

RESOLUTION
Township of West Orange
Planning Board
PB 24-13 IMMC HEALTH/CACS/993 Pleasant Valley Way
Block: 172.02 Lot: 6; Zone: B-2
Decided on January 8, 2025
Memorialized on _____
Minor Site Plan Approval with Bulk Variances

WHEREAS, IMMC Health/CACS (hereinafter the “Applicant”) has made an application for Minor Site Plan approval and Bulk Variances to construct a second story addition to the existing medical office located at 993 Pleasant Valley Way, also known as Block: 172.02 Lot: 6, in the B-2 Zone; and

WHEREAS, a properly noticed public hearing was conducted on January 8, 2025; and

WHEREAS, the Applicant was represented by Keith Loughlin, Esq. of Inglesino Taylor.; and

WHREAS, the Applicant provided testimony of William J. Gentile, AIA, of Square Center,LLC, a licensed Architect in the State of New Jersey 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:

ITEM	SIGNED BY	DATE/REVISION
Architectural Plans entitled, “Minor Site Plan Review” (10 Pages)	William J. Gentile, AIA	6/26/2024

WHEREAS, representatives of the public asked questions of the witnesses and had an opportunity to offer statements regarding 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 including Gerard M. Haizel, PP, AICP of Nishuane Group and Phillip Scott, P.E., C.M.E. of Matrix New World Engineering at the hearing; and

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 minor site plan approval with bulk variances for maximum lot coverage (60% is permitted and 82% is proposed) and minimum number of required parking spaces (25 total are required and 21 spaces are proposed).
2. The subject property received approvals for a c(2) variance for maximum lot coverage and site plan approval from the Planning Board on July 6, 2022 (resolution memorialized on August 3, 2022) to construct internal modifications to accommodate a medical office (Application PB 22-04).
3. The property is located in the B-2 Zone and Applicant seeks to construct a second story addition for a one-bedroom apartment and an office with the intention of being used by the owner of the property.
4. The proposed addition of a residential apartment is a permitted conditional use, and the project meets all the conditions for such use.

5. There were a number of conditions required for the Applicant's first site plan application (PB 22-24) that continue to remain open (such as paving and striping the parking lot) but which were explained as remaining open because of this next proposed construction.
6. The proposed addition would increase the parking requirement to 24 parking spaces (which takes into account the shared parking approach pursuant to West Orange Ordinance §25-12.2a.3).
7. Applicant acknowledges that some of the conditions of the variance and site plan in PB 22-04 were not completed but will be completed along with the improvements requested in this application.
8. Applicant requested waivers from the Township of West Orange for Items Number 29, 35, 36, 44, 45, 46, 47, 48, 49 and 50.
9. Board Planner, Mr. Haizel, disagreed with waiver requests for Item 44 (Lighting Plan) and 48 (Site Triangle); however, since issuing his report dated September 13, 2024, Applicant complied and submitted a site triangle illustration, so this waiver is satisfied. Applicant agreed to submit an updated lighting plan.
10. The Application requires the following variance relief from the Board:

SECTION/REQUIREMENT	REQUIRED	EXISTING	PROPOSED
25.71 (b) Maximum lot coverage	60%	82%	75.73%
25-12.1o. Maximum parking row length without landscaped island	24 spaces	21 spaces	21 spaces

5. N.J.S.A. 40:55D-46.1. and N.J.S.A. 40:55D-5 govern the Board's review of the minor site plan application. N.J.S.A. 40:55D-5 defines "minor site plan" as a development plan of one

or more lots which (1) proposes new development within the scope of a development specifically permitted by ordinance as a minor site plan; (2) does not involve planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to N.J.S.A. 40:55D-42; and (3) contains the information reasonably required to make an informed determination as to whether the requirements established by ordinance for approval of a minor site plan have been met.” N.J.S.A. 40:55D-46.1 provides that “Minor site plan approval shall be deemed to be final approval of the site plan by the board, provided that the board or said subcommittee may condition such approval on terms ensuring the provision of improvements, pursuant to N.J.S.A. 40: 55D-38, 40:55D-39, 40:55D-41 and 40:D-53” 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. 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).

11. 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. This application requires minor site plan approval and bulk variance relief.
2. The requested variances for maximum lot coverage and parking satisfy the c (1) criteria as they are pre-existing conditions which are hardships caused by the property and c(2) criteria because the parking use as explained will not result in additional vehicles as the apartment and office will be a shared parking arrangement.
3. Waivers as to Items 29, 35, 36, 45, 46, 47, 49 and 52 are satisfactory as they were either not applicable or satisfied by the testimony presented by the Applicant.

NOW THEREFORE be it resolved by the Planning Board of the Township of West Orange minor site plan approval and variance relief for maximum lot coverage and parking allowance of 21 parking spaces where 24 spaces are required and waivers as to Items 29, 35, 36, 45, 46, 47, 49 and 52 is granted.

AND IT IS FURTHER RESOLVED that the above approval 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 and/or permits. Without limitation of the foregoing, prior to the signing of the approved site plans, and prior to the commencement

of any land disturbance or construction but excluding interior renovations, the Applicant shall submit to this Board, with a copy to the Board Engineer, proof that it has obtained all required governmental approvals.

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 taxes, tax liens, application fees and technical review fees, and Board attorney fees for preparation of 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 comply with all recommendations set forth in the report of Phillip Scott, P.E. dated September 16, 2024, with the exception of item 3.9 related to Belgium block curbing which the township engineer will review with Applicant as to the necessity of same.
7. The parking lot will be completely repaved and re-striped and final paving and striping must be completed and approved by the municipal and/or board engineer before a Certificate of Occupancy will be issued.
8. Before repaving the parking lot, Applicant shall consult with the Township Engineer to determine the direction of drainage.
9. Applicant agrees to comply with the recommendations of Mr. Haizel in his report of September 13, 2024.
10. A lighting plan (Item 44 on the Site Plan Checklist) will be submitted.
11. Any conditions not completed as to the site plan approval issued in PB 22-04 are adopted here as set forth at length and Applicant shall comply with each of those conditions that are still open.
12. A final survey will be submitted at the conclusion of the project.
13. Applicant shall list all conditions of approval onto a final site plan submission.

The undersigned secretary certifies the decision set forth herein was made by this Board on January 8, 2025, and memorialized herein pursuant to N.J.S.A. 40:55D10(g) on

_____.

Jamilet Baquerizo-Vite,
Planning Board Secretary

Vote Action Taken by the Board on January 8, 2025:

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

Vote on Memorialization on January 22, 2025:

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
K. Alper						
J. Guarino						
L. Klein						
S. McCartney						
C. Morgan						
S. Scarpa						
P. Smeraldo						
W. Wilkes						
J. Cardoza						
L. Kapferer						
R. Bagoff						