

RESOLUTION

Township of West Orange

Planning Board

PB 23-10 GBSJ, LLC t/a Goddard School/ 289 Mount Pleasant Avenue

Block: 83 Lots: 1 and 5.01; Zone: B-2

Decided on November 1, 2023

Memorialized on November 29, 2023

**Application for Preliminary and Final Major Site Plan Approval with Bulk Variances to
Expand the Existing Childcare Center**

WHEREAS, GBSJ, LLC t/a Goddard School (Hereinafter the “Applicant”) has made an application for Preliminary and Final Major Site Plan approval with Variances to expand the existing childcare center at property located at 289 Mount Pleasant Avenue, also known as Block: 83; Lots 1 and 5.01 (the “Property”), in the B-2 commercial zone; and

WHEREAS, a properly noticed public hearing was conducted on November 1, 2023; and

WHEREAS, the Applicant was represented by Walter E. Hanley, III, Esq.; and

WHEREAS, the Applicant provided testimony from Steven Harrison and Nicole Harrison, owners and operators of GBSJ, LLC t/a Goddard School, Gerard P. Gesario, PE of Jarmel Kinzel, as a professional engineer, Cheryl Schweiker, AIA of Jarmel Kizel, as a professional architect and Matthew J. Seckler, P.E. of Stonefield Engineering and Design, LLC as a professional traffic engineer and planning expert; (the “Witnesses”); and

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

ITEM	SIGNED BY	DATE/REVISION
Site Plan (9 sheets)	Gerard P. Gesario, P.E.	10/18/2023

Architectural Plans (2 sheets)	Matthew B. Jarmel, AIA, MBA	10/19/2023
Traffic and Parking Assessment report	Matthew J. Seckler, PE, PP, PTOE and John R. Corak, PE	10/20/2023

WHEREAS, representatives of the public were provided with an opportunity to pose questions of the Witnesses and also had an opportunity to offer statements in regard to the Application; and

WHEREAS, the Board reviewed and considered the Application and the documents submitted therewith, the testimony of the Witnesses and members of the public; and

WHEREAS, the Board also considered the testimony and filed review letters of its professionals at the hearing, including a review memo dated October 30, 2023 from John J. Hess, P.E., PP, CME (Township Engineer) and a Planner's Report by Paul Grygiel, AICP, PP, Township Planner dated October 30, 2023.

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

1. The Applicant is requesting approval for Preliminary and Final Major site plan approval with c variances to expand the existing childcare center by modifying and expanding an existing building on an adjacent property.
2. The two properties (Lots 1 and 5.01) will be consolidated as part of the Application.
3. The Planning Board approved an application in 2017 to permit the existing development.
4. The subject property is located on the northeastern corner of the intersection of Mt. Pleasant Avenue and Prospect Avenue.
5. The area surrounding the subject property is developed with a mix of land uses which include office, retail, residential and utility. An electrical substation is located to the

west across Prospect Avenue, the Essex County Country Club is located to the southwest and a large vacant parcel is located to the south across Mount Pleasant Avenue. Offices are located along Marcella Avenue, Mount Pleasant Avenue and Prospect Avenue. Communications towers and ancillary facilities are located on properties along Marcella Avenue. Other commercial uses are located along Prospect Avenue.

6. The subject property is located at the intersection of two main roads: Mount Pleasant Avenue and Prospect Avenue. Mount Pleasant Avenue is a County road (Route 577) adjacent to the subject site and is a State highway to the west of Prospect Avenue (Route 10), while Prospect Avenue is a County road (also Route 577 north of Mount Pleasant Avenue).
7. A childcare center is located on Lot 5.01, along with a metal transmission tower and related improvements.
8. Existing site improvements include an 8,800 square foot, one-story building and a 5,600 square foot outdoor fenced-in play area on the northeastern portion of the site (adjacent to Marcella Avenue.)
9. A total of 45 parking spaces are currently provided in two parking lots, an upper lot at the same elevation as the building, and a lower lot accessed by a driveway and stairs. Twenty-two (22) spaces are located in the upper parking lot and the remaining parking spaces are in the lower parking lot.
10. Vehicular access to the site is provided by right-in, right-out access driveway on Mount Pleasant Avenue and a two-way driveway on Marcella Avenue.

11. The existing childcare center on lot 5.01 was approved by the Planning Board in 2017 and has been operating for five (5) years.
12. Lot 1 is developed with a three-story building and multiple radio transmission towers (Which are currently in operation.) The towers will be removed as part of this application.
13. The Applicant is requesting approvals to renovate and expand the existing building on Lot 1 to serve as an annex to the existing childcare center on Lot 5.01. The proposal includes the construction of two additions to the building on Lot 1, one on the north and one near the southwest corner. Three classrooms would be located within the building on Lot 1, one on each floor. The total capacity of the classrooms would be 60 children.
14. An elevator and three stairways are proposed to be added to comply with the applicable codes and regulations.
15. A new crosswalk is proposed across the site driveway closest to Marcella Avenue to connect the two buildings.
16. An existing trash enclosure at the southeast corner of the upper parking lot is proposed to be replaced by one at the southwest corner.
17. Lot 5.01 is 54,492 square feet (1.25 acres) in area. Lot 1 is 3,852 square feet in area, which when added to the existing Lot 5.01 would result in a new total lot area of 5,344 square feet (1.34 acres).
18. The application was reviewed by the Site Plan Review Advisory Board ("SPRAB") and the Applicant addressed nearly all of the issues raised at the SPRAB meeting through revised and supplemental application materials with the exception of concern

raised about cleanup of trash discarded from passing vehicles. Applicants testified that they would continue to maintain and remove the trash that is littered by passing vehicles.

19. To improve drainage and stormwater runoff, the new curbing on Marcella Avenue and new walkways will be installed. Also, the property will be graded to properly direct runoff and additional landscaping (60 shrubs, 2 trees and perennial plants) is proposed which will also aid in disbursement of the stormwater.
20. 500 square feet of new impervious coverage is being added to the site.
21. Applicant will install "Watch for Pedestrian" signs to alert drivers as they approach the crosswalk from both Marcella Avenue direction as well as from the northerly direction.
22. The only signs will be on the building and will comply with the Township ordinance.
23. While there is a generator currently located on Lot 1, it will be removed as it is not necessary for childcare use.
24. Currently there are 132 students at the school with a long waiting list and 25 faculty members. 80% of the faculty use mass transportation to get to the site.
25. Parents dropping and picking up their children are on site an average of 7 minutes and the drop off and pick up times are staggered through the day beginning at 7:30AM and through to 9:30AM with most drop offs arriving between 8:30 and 9:00AM. There are half day students picked up in the afternoon and from 3:00PM to 6:00PM, students are picked up with most being picked up between 5-5:30PM.
26. At peak drop off and pick up times only half of the currently existing parking spaces (45) are used and while it is anticipated that 60 additional students will be in the new building annex, testimony from Applicant's traffic engineer was that a conservative

estimate would anticipate the use of approximately 33 vehicles on site at any peak time which can easily be accommodated by the existing conditions.

27. If the parking were increased it would result in additional impervious coverage.
28. Electric vehicle charging stations are not recommended because as the facility is a school, parent parking all day is not permitted and there are few faculty members that use the parking lot. Additionally, as this is a secure site being a school, therefore, EV parking spaces are not open for public parking for security purposes.
29. The Application requires the following variance relief from the Board:

SECTION/REQUIREMENT	PERMITTED/REQUIRED	PROPOSED
25.71 Minimum front yard	30 feet	12.5 feet
25-7.1 Minimum side front yard	25 feet	3.0 feet
25-7.1 Maximum lot coverage	60%	66.1%
25-12.2b.1 Minimum number of parking spaces	70 spaces	45 spaces

30. N.J.S.A. 40:55D-46a. and b. and N.J.S.A. 40:55D-50a. govern the Board's review of the preliminary and final site plan application. N.J.S.A. 40:55D-46a provides that an "ordinance requiring site plan review and approval shall require the developer submit to the administrative officer a site plan and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for preliminary site plan approval have been met." N.J.S.A. 40:55D-46a further provides that "The site plan and any engineering documents to be submitted shall be required in tentative form for discussion purposes for preliminary approval. If any architectural plans are required to be submitted for site plan approval, the preliminary plans and {Goddard School Draft Resolution}6

elevations shall be sufficient.” N.J.S.A. 50:55D-46b provides that “if the planning board required any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development” and “the planning board shall, if the proposed development complies with the ordinance and this act, grant preliminary site plan approval.” N.J.S.A. 40:55D-50a. provides that final site plan approval “shall” be granted if the detailed drawings, specifications, and estimates of the application conform to the standards of all applicable ordinances and the conditions of preliminary approval. As such if the applicant meets the standards set forth in the ordinances, the planning board lacks the authority to deny approval of the site plan and subdivision. N.J.S.A. 40:55D-50a; PRB Enters., Inc. v. S. Brunswick Planning Bd., 105 N.J. 1, 7 (1987); Dunkin' Donuts of N.J., Inc. v. Twp. of N. Brunswick Planning Bd., 193 N.J. Super. 513, 515 (App. Div. 1984).

Conversely, if the application does not comply with all ordinance requirements, the Board must deny approval. Cortesini v. Hamilton Planning Board, 417 N.J. Super. 201, 215 (App. Div. 2010). However, there are two exceptions: (1) The first exception is where an application does not comply with all ordinance requirements but the Board grants relief in terms of variances or exceptions. In that case, the Board then must review the application against all remaining ordinance requirements and grant approval if the application complies with all such remaining requirements.

31. N.J.S.A. 40:55D-60 permits a planning board to grant variances from the bulk regulations of a zoning ordinance and other zoning deviations that do not require a “d”

variance as part of site plan or subdivision review. The variance proofs are the same as for "c" variances as set forth in N.J.S.A. 40:55D-70. A c (2) variance may be granted when the purposes of zoning are advanced and the benefits of deviating from the ordinance requirements outweigh any detriments. The benefits derived from granting a "c (2)" variance must include benefits to the community as a whole, not just the applicant or property owner. A "c" variance must address the "negative criteria," and affirmatively demonstrate that the variance can be granted "without substantial detriment to the public good" and "without substantial impairment to the intent and purpose of the zone plan and zoning ordinance" of the municipality.

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

1. The use at the site is both a permitted use and an inherently beneficial use.
2. The requested variances for minimum front yard, minimum side front yard and maximum lot coverage satisfy the c (1) criteria as they are pre-existing conditions which are hardships caused by the property and as to the lot coverage the improvements to landscaping and curbing will improve the conditions on site.
3. The requested parking variance satisfies the c (2) criteria because the project as a whole advances the purpose of the MLUL as it is inherently beneficial and also will be an aesthetic improvement due to the removal of non-permitted uses (communication towers) and also is an encouraged use under the Master Plan.
4. The benefits of the project outweigh any negatives.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Township of West Orange that approval for Preliminary and Final Major site plan approval with c variances to expand the existing childcare center by modifying and expanding an existing building on an adjacent property is granted; and

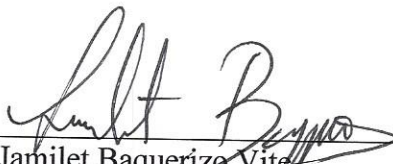
IT IS FURTHER RESOLVED that the approval granted to GBSJ, LLC t/a Goddard School, is subject to the following terms and conditions:

1. The Applicant shall comply with all applicable Township, County, State and Federal laws, ordinances, regulations, and directives, including without limitation, obtaining all applicable local, state, and federal approvals, or permits. If another governmental entity or agency grants a waiver or a variance affecting the plans and/or exhibits submitted by the Applicant, this approval or the conditions attached to it, then the Applicant shall re-apply to this Board respecting the same and this Board shall have the right to view that issue as it relates to this approval and these conditions and modify and amend same, if appropriate.
2. 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 successor 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.

3. All construction, use and development of the property shall be in conformance with 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.
4. The Applicant shall pay all outstanding application fees and technical review fees, board attorney fees for preparation of the resolution, as well as any inspection fees that may be required hereunder. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days of the notification or this approval shall be deemed withdrawn.
5. All notes included in the approved plans, including notes required by this Resolution, shall be deemed conditions of approval having the same force and effect as conditions expressly set forth in this Resolution.
6. Applicant agrees to abide by all of the suggestions and directives set forth in the Hess report dated October 30, 2023.
7. Applicant will correct the site plan to show that there are 70 required parking spaces on site.
8. Applicant shall install and maintain in perpetuity, native plantings with the approval of the Township Forester.
9. An additional "Watch for Pedestrian" sign (as shown on C300) before the crosswalk on the north side will be added.
10. Signs (other than those directional signs required in the parking lot or for traffic control as mentioned herein) will be mounted on the building and will comply with the Township Ordinance.

11. The trash enclosure will be re-located to the southwest corner.
12. The new additions will have white roofs and if it is determined that a new roof should be installed on the building, then Applicant shall install a white roof.
13. Applicant must submit proof of approval of the facility from the Division of Children and Family Services to the Zoning Official. (This is not a condition precedent to the signing of plans, associated construction or a Certificate of Occupancy.)
14. The Applicant shall list all conditions of approval onto a final site plan submission prior to the submission of the building permit.

The undersigned secretary certifies the decision set forth herein was made by this Board on November 1, 2023, and memorialized herein pursuant to N.J.S.A. 40:55D10(g) on November 29, 2023.


Jamilet Baquerizo Vite
Planning Board Secretary

Vote Action Taken by the Board on November 1, 2023:

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
K. Alper			X			
J. Guarino			X			
L. Klein						----
S. McCartney			X			
C. Morgan			X			
P. Smeraldo						----
W. Wilkes			X			
T. Williams		X	X			
S. Jensen						----
J. Cardoza			X			
R. Bagoff	X		X			

Vote on Memorialization on November 29, 2023:

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
K. Alper			X			
J. Guarino		X	X			
L. Klein					----	
S. McCartney			X			
C. Morgan			X			
P. Smeraldo					----	
W. Wilkes			X			
T. Williams			X			
S. Jensen					----	
J. Cardoza			X			
R. Bagoff	X		X			