

Resolution
Township of South Orange Village
Planning Board
In the Matter of the Ridgewood Commons Group, LLC
109 and 115 South Orange Avenue
Application #268
Decided on June 3, 2019
Memorialized on July 9, 2019
Bulk Variances, Design Waivers and Preliminary and Final Site Plan Approval

WHEREAS, the Ridgewood Commons Group, LLC (hereinafter the "Applicant") has made an application for preliminary and final site plan approval, bulk variances and design waivers to construct a child care center at 109 and 115 South Orange Avenue, also known as Block 1904 Lots 16 and 17, in the B-1 Business Zone; and

WHEREAS, public hearings were conducted on May 6, 2019 (completeness review), and June 3, 2019; and

WHEREAS, the Applicant was represented by John P. Wyciskala, Esq.; and

WHEREAS, the Applicant provided testimony by Matthew Jarmel, a professional architect whose credentials were accepted by the Board, Gerard Gesario, a professional engineer whose credentials were accepted by the Board, and Matthew Seckler, a traffic engineer and professional planner whose credentials were accepted by the Board; and

WHEREAS, the Applicant submitted the following documents to the Board in the form of the application package:

1. Application Form, filed January 31, 2019 and resubmitted April 18, 2019.
2. Cover Letter consisting of two (2) pages written by John Wyciskala, Esq.
3. Preliminary and Final Site Plan, consisting of thirteen (13) pages, signed and sealed by Gerard Gesario, P.E. of Jarmel Kizel on January 3, 2019, revised April 16, 2019, revised again May 17, 2019, and resubmitted May 21, 2019.
4. Architectural Drawings, consisting of four (4) pages, signed and sealed by Mathew Jarmel, AIA of Jarmel Kizel on January 24, 2019, revised April 16, 2019, and May 17, 2019.
5. Architectural Renderings, consisting of three (3) pages, prepared by Jarmel Kizel Architecture, received April 18, 2019.
6. Technical Review Response Letter, consisting of twelve (12) pages, signed by Gerald Gesario, P.E. of Jarmel Kizel, dated May 17, 2019, and received May 21, 2019.
7. Topographic Survey, consisting of one (1) page, prepared by David J. Von Steenburg, P.L.S. on February 5, 2017.

8. Traffic Impact Study, consisting of thirty-eight (38) pages, signed by Charles Olivo, P.E. and Matthew Seckler, P.E. of Stonefield Engineering on April 12, 2019.
9. Cover Letter for Soil Remedial Action Permit, approved by the New Jersey Environmental Protection, written by John P. Wyciskala, Esq., dated May 22, 2019.
10. Soil Remedial Action Permit, approved by the New Jersey Department of Environmental Protection, issued March 12, 2019 and effective March 13, 2019.
11. Response Action Outcome, consisting of twelve (12) pages, signed by Basil J. Elmers III, LSRP of Envirotactics, Inc, and dated March 13, 2019.

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:

12. A-1 Colorized rendering dated April 16, 2019;
13. A-2 Colorized rendering dated April 16, 2019 with view west on South Orange Avenue;
14. A-3 Sheet E102 dated April 12, 2019, a plan sheet with floor plans and a zoning table;
15. A-4 turning templates, (three pages);

WHEREAS, representatives of the public asked questions of the witnesses and had an opportunity to offer statements in regard to the application; and

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

WHEREAS, the Board also considered the input of its professionals at the hearings and in written reports, including the reports of Greer Patras, of Topology dated March 1, 2019, May 1, 2019 and May 31, 2019; and the report of Eric L. Keller, P.E. of Bowman Consulting dated May 4, 2019 and May 31, 2019; and

WHEREAS, the Board also considered the input of the Design Review Board provided by memo dated April 19, 2019.

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 site in question is comprised of two lots. Lot 16 is an existing 12,414 square foot flag-shaped lot containing a one-story commercial building, most recently used by Ridge Tire. Lot 17 is an existing 4,748 square foot blacktop parking lot. The applicant proposes to demolish

the commercial building, consolidate the lots, and construct a two-story Learning Express child care center.

2. The application requires the following relief from this Board:

- a. A variance from Section 185-177 of the Ordinance, which requires one loading space whereas the applicant proposes no loading spaces;
- b. A variance from the Section 185-142B.9.h. that requires a temporary sign be installed for no more than 30 days, whereas the applicant proposes to include a sign indicating "Coming Soon" or similar message for a period not to exceed nine months;
- c. A variance from Section 185-140J, which prohibits signs which may be confused with or construed as a traffic control device, whereas the applicant proposes a pedestrian safety sign that may be confused with a traffic sign.
- d. A variance from Section 185-142B.1.f, which prohibits any electric wall sign closer than 10 feet above a public sidewalk and 15 feet above a driveway, but less is proposed for the "PASS" sign.
- e. A design waiver from Section 185-113(c), which requires a five-foot setback from parking to the property line, whereas the applicant proposes a setback of zero feet to the east property line;
- f. A design waiver from Section 185-113(o), requiring that parking be screened from the roadway, whereas the applicant is unable to screen the parking at the driveway; and
- g. Preliminary and final site plan approval.

3. The facility will provide child care services for children from six weeks of age to six years of age. The facility will require a license by the State of New Jersey which the applicant anticipates will be issued after the Certificate of Occupancy is issued by the Township of South Orange Village. The hours of operation will be 6:30 a.m. to 6:30 p.m. The facility will provide services for a maximum of 160 children by 18 caregivers and two administrative staff. Staff arrivals will be staggered to match arrival times of children.

4. The first floor will include approximately 2,891 square feet of program space and 10,543 square feet of parking. The second floor will consist entirely of program space and an outdoor playground with an area of 4,017 square feet, which meets State requirements for play space for child care centers. Therefore, the program space on the second floor will have an area of 8,306 square feet.

5. The building design will borrow elements from the Verizon building on the adjacent lot. Façade materials will consist of hardie-panel on the first floor on all four sides and

brick masonry on the second floor. At the request of the Design Review Board, the applicant altered the front façade to make it appear more like a streetfront and pedestrian-friendly facility, adding sconces and other features. The Applicant agreed to work with the Design Review Board to finalize colors, materials, and designs for all architectural elements and that revised plans will be submitted to the Board Professionals for Resolution Compliance.

6. To drop off or pick up children, parents or others will have a key fob which they will use to access the building. Parents or others will park their car or otherwise arrive at the building and walk into a vestibule, then use the key fob to access through the locked door.

7. The entire building will be equipped with a sprinkler system. Each room with more than ten (10) occupants will have two means of egress. There will be closed circuit cameras allowing for monitoring of the entire facility from the manager's office. A three feet six inch high parapet is proposed and the Applicant agreed to demonstrate with details on the plans that it will visually screen the rooftop equipment from street view from all sides.

8. At the request of the Design Review Board, the applicant has reduced the sign package to make the sign location closer to ground level. There will now be one sign with a square footage of 34.7 square feet, internally illuminated with channel letters. Final details will be coordinated with the Design Review Board.

9. The parking will be screened from the street by the front façade. Approximately one third of the building width will be program space and the rest of the width will be the parking. The wall on the west end and buffering from landscaping on the west and north sides will screen parking. Spandrel glass in front of a portion of the building will screen parking and mechanical equipment that otherwise would be visible through the front glass.

10. A lighting plan will be submitted to demonstrate compliance with the Ordinance and include ceiling-mounted fixtures, wall-mounted sconces, and security lighting on the doors.

11. The site is 100% impervious now and the applicant proposes to improve that condition to 80% impervious. Roof drainage will be directed to a new manhole on South Orange Avenue and an inlet in the rear will collect runoff from parking areas.

12. The property is the subject of a Deed Notice, Restricted Use Response Action Outcome and Soil Remedial Action Permit. Construction of the project will require disturbance or adjustment of the approved remedy for this site and the applicant acknowledged their obligation, as a condition of approval, to comply with all applicable NJDEP requirements.

13. A street tree must be removed because it is uplifting pavement. The applicant agreed to replace it.

14. Lighting will be turned off by 8pm, except for security lighting.

15. A temporary sign with a message similar to "Coming Soon" and identifying the

new facility will be installed. The size of the temporary sign was discussed during testimony and it was ultimately decided that the sign would be no larger than 25 SF and that the design will be coordinated with the Design Review Board and that details will be provided on the plans to demonstrate compliance with all other temporary sign requirements. The sign is proposed to be present for longer than 30 days and therefore a variance is required. The applicant agreed to a maximum of 9 months sign installation.

16. The applicant's traffic analysis took place when school was in session, assumed a 2% background growth and included playground square footage in the total calculation of square footage, an obviously conservative assumption. Child care facilities have staggered drop off and pick up times, over approximately 3 hours in the AM and 3 hours in the PM which reduces the number of on-site parking needed. The applicant estimated that 45% of the students would arrive in the a.m. peak hour and therefore the trips are spread throughout the morning hours. The applicant also estimated that 25% of the children have siblings that are also attending the school and thus only one trip is required for those siblings. It was also estimated that 10% of the students are sick on any given day, thereby also reducing trips to the site. The ITE trip generation calculations do not adequately take into account a setting such as this property, which is in a downtown area, well served by mass transit and with a population that may walk or bike to the child care center for drop off and pick up.

17. The amount of new trips will also be reduced by the fact that many of the trips are pass-by trips, a fact which was not taken into account in the traffic analysis and thus the analysis is conservative in that regard as well.

18. With respect to parking, the applicant originally proposed 24 total spaces but during the course of the hearings reduced the number to 22 spaces, including one handicapped-accessible space. Four parallel parking spaces on the west side will be reserved for staff parking and a sign will be installed stating same. The space closest to South Orange Avenue will be eliminated due to visibility and could be used for stroller storage. A space in the northeast corner of the site will be eliminated but will be paved, striped, and signed so that it can be used to make it easier for vehicles to turn around. The revised parking lot will be configured to the satisfaction of the Board Planner and Engineer, and may involve minor shifts in locations of columns, handicap space, and turn-around spaces as necessary.

19 With these adjustments, there will be sufficient aisle width and proper circulation for parents and staff members to navigate the site. Furthermore, the Board finds that the number of spaces is adequate for this very transit-friendly and pedestrian-friendly location. This facility needs less parking than in a suburban location. If the child care center proposes to hold a party or event that will result in greater parking demand than everyday activities, they will rent space off-site.

20. The facility will have abundant bike parking. Parents who use bikes to bring their children to the facility, or staff who use bikes to access the property, can leave bicycles there all day. Similarly, parents who use strollers to bring children to the facility but then want to leave the stroller because they are going to work on the train or bus, can leave the stroller on the site all day,

as there is a dedicated stroller storage location within the building. Temporary stroller/bicycle/scooter parking during the drop-off and pick-up times can be in the area formerly occupied by the parking space closest to South Orange Avenue.

21. The applicant stated that trash will be picked up by a private hauler and will provide a trash truck turning template and demonstrate that there is enough clearance. A turning template will also be provided for an ambulance/other required emergency vehicles to circulate and will be approved by the Township Fire Official and Board Professionals.

22. The applicant agreed that there will be no left turns from the property onto South Orange Avenue. The plans will be revised to show associated signs/stripping, etc. The crosswalk across South Orange Avenue will be realigned slightly but will not be relocated, pursuant to discussions between the applicant and the County. The final design will be provided to the Board Professionals for review and approval.

23. The applicant will install a "PASS" sign to avoid conflict between pedestrians and vehicles leaving the parking area. It will include an audible message with flashing. Because this sign will appear to be a traffic sign, a variance is required for that sign type. Details will be provided for review and approval by the Board Professionals.

24. The PASS sign will not be placed higher than six feet on the wall, which also requires variance approval. The sign will be 18 inches high x 6 inches long x 6 inches wide.

25. Trash will be collected in barrels and picked up by truck from the trash enclosure. The pick-up will take place from 10 a.m. to 2:00 p.m. or after 7:00 p.m.

26. Fencing on the property will prevent students from the nearby middle school from cutting through the lot to get to South Orange Avenue. The facility will not provide before-care or after-care services that would require bus traffic to the site.

27. The public was afforded an opportunity to ask questions of witnesses and offer testimony on the application.

NOW, THEREFORE, based upon the foregoing findings of fact, the Board reaches the following conclusions of law.

1. This application requires the following variances, as well as preliminary and final site plan approval:
 - a. A variance from Section 185-177 of the Ordinance, which requires one loading space whereas the applicant proposes no loading spaces;
 - b. A variance from Section 185-142B.9.h requirement that a temporary sign be installed for no more than 30 days, whereas the applicant proposes to include a sign indicating "Coming Soon" or similar message for a period

- not to exceed nine months;
- c. A variance from Section 185-140J, which prohibits signs which may be confused with or construed as a traffic control device, whereas the applicant proposes a pedestrian safety sign that may be confused with a traffic sign.
 - d. A variance from Section 185-142B.1.f, which prohibits any electric wall sign closer than 10 feet above a public sidewalk and 15 feet above a driveway, but less is proposed for the "PASS" sign.
2. 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.
 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" variance relief, under Section (c)(2).
 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 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. The variance for no loading space is justified because the applicant credibly testified that it is not needed because there will be no large truck deliveries and small van deliveries that are made will be made in the middle of the day. Providing a loading space would require greater building height, which would have its own detrimental effects. Additionally, the Applicant agreed that any delivery vehicles will not restrict access to and from the site and will not impact traffic on the street. Therefore, it is a better plan to avoid building the loading space and not increase the building height. Therefore, the benefits of granting the relief outweigh the detriments.
 7. With respect to the temporary sign being in place for more than 30 days, the Board finds this is a reasonable request, giving the public the opportunity to be aware of the new use and facility and the benefits of supporting that effort outweigh any conceivable visual detriments.
 8. With respect to the variance for a sign that appears to look like a traffic sign, the Board finds that there will be no confusion to motorists by including the sign on the property and that the benefits to pedestrian safety outweigh any potential detriments from installing this sign.

9. The Applicant will evaluate the need for a clearance bar sign at the driveway entrance with the Board Professionals and details will be provided on the plans.
10. The Board finds that this relief can be granted without substantial detriment to the public good and without substantial impairment of the intent or purpose of the Zoning Ordinance.
11. The applicant also requires two design waivers:
 - a. A design waiver from Section 185-113(c), which requires a five-foot setback from parking to the property line, whereas the applicant proposes a setback of zero feet to the east property line.
 - b. A design waiver from Section 185-113(o), requiring that parking be screened from the roadway, whereas the applicant is unable to screen the parking at the driveway.
12. The Board finds that the parking setback design waiver is associated with the area in the northeast corner which the applicant is removing as a parking space but leaving paved so that motorists can use that space to turn around safely. Hence this is a reasonable waiver request in order to facilitate on-site traffic circulation.
13. With respect to the design waiver for parking lot screening, it is important to note that the parking is screened everywhere on the site except the driveway, which is necessary to access the site. Therefore, this waiver is clearly necessary and appropriate.

NOW THEREFORE be it resolved by the Planning Board of the Township of South Orange Village that the application of the Ridgewood Commons Group, LLC, for property located at 109 and 115 South Orange Avenue, is determined as follows:

1. The Board grants the following bulk variance relief pursuant to N.J.S.A. 40:55D-(c)(2):
 - a. A variance from Section 185-177 of the Ordinance, which requires one loading space whereas the applicant proposes no loading spaces;
 - b. A variance from the Section 185-142B.9.h requirement that a temporary sign be installed for no more than 30 days, whereas the applicant proposes to include a sign indicating "Coming Soon" or similar message for a period not to exceed nine months;
 - c. A variance from Section 185-140J, which prohibits signs which may be confused with or construed as a traffic control device, whereas the applicant proposes a pedestrian safety sign that may be confused with a

traffic sign.

- d. A variance from Section 185-142B.1.f, which prohibits any electric wall sign closer than 10 feet above a public sidewalk and 15 feet above a driveway, but less is proposed for the "PASS" sign.
2. The Board grants the following design waivers:
 - a. A design waiver from Section 185-113(c), which requires a five-foot setback from parking to the property line, whereas the applicant proposes a setback of zero feet to the east property line.
 - b. A design waiver from Section 185-113(o), requiring that parking be screened from the roadway, whereas the applicant is unable to screen the parking at the driveway.
3. 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. Left turns will be prohibited from the site onto South Orange Avenue. Sign locations and details will be provided on the plans.
2. The sidewalk will be kept open during construction to the best of the applicant's ability and a pedestrian detour plan will be submitted to the Board Planner and Engineer for review and approval prior to any demolition or site disturbance.
3. Final sign details will be coordinated with the Design Review Board, and will feature high quality materials. All signs will be shown on the revised plans, including the façade sign, the PASS sign, and any clearance bar/sign above the driveway entrance. Final details will be provided to the Board Professionals for review and approvals.
4. The applicant will coordinate the proposed distance between the wheel stop and bollards with the Board Professionals.
5. The applicant will clarify the demolition plan and proposed improvements for the front sidewalk area, and will match the existing sidewalk/pavement treatment.
6. The temporary sign will not exceed dimensions of five feet by five feet. The design will be coordinated with the Design Review Board and details will be provided on the plans to demonstrate compliance with all other temporary sign requirements.
7. The applicant will coordinate final architectural details regarding colors, materials, signage discussed in the Design Review Board's memo with the DRB. Final architecture plans will be revised and submitted for review and approval by the Board Planner

and will address comments within the Planning Reports include details for all colors, materials, windows, screening, signage, lighting, and parking layout, which may include relocation of a column if necessary.

8. Bollards will be installed in front of the bike rack. The bike parking area will be available for cyclists to leave their bicycles there all day.

9. Trash pick-up will take place between 10:00 a.m. to 2:00 p.m. or after 7:00 p.m.

10. The parking space in the northeast will be eliminated but the area will be paved, striped, and signed as a dedicated turning space, or as configured with the Board Professionals.

11. The parking space closest to South Orange Avenue will be eliminated due to visibility and paved and signed as a temporary stroller/scooter holding space.

12. The Lighting and Landscaping Plans will be revised to address the comments of the Planning and Engineering reports, which were agreed to in whole at the Hearing.

13. The applicant will protect existing street trees and/or replace any street trees that must be removed or are damaged during construction. All existing tree wells in front of the site will be replanted. Tree protection details or proposed planting details must be provided.

14. The four parallel parking spaces will be available for only staff parking and there will be sign indicating the same.

15. Construction will take place during hours as provided by Municipal Ordinance.

16. The applicant will comply with all comments in the letters of the Board engineer and planner. The Applicant will provide revised sets of plans to the Board Planner and Engineer for Resolution compliance review and approval. These plans will address all comments from the prior reports, all testimony given during the course of the hearings, and contain all required notes and conditions of approval. A report identifying all changes to the plans will accompany the revised plans.

17. Once revised plans have been approved for Resolution compliance, a final set of all plans will be provided for signature. Only after this is accomplished may the applicant proceed with their submission for building permits.

18. An engineer's estimate is to be prepared to establish an escrow for engineering inspections during construction.

19. A pre-construction meeting is to be scheduled prior to the commencement of site construction.

20. Outside agency approvals/permits are to be obtained prior to the start of

construction with copies provided to the Village Engineer.

21. With respect to the PASS sign, the sound of the audio from that sign cannot exceed applicable state noise limits.

22. All utilities and connections will be shown on the plans. No utilities or mechanical equipment will be visible from public view. The plans will show adequate screening.


23. The Applicant shall comply with all applicable Township, County and State laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local and state approvals and/or permits.

24. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its successors or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.

25. The Applicant shall pay all outstanding taxes, application fees, technical review fees and inspection fees that may be required hereunder. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within ten (10) days of notification.

26. All construction, use and development of the property, shall be in conformance with applicable code requirements, the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this resolution.

The undersigned secretary certifies the decisions set forth herein was made by this Board on June 3, 2019 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on July 9, 2019.


Ojetta Davis, Board Secretary

Vote on Action Taken by the Board

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

Vote on Memorializing Board:

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