lot 1 in the B-2 Secondary Business District; and

WHEREAS, a public hearing was conducted on May 7, 2018, resulting in a finding of completeness of the application, followed by a public hearing on the application held on May 24, 2018; and

WHEREAS, the Applicant was represented by Gerald Poss Esq.; and

WHEREAS, the Applicant provided testimony by Johnny Sanichar, representative of the Applicant, Michael Lanzafama, a professional engineer who was accepted by the Board as an expert in engineering; and Harold Maltz, a professional traffic engineer who was accepted by the Board as an expert in traffic engineering; and

WHEREAS, the Applicant presented and introduced the following exhibits, in addition to the documents presented to the Board in the form of the application package:

1. Aerial photograph; and

2. Colorized site plan; and

WHEREAS, the Board reviewed and considered the application and documents submitted therewith; and

WHEREAS the Board also considered the input of its professionals at the hearings and in written reports, including the report of Philip Abramson, professional planner, and Chris Coke, professional planner, of Topology, the Board's planning consultants.

NOW THEREFORE, the Board makes the following findings of fact, based upon the evidence presented at its public hearings, at which a record was made.

1. The Applicant seeks to operate a childcare facility in an existing two-story vacant office building at 68 Vose Ave., on the corner of Vose Avenue and Comstock Place.

The building was built as a residential structure but more recently was used as an office. There are currently two on-site parking spaces in the rear.

2. In connection with the proposed use, and in part due to requirements imposed by the State of New Jersey in connection with the license for this facility, the Applicant proposes to install a fire escape and a basement staircase along the Comstock Place façade. The Applicant also proposes to provide a play area in the rear of the property and to widen an existing driveway to create a space for an ADA-complaint parking space, then to relocate parking from behind the building into the area between the building line and Comstock Place.

3. The Application requires a variance from Ordinance section 185–174D, in that parking spaces between the building line and a street are prohibited and the Applicant proposes to provide two parking spaces between the building line and Comstock Place.

4. The Applicant is an existing daycare provider in South Orange, although it provides the services from a residence currently. The Applicant purchased this property with the intent to relocate the childcare business to this location and expand it. The property has received a preliminary inspection from the State of New Jersey and that inspection concluded that the fire escape was required, as well as a basement egress and a minimum of 350 ft.^{2} of play area.

5. The Applicant intends to provide childcare services for children from 18 months through pre-kindergarten. They will provide services for up to 30 children, which will require up to five staff, depending upon the number of children who are 18 months to 2 1/2 years of age and those which are 2 1/2 years of age through prekindergarten, because of the different mandatory minimum staff-to-child ratios for the different age groups.

6. The hours of operation will be 7 AM to 7 PM Monday through Friday. Peak drop offs are expected between 7 and 8 AM and peak pick up is expected between 4 and 6 PM.

7. The property is located in the B-2 Secondary Business District. Because that is a non-residential district, childcare services are a permitted use pursuant to N.J.S.A. 40:55D-66.6.

8. The proposed play area in the rear will be surrounded by a fence and bollards to protect the children from vehicles in the adjacent municipal parking lot. Parking will be provided on-site by way of one space for employees and one handicapped-accessible space, with bollards in front of those spaces. Egress will be available from the basement and via the fire escape from the second floor. There will also be an ADA-compliant walkway from the ADA-compliant parking space into the building. Some trees will be lost to provide the sidewalk. Two hundred ft.^{2} of additional impervious coverage will be created by virtue of that sidewalk as well. Some

vegetation is provided on the side of the lot to the East but there is no room for additional landscaping in that area.

9. The applicant is essentially moving two parking spaces that already exist on the rear of the property to a location between the building and the street. A driveway exists on that side now. Creating the parking spaces in that area triggers the need for the variance. Bollards will be provided along the sidewalk, with lighting.

10. The play area will be an open area with no equipment. The only other change in exterior conditions is the increase in impervious coverage from 45.09% to 49.26% for the playground and sidewalk. The impervious coverage is still far below the 75% maximum permitted under the Ordinance. The Applicant is also adding building lighting to the plans by way of new sconces.

11. Because this is a childcare facility and not a school, drop-offs and pickups are staggered, spreading the parking and traffic impact over a longer period of time. The Ordinance does not contain a parking standard for childcare uses. Utilizing several different measures, the peak parking demand associated with this facility is seven spaces. The Applicant is providing one regular on-site space and one handicapped-accessible on-site space.

12. The Applicant agreed to purchase four municipal parking permits in the adjacent public lot. Those four spaces and the one on-site space will provide adequate parking for employees.

13. Parking for parents dropping off or picking up students is available on Vose Street, in a space on Comstock Place, and, if necessary, in the library lot. Through surveys conducted by Harold Maltz on behalf of the applicant, the Board was provided with credible evidence that parking will be available for pick up and drop off. Crosswalks are available at the intersection and there is a pedestrian-activated signal in one direction.

14. Traffic impact analysis conducted by Mr. Maltz demonstrated that there is a relatively low volume of vehicles (41 vehicles in the a.m. peak hour and 65 vehicles in the PM peak hour) on Comstock Place. Mr. Maltz capably explained that the additional traffic associated with the daycare facility would not cause a detrimental impact to Levels of Service at the intersection.

15. The conservative nature of the parking and traffic analysis set forth above is also revealed by the fact that it assumed that every parent would be driving when the Board members were generally aware that some children may be dropped off by parents who are walking to this facility.

16. Therefore, the Board found that there would be available parking and that traffic conditions would not be exacerbated by virtue of this proposed facility.

NOW, THEREFORE, the Board makes the following conclusions of law, based upon the foregoing findings of fact. Based upon the application, plans, reports and testimony placed before the Board, the Board finds that the Applicant has met the requirements of the Municipal Land Use Law, case law and Village ordinances so as to grant the relief requested.

1. The Municipal Land Use Law, at N.J.S.A. 40:55D-70(c) provides Boards with the power to grant variances from bulk and other Ordinance requirements when the Applicant satisfies certain specific proofs which are enunciated in the Statute.

2. Under the (c)(1) criteria, the applicant must demonstrate that by reason of exceptional dimensions or topographic conditions or other extraordinary and exceptional situation uniquely affecting the subject property, the strict application of the Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the Applicant.

3. Under the (c)(2) criteria, the Applicant must demonstrate that in a particular instance relating to a specific piece of property, the purposes of the Act would be advanced by allowing a deviation from the Zoning Ordinance requirements and that the benefits of any deviation will substantially outweigh any detriment.

4. These tests specifically enumerated above constitute the affirmative proofs necessary in order to obtain "bulk" or (c) variance relief.

5. Also, an applicant for these variances must show that the proposed relief sought will not cause a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The burden of proof is upon the applicant to establish that these criteria have been met.

6. This application requires the following relief:

    a. preliminary and final site plan approval;

    b. Variance from Ordinance section 185– 174D, in that the Ordinance prohibits parking spaces between the building line and the street and the applicant proposes two spaces in that area.

7. With respect to the variance for parking spaces between the building line and the street, the Board hereby finds that the relief can be granted because the property is a corner lot, that there are already parking spaces in the rear of the property, although they are not between the building and the street line, but the Applicant is simply relocating them to the side of the property. The Board does not find any substantial detriment to the public good or substantial interference with the intent and purpose of the Ordinance or zone plan

arising from granting this relief and the Board concludes that the benefits of providing this parking outweigh any detriments associated with its location.

8. Therefore, based upon these findings of fact and conclusions of law, the Board finds that the application satisfies the statutory criteria for the variance requested.

NOW THEREFORE be it resolved by the Planning Board of the Township of South Orange Village that the application of Bobbie's Playhouse LLC for property located at 68 Vose Ave. in the B-2 Secondary Business District is determined as follows:

1. Variance from Ordinance section 185–174D is approved pursuant to N.J.S.A. 40:55D–70(c)2; and

2. Preliminary and final site plan approval is granted pursuant to N.J.S.A. 40:55D–46 and 50.

AND IT IS FURTHER RESOLVED that the above approval is subject to the following terms and conditions:

1. The Applicant will purchase up to four parking permits for employees in the adjacent public lot if needed; and

2. Lighting and bollards will be provided along the walkway to be created from the new parking spaces to the building.

IN WITNESS WHEREOF, the Board has caused this Resolution to be executed by its Secretary on the 4th day of June, 2018.

Ojetti Davis, Secretary

Vote on Action Taken by the Board

BOARD MEMBER	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
BUSCH-VOGEL		X	X			
COLTON-MAX (Ch.)						
HARRIS (1ST Alt)			X			
LERMAN (V.Ch)			X			
LOEHNER			X			
MILLER	X		X			
ROSNER			X			
KRAIKER						X
FREEMAN			X			

Vote on Memorializing Board

BOARD MEMBER	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
BUSCH-VOGEL						
COLTON-MAX (Ch.)						
HARRIS (1ST Alt)						
LERMAN (V.Ch)			X			
LOEHNER						
MILLER	X		X			
ROSNER			X			
KRAIKER						
FREEMAN		X	X			