

CONSOLIDATED LAND USE BOARD OF THE TOWNSHIP OF MANSFIELD

RESOLUTION NO. 2021-6-11B

**CONCERNING THE APPLICATION OF
THE MUDDY PUP
FOR VARIANCE APPROVAL**

WHEREAS, The Muddy Pup, LLC (the “Applicant”), has applied to the Consolidated Land Use Board of the Township of Mansfield (the “Board”) for Variance Approval for property located at 23203 Columbus Road, known as Block 42,30, Lot 151 (the “Property”) on the Official Tax Map of the Township of Mansfield to locate a dog grooming business in Suite C of the Homestead Plaza II shopping center; and

WHEREAS, the Property is located in the C-1 Neighborhood Commercial Zoning District of the Township; and

WHEREAS, the Applicant’s proposed dog grooming use is not a permitted use in the C-1 Zoning District and a variance pursuant to *N.J.S.A. 40:55D-70(d)(1)* is required; and

WHEREAS, the application for Variance Approval was deemed complete by the Board on June 28, 2021; and

WHEREAS, a public hearing to consider the application was held by the Board on June 28, 2021¹, after appropriate public and personal notice was provided to all property owners within 200 feet of the Property and published in the Official Newspaper of the Township, as required by the land development regulations of the Township of Mansfield and the statutes of the State of New Jersey; and

WHEREAS, the Applicant presented evidence to the Board through testimony, plans and other evidence; and

WHEREAS, the following exhibits were introduced by the Applicant during the June 28, 2021 Public Hearing:

A-1 Homestead Plaza II 2015 Site Plan, prepared by Taylor Wiseman Taylor;

A-2 Photograph of Suite C;

¹ The June 28, 2021 Public Hearing was conducted with in-person and virtual participation in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq., as amended by A-3850 to permit electronic meetings, and in consideration of the Executive Orders issued by Governor Murphy and Guidelines issued by the Department of Community Affairs, to protect the public during the COVID-19 emergency. The virtual meeting progressed with the consent of the Applicant.

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A-3 Photograph of Suite C; and

WHEREAS, the Board after carefully considering the evidence presented by the Applicant in support its application for Variance Approval, and after the meeting was opened to the public for their questions, comments and input, has made the following findings of fact:

1. The Applicant has entered into a lease agreement to occupy Suite C of the Homestead Plaza II retail center. The Applicant is proposing to operate a dog grooming business from Suite C.

2. The Applicant's proposed dog grooming business is not a permitted use in the Neighborhood Commercial Zoning District and a "D-1" use variance is required.

3. The Applicant has filed a Land Development Application with the Board for "D-1" Use Variance Approval, providing the Board with the Application and Submission Checklists, Homestead Plaza II Site Plan and Photographs of Suite C.

4. The taxes on the Property are current or exempt.

5. The Applicant has paid and/or posted all required fees and agreed to keep the review escrow current.

6. Proper notice of the application for Variance Approval has been given, based upon the certified list from the Office of the Mansfield Tax Assessor.

7. Other than interior improvements for the dog grooming business, the Applicant is not proposing any exterior site improvements.

8. The Applicant was represented at the June 28, 2021 Public Hearing by Kit Applegate, Esquire. Dana Panacek and Christopher Zehnder, PP, testified on behalf of the Applicant.

9. Ms. Applegate represented to the Board that the Applicant consents to the Public Hearing with virtual participation.

10. Ms. Panacek provided the following sworn testimony during the June 28, 2021 Public Hearing:

a. She is one of the two owners of the dog grooming business.

b. Other than her and her co-owner, the business will not have any other employees.

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- c. The hours of operation will be 8:00 a.m. to 6:00 p.m. on Tuesdays and Wednesdays and 8:00 a.m. to 4:00 p.m. on Thursdays, Fridays and Saturdays.
- d. On average, they will groom six (6) dogs per day with no overnight stays.
- e. Dogs generally come in every 6 to 8 weeks for grooming.
- f. The business will not violate the noise ordinance.
- g. Dogs will not be walked.
- h. A private contractor will be utilized to remove any dog waste.
- i. No additional signage is needed as the existing Homestead Plaza II sign board will be utilized.

11. Mr. Zehdner provided the following sworn testimony during the June 28, 2021 Public Hearing:

- a. He is the Applicant's Professional Planner, licensed in the State of New Jersey².
- b. The dog grooming use is consistent with the zone plan and is compatible with the Municipal Land Use Law.
- c. The proposed use will promote commerce and will benefit the community.
- d. The suites are well-suited for the proposed business.
- e. There is sufficient parking at Homestead Plaza II and the proposed dog grooming use will not affect the Plaza's parking needs.
- f. The dog grooming use will be located approximately 200 feet from the nearest residential use.

12. The Board Engineer, Planner and Traffic Engineer reviewed their respective Review Letters for the Board and the Public and expressed no concerns regarding the dog grooming use with the Board Traffic Engineer testifying that this type of use is not uncommon in shopping centers.

13. During the public portion of the June 28, 2021 Hearing, Margaret Zola testified that the dog grooming business was needed but she was concerned with the Homestead Plaza II location for such a use.

² Based on his education, experience and licensing, Mr. Zehdner was qualified by the Board to offer expert testimony in land use planning.

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AND WHEREAS, based upon the above factual findings, the Consolidated Land Use Board of the Township of Mansfield has come to the following conclusions:

1. The Applicant has submitted a Complete set of plans so that the Board has the necessary information to make a decision on the application for Variance Approval.

2. This application relates to a specific piece of property and the purposes of the zoning laws of the State of New Jersey and of the zoning ordinance of the Township of Mansfield would be advanced by the deviation from the zoning ordinance requirement pertaining to use, as specified herein, as requested by the Applicant.

3. The benefits of the deviation from the zoning ordinance requirement specified herein would substantially outweigh any detriment to the public good as variance approval and the development of the Property as proposed will promote the safety, health and general welfare of the community.

4. Relief as requested by the Applicant can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance of the Township of Mansfield.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Township of Mansfield, on the 26th day of June 2021, that this Board hereby grants to the Applicant a variance pursuant to *N.J.S.A. 40:55D-70(d)(1)* to permit the proposed dog grooming business to operate from the Homestead Plaza II retail center, as proposed by the Applicant, in accordance with the Plans, Testimony and Exhibits submitted by the Applicant, subject to the following conditions:

a. Subject to the Applicant obtaining all other approvals that may be required for the development, including, but not limited to Burlington County Planning Board and Burlington County Health Department.

b. Proof that the Applicant has applied for the necessary approval(s) from all other agencies having jurisdiction over the Applicant's use of the Property shall be filed with the Township's Land Use Coordinator.

c. The fulfillment of all other conditions precedent shall forthwith be reported in writing to the Township, which may cause such reports to be verified in an appropriate manner. Only upon the fulfillment of the conditions shall the required building permits, certificates of occupancy or zoning permits be issued.

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d. Subject to the sworn testimony and representations of the Applicant's witnesses and representatives made during the course of the public hearing, whether or not formalized in this Resolution.

e. Subject to the submission of revised plans complying with the comments of the Board Professionals and with this Resolution, as may be required.

f. Subject to the Applicant posting all required inspection fees and performance and maintenance guarantees, if required by the Municipal Land Use Law of the State of New Jersey for construction of the development.

g. Subject to the Applicant's escrow account for the review of its Application being current. Failure of the escrow account to be current may result in the non-issuance of permits.

h. Nothing herein contained shall be deemed to waive or modify the requirement that the Applicant obtain from any and all other agencies having jurisdiction in this matter, any and all approvals required by law and this approval is specifically conditioned upon the Applicant obtaining those approvals.

i. Subject to the Applicant applying for and receiving all permits that are required prior to the commencement of construction. This Approval does not guarantee the issuance of any permit as the Applicant is required to comply with all other applicable codes, ordinances, rules, regulations and statutes for the issuance of such permits.

j. Subject to the review comments of the Board Engineer as contained in the June 11, 2021 Review Letter of Stout and Caldwell Engineers and Surveyors, by Mark E. Malinowski, PE, except as may be modified herein.

k. Subject to the review comments of the Board Planner as contained in the June 11, 2021 Review Letter of Environmental Resolutions, Inc., by Edward Fox, AICP, PP, except a may be modified herein.

l. Subject to the review comments of the Board Traffic Engineer as contained in the May 11, 2021 Review Memorandum of Litwornia Associates, Inc., by Alexander Litwornia, PE, except as may be modified herein.

m. Subject to this approval for the dog grooming use, unless the use becomes a permitted use in the C-1 Zoning District, being limited to the Applicant only. This use variance shall not run with the land.

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n. Subject to a contractor being retained to handle the disposal of dog waste; dog waste shall not be disposed of with any other trash.

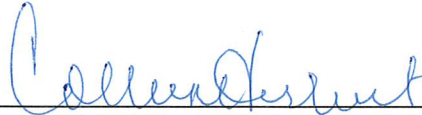
ROLL CALL VOTE

Those in Favor: 6
Those Opposed: 1
Those Abstaining: 0

CERTIFICATION

I hereby certify that this foregoing Resolution is a true memorializing resolution, as adopted by the Consolidated Land Use Board of the Township of Mansfield in accordance with its decision at its regular meeting on June 28, 2021.

**THE CONSOLIDATED LAND USE BOARD
OF THE TOWNSHIP OF MANSFIELD**



COLLEEN HERBERT, ACTING CHAIRMAN

Attested:



LINDA SEMUS, SECRETARY

Dated: July 28, 2021
Date of Approval: June 28, 2021
Date of Memorialization: July 26, 2021