

**Resolution No.: 09-2021**

**RESOLUTION OF THE BOROUGH OF CLAYTON LAND USE BOARD  
GRANTING USE VARIANCE APPROVAL CONTINGENT ON SITE PLAN  
APPROVAL FOR  
19 and 29 West High Street**

**APPLICANT - CLAYTON HEALTHCARE, LLC**

**WHEREAS**, the Applicant, Clayton Healthcare, LLC of 10 Fabiszewski Way, Parlin, New Jersey 08859, submitted an application seeking a use variance; and

**WHEREAS**, the subject property is located at 19 and 29 West High Street, and N. Delsea Drive and is particularly described as Block 710, Lots 7, 8, and 9 and is owned by the Applicant; and

**WHEREAS**, the Applicant proposes to combine Lots 7 and 8 in order to build a mixed-use healthcare facility comprised of a pharmacy and medical offices with a possible related retail use and then rehabilitate the existing single family dwelling on Lot 9; and

**WHEREAS**, the subject tracts total approximately 35,636 square feet with Block 710, Lot 7 being in the Central Business district (CB) and Block 710 Lots 8 and 9 are in the High-Density Residential District (R-C) and a use variance is required to permit the proposed mixed use subject to and contingent upon site plan approval; and

**WHEREAS**, the Board re-constituted itself as a Zoning Board of Adjustment since the requested relief requires, inter alia, use variance relief; and

**WHEREAS**, the Applicant was represented by Dale Taylor, Esquire; and

**WHEREAS**, Greg Simonds, P.E., testified on behalf of the Applicant as the project engineer before the board on June 28, 2021; and

**WHEREAS**, Greg Simonds, P.E., as well as the Board's Planner, Paul D. Brier, P.P. of Federici & Akin, P.A. were duly sworn; and

**WHEREAS**, the Applicant's Attorney, Dale Taylor, Esquire provided an overview of the proposed project explaining that Lot 7 is presently a vacant lot with Lot 9 containing an abandoned single-family residence and a detached garage and Lot 8 contains a commercial building in need of renovations. Mr. Taylor argued that the location is suitable for the proposed project and will provide sufficient space and will use a good civic design so that it remains attractive and new vitality to the subject site. He contends this project will

provide adequate air, light, and open space as well as adding to the public welfare with the proposed pharmacy without harming the zone or zone plan; and

**WHEREAS**, the Applicant's representatives confirmed that Lot 9 will remain a separate lot and the single family dwelling located on the property will likely be rented out as the Applicant does not expect to reside there. Lot 7 and Lot 8 shall be consolidated to permit the renovation of the existing commercial structure, or construction of a new one- or two-story building, that will have a mixed healthcare use. There shall not be any drug treatment facilities of any type on any of the subject properties and this use variance specifically excludes such uses. Additionally, none of the medical businesses shall be permitted to operate on a 24-hour basis. The facilities shall use private trash collection and it is expected that traffic will be controlled by allowing people to enter off of Delsea Drive and only be allowed to exit onto East High Street with final aspects addressed at site plan review; and

**WHEREAS**, in support of this application for a use variance, Greg Simonds, P.E. testified that the proposed building on the to be consolidated Lots 7 and 8 will be built where the existing curb is cut on East High Street. The Applicant shall connect to the existing water and sewer mains. Mr. Simonds testified that the Applicant will also depict the nearest fire hydrant on the site plan when filed. Mr. Simonds also testified that the garage on Lot 9 will be demolished. Mr. Simonds further testified that the limited number of parking spaces listed on the plan is in accordance with the Clayton ordinance, stating it is difficult to determine parking until the Applicant engineers the site as part of the site plan process; and

**WHEREAS**, the Board's Planner, Paul D. Breier, P.P. testified utilizing his June 23, 2021 review letter that Lot 8 and Lot 9 are within the R-C - High Density Residential district, and part of Lot 8 is being proposed to be used for medical office and retail space, a use variance will be needed. He further elaborated that Lot 7 is located within the CB - Central Business District and therefore the proposed asphalt parking lot will also require a use variance. Concern was expressed by the Board Planner regarding the potential need for a small water basin to contain stormwater. Mr. Brier addressed the need for the site to provide adequate emergency/fire access. He also addressed the need for the site plan to show a loading/unloading area for any commercial units. Furthermore, the Applicant must comply with all affordable housing requirements. Mr. Brier further noted that a variance may be required with the Site Plan application for the reduced number of parking spaces that are presented for the proposed project. He also reiterated the need for Bulk Variances, which will also be addressed as part of the Site Plan application for the proposed project due to several "existing non-conforming" aspects of the existing building that will be renovated for the medical office and related retail space; and

**WHEREAS**, in support of this application, Applicant relied on the following exhibit: **1.** Variance Plan for Clayton Healthcare, LLC; and

**WHEREAS**, the Board's planner, Paul D. Breier, P.P. discussed the basis for the grant of a use variance to permit the use as hereinbefore described and the overall site as it exists and is proposed, and that the applicant has met its burden in demonstrating special reasons exist for the grant of said variance relief without detriment to the public good or impairment to the master plan or zoning ordinances; and

**WHEREAS**, the Board in reviewing the application and submissions and questioning the Applicant and their representatives and as a result, the Applicant has agreed to the following: **1.** The Applicant shall not permit any type of drug treatment facility to operate on the premises. **2.** The Applicant shall provide a traffic report at site plan review. **3.** The Applicant shall add the nearest fire hydrant to the site plan. **4.** The Applicant shall connect to existing water and sewer mains. **5.** The Applicant understands that the instant use variance approval extends only to a mixed use comprised of the single family dwelling on Lot 9 with a pharmacy and medical offices with related medical retail on consolidated Lots 7 & 8. **6.** The Applicant will meet any COAH or Growth Share obligation.; and

**WHEREAS**, members of the public were permitted to speak on the application at the regularly scheduled Planning Board Meeting held on June 28, 2021 and Jean Schoellkopf, Tom Washburn, RoseAnn Lafferty, Laura Hampton, and Anthony Rowe were all in attendance and spoke; and

**WHEREAS**, resident Jeanne Schoellkopf wanted to express her concern about a lab being one of the medical uses of the property. She also expressed her concern for the need of the property to be cleaned up because the grass needs to be cut with trash present on the vacant lot. Mr. Taylor, addressed her concerns and confirmed that there will be no lab facilities on the site and that the lot will be cleaned up and the grass cut; and

**WHEREAS**, resident Tom Washburn stated that he lives right behind the property and he is looking forward to an improved lot, but that he has concerns about a drug treatment facility or related business being allowed to operate. Mr. Washburn was assured by the Applicant's representatives and the Board that there will be no drug treatment facility or similar business operating on the premises; and

**WHEREAS**, the Zoning/Code Enforcement Officer, Rose Ann Lafferty directed the Applicant to make sure the property is cleaned up; and

**WHEREAS**, resident Laura Hampton stated that she lives behind the property and is concerned about the rehabilitation of the vacant single family

dwelling on Lot 9. She expressed concern a generalized concern about buried tanks on the property. Mr. Taylor advised her that the Applicant has had the property checked for buried tanks and none exist relieving her concern; and

**WHEREAS**, resident Anthony Cerone thought the layout could be improved commenting that the building should be on Delsea Drive instead of the proposed parking lot; and

**WHEREAS**, the Board has considered and incorporates herein at length the Breier review letter dated June 23, 2021; and

**WHEREAS**, the Board has carefully considered all the documents submitted and the testimony of the witnesses and members of the public;

**WHEREAS**, the application for the grant of a use variance contingent upon the approval of the site plan by the Borough of Clayton Combined Planning and Zoning Board of Adjustment sitting as a Zoning Board of Adjustment, by a **7** yes to **0** no vote.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough of Clayton Planning Board constituted as a Zoning Board of Adjustment, that it does hereby **Approve** the grant of a use variance contingent on the approval of site plan to develop a one- to two- story commercial building for a pharmacy and related medical offices on consolidated Lots 7 and 8 and to rehabilitate the private single family dwelling located on Lot 9 of the proposed project and grants this use variance contingent upon the following:

1. Submission and approval of a site plan
2. Compliance with all additional requirements hereinbefore stated

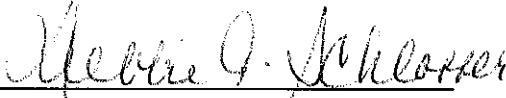
**BE IT FURTHER RESOLVED**, that certified copies of this Resolution shall be forwarded to the applicant, Borough Clerk, Borough Construction Official, Borough Tax Assessor, and the Borough Zoning Officer.

**THIS RESOLUTION DULY ADOPTED** at a regular meeting of the Borough of Clayton Planning Board held on Monday July 26, 2021.

**Borough of Clayton Combined Planning Board  
and Zoning Board of Adjustment**

  
By: **Joe Abate, Chairman**

**Attest:**

  
**Debbie A. Schlosser, Secretary**

**ROLL CALL VOTE**

THOSE IN FAVOR	<u>5</u>
THOSE OPPOSED	<u>0</u>
THOSE ABSTAINED	<u>2</u>

**CERTIFICATION**

I hereby certify that the foregoing Resolution is a true copy of a Resolution adopted by the Borough of Clayton Combined Planning Board and Zoning Board of Adjustment at a regularly scheduled meeting of the Board held on July 26, 2021 at the Borough of Clayton Municipal Building, 125 Delsea Drive, Clayton, New Jersey 08312 at 7:00 p.m. and memorializes the decision reached by said Board on the herein application at the Board's June 28, 2021 meeting and public hearing.

  
**Debbie A. Schlosser, Secretary**