

**RESOLUTION OF THE MUNICIPAL LAND USE BOARD
THE BOROUGH OF EMERSON**

In the matter of:

**CHOW WOW RESORTS, LLC
473 OLD HOOK ROAD
BLOCK 1301, LOT 1.01
EMERSON, NEW JERSEY**

WHEREAS, Chow Wow Resorts, LLC (“Applicant”) has made application to the Municipal Land Use Board of the Borough of Emerson (the “Board”) for preliminary and final site plan approval for a permitted dog day care facility with a proposed outdoor dog run to be located in the rear lower level of the Emerson Plaza Shopping Center, with the relocation of five (5) parking spaces and a sign variance on the subject property located at 473 Old Hook Road, Block 1301, Lot 1.01 on the Tax Assessment Map of the Borough of Emerson (the “Property”); and

WHEREAS, the Property is located in the RC- Retail Commercial Zone of the Borough of Emerson; and

WHEREAS, the application requires variance relief from the requirements of the Emerson Zoning Ordinance in the RC Zone as to signage whereas 24 square feet is permitted, and 38.36 square feet is proposed; and

WHEREAS, the Applicant has filed the appropriate application materials timely; and

WHEREAS, the Applicant has presented satisfactory proof to the Board that Notice of the application was published and served in accordance with the Municipal Land Use Laws of the State of New Jersey; and

WHEREAS, Applicant was represented by Joseph L. Basralian, Esq., of Winne Banta, 21 Main Street, Hackensack, New Jersey, 07601 at the hearing on the application; and

WHEREAS, the Board was represented by John W. McDermott, Esq. ; and

WHEREAS, the Board reviewed this matter at a public hearing on March 4, 2022; and

WHEREAS, the following persons gave testimony on behalf of the Applicant: Michael Pilko, RA of RHJ Associates, PC; Kevin Tennant of K9 Resorts; James E. Henry, P.E., P.P., of Dynamic Engineering and Andrew Albrecht of Urstadt Biddle Properties Inc.;

WHEREAS, the following exhibits were admitted into Evidence:

Exhibit A- Response Letter of Dynamic Engineering dated March 3, 2022

Exhibit B- K9 Resorts Brochure

WHEREAS, based upon the sworn and qualified testimony of Michael Pilko, RA, the Board made the following findings of fact:

1. Mr. Pilko is a registered architect with RHJ Associates, PC, who testified generally with regard to the plans prepared by RHJ Associates dated 6/8/18 and last revised on 11/2/21, for the renovations of the subject site. The site will be used by K9 Resorts, a high-end dog day care facility as depicted on pages marked C, D and E of the plans.

2. Sound absorbing molded fencing will be installed as well acoustic ceiling tile and wall art to absorb sound. Opaque windows will be installed to prevent visibility from the outside and from the inside.
3. A sign is proposed for the back door which will be 7'8" in length and 5' in height.
4. Applicant will raise the screening on the back façade.

WHEREAS, based upon the sworn testimony of Kevin Tennant, the Board made the following findings of fact:

1. Mr. Tennant is the Senior Director of Operations for K9 Resorts, which is a franchise of luxury pet hotels. K9 Resorts has been in business for 17 years and currently has 16 open locations. The subject site will be K9 Resorts' second largest location.
2. Daycare for dogs is provided from 7:00 a.m. -7:00 p.m., Monday through Friday and 9:00 a.m. to 9:00 p.m. on Saturday and Sunday. All dogs must be preregistered for their stay, must be friendly, and have the required vaccinations. Drop off at the site is designed so as not to interfere with traffic and is estimated to take approximately 30 seconds. If the dog is being boarded, the drop off process will take approximately 3 minutes.
3. It is anticipated that between 20-40 employees will be hired to work at the facility. Employees will work from 6:00 a.m. to 7:30 p.m. or 8:00 p.m. There will be no overnight staffing at the facility.
4. The facility will be equipped with internal cameras, fire and smoke alarms and a sprinkler system. Security will be provided by ADT and Applicant will have a security call list. The site will be constructed using fire-rated sheet rock, with a tile floor and will be soundproofed.

5. It is stipulated and agreed that the maximum number of dogs permitted in the facility is 125 dogs.
6. The facility is affiliated with a veterinarian and will provide a bathing service but no grooming.
7. Applicant stipulates and agrees to a one (1) year lookback regarding waste handling and pickup, including pick up on weekends, to allow for modifications as necessary within the discretion of the appropriate Borough officials.
8. Applicant will use biodegradable and environmentally safe cleaning and sanitizing solutions on the dog run turf.

Based upon the sworn and qualified testimony of James Henry, P.E., P.P., of Dynamic Engineering, the Board made the following findings of fact:

1. The Applicant's Engineer testified generally with regard to Exhibit A-1, the Site Plans. There will be no changes or additions to the existing building, no change to impervious coverage and no utility modifications.
2. There is no change to the number of parking spaces which is an existing non-conforming condition. Applicant will relocate five (5) parking spaces throughout the main parking lot. Applicant is responsible for restriping of the entire lot.
3. The trash compartment will remain in the rear of the building.
4. It is stipulated and agreed that all dog waste will be triple bagged.
5. Applicant will test the soil for septic sand and will install a stormwater management system.
6. Applicant will obtain and comply with all required local, County and State health ordinances and licensing requirements.

7. Applicant stipulates and agrees to install bollards in front of the fence that will be installed by Applicant.
8. Applicant will construct a new ADA concrete pad in the front of the location.

Based upon the sworn testimony of Andrew Albrecht of Urstadt Biddle Properties, the Board made the following findings of fact:

1. Mr. Albrecht is the Vice President/Director of the Management and Construction Department at Urstadt Biddle Properties Inc., the owner of the subject premises.
2. Employee parking will be in a designated area.
3. Mr. Albrecht testified that he is agreeable to modification of the waste removal as required in the determination of the Borough.

WHEREAS, after due consideration and deliberation at the aforementioned hearings, the Board did vote in favor of the Application and did instruct the Board Attorney to prepare a Resolution memorializing the vote taken;

WHEREAS, pursuant to N.J.S.A. 40:55D-10g, a decision must be reduced to writing and shall include findings of fact, based upon the evidence presented at its public hearings; and

WHEREAS, the Municipal Land Use Board of the Borough of Emerson makes the following factual findings and conclusions:

1. The Applicant, Chow Wow Resorts, LLC is the Lessee of the Property located at 473 Old Hook Road, Block 1301, Lot 1.01, located in the RC-Retail Commercial Zone.
2. The site currently consists of a one (1) story masonry building (ShopRite) and a two-story masonry building (stores and offices) along with an asphalt parking lot. The site also contains concrete islands, concrete sidewalks, utilities, drainage, landscaping, and lighting.

Chow Wow

3. Applicant proposes to renovate a portion of the first floor to be used by Applicant as a dog daycare facility. Applicant proposes to remove the overhead metal steps, concrete pad and eight (8) parking spaces at the rear of the building to construct a dog run area. The proposed dog run area will consist of an artificial turf surface, and a six (6) foot high fence which will divide the outdoor space into various play yards to separate the dogs by size. Applicant proposes to construct a retractable fabric canopy system to cover the outdoor play areas. Improvements will include a concrete sidewalk, concrete pad, and concrete bollards to protect the outdoor play area. Stairs will be constructed to the second story balcony to replace the steps that are being removed. Applicant will install building mounted signs and drainage improvements.

4. The property contains an existing non-conforming condition as to parking. Applicant will stripe the pavement for eight (8) standard parking spaces and one (1) ADA accessible space. Applicant will relocate five (5) new parking spaces throughout the main lot.

5. The application requires variance relief as to signage whereas 24 square feet is permitted, and 38.36 square feet is proposed.

5. The Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., gives the Board the power, when reviewing applications for bulk variances, to grant variances in accordance with N.J.S.A. 40:55D-70(c). In order for the Board to grant variances, however, the applicant must demonstrate either: (1) hardship arising out of the exceptional narrowness, shallowness, shape or exceptional topographic conditions of a specific piece of property; or (2) that the purposes of the Municipal Land Use Law would be advanced by a deviation from the requirements of the ordinances and that the benefits of granting a variance would outweigh any detriment to the public good (the “positive criteria”). The applicant must further demonstrate that granting the requested Chow Wow

variance relief will not impair the intent and purposes of the zone and master plan and the zoning land use ordinances (the “negative criteria”). As in all variance cases, the applicant has the burden of establishing both criteria to the satisfaction of the Board.

6. The Board finds from the above testimony and evidence presented by the Applicant that the application satisfies the positive and negative criteria. The construction of the dog day care facility is consistent with the uses permitted in the zone and will provide employment opportunities. The installation of sound proofed fencing will minimize the impact from the potential noise. The sign variance is justified by the location of the premises and will not have a negative impact on adjacent properties. The Applicant has met its burden of demonstrating the positive and negative criteria to justify granting of the sign variance and therefore the Applicant’s request conforms within the requirements of the Borough and may be granted without substantial detriment to the public safety, health and general welfare and will not deter the efforts of the Borough to effectuate the general purposes of municipal planning.

NOW, THEREFORE, BE IT RESOLVED by the Municipal Land Use Board of the Borough of Emerson that the Application of Chow Wow Resorts, LLC with respect to the subject Property requesting preliminary and final site plan and variance approval be and is hereby **APPROVED** subject to the terms and conditions hereinafter set forth:

CONDITIONS SPECIFIC TO THIS APPLICATION

- 1) Applicant shall abide by all the recommendations and conditions of the Borough Engineer.

- 2) Applicant shall not permit more than one hundred twenty-five (125) dogs in the facility at one time.
- 3) There will be a one (1) year lookback as to the waste removal schedule to allow the Board to make modifications to same as necessary within the discretion of the Borough.
- 4) Dog waste will be triple bagged.
- 5) Applicant shall comply with all local, county, and state health ordinances and licensing requirements.
- 6) Applicant shall utilize biodegradable and environmentally safe cleaning and sanitizing solutions on the turf dog run.

GENERAL CONDITIONS:

- 1) Approval as necessary from the Bergen County Planning Board. If any material changes are required by Bergen County Planning Board to what is approved by this Resolution, said changes are to be brought by the Applicant on a forthwith basis before this Board, which retains jurisdiction over the Application.
- 2) Approval from the Bergen County Soil Conservation District if applicable.
- 3) Approval from the Emerson Police if applicable.
- 4) Approval from the Board of Health.

5) The Applicant shall at all times comply with the applicable rules, regulations, ordinances and statutes of the Borough of Emerson, County of Bergen, State of New Jersey, and the Federal Government with regard to the construction of the Property including but not limited to the Americans with Disabilities Act.

6) The Applicant shall obtain all other required permits, licenses, and approvals.

7) Building permits as needed must be obtained before any work begins at the site and in accordance with the approval(s) conferred herein.

8) The Applicant shall comply with any and all conditions and requirements rendered by this Board's Engineer and/or the Borough's Engineer and the Construction Code Official.

9) The Applicant shall comply with any and all other federal, state, county and local government rules and regulations regarding the subject application, including, but not necessarily limited to, the payment of all fees and charges as established by the Borough of Emerson for the application and as applicable compliance with all sign ordinances.

10) Nothing contained in this Resolution shall supersede the provisions of the Uniform Construction Code of the State of New Jersey or any other applicable law or regulation.

11) Any damage to the public areas, including streets, curbs or sidewalks, a result of the construction of the additions and site work must be remediated to the satisfaction of the Borough Engineer.

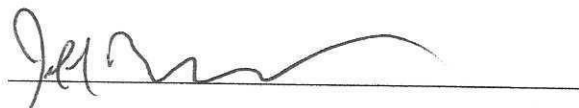
BE IT FURTHER RESOLVED that this Resolution does not constitute approval or recommendation for approval for any variance or any exception not requested by the Applicant,

nor any variance or exception which may not be expressly or specifically created by this Resolution.

NOW THEREFORE, BE IT RESOLVED that the Chairman and Secretary of the Board are hereby authorized to affix their signatures to this Resolution granting the requested application, to advertise the action taken, by way of Resolution, in the local newspaper, and furthermore to send certified copies to the Zoning Officer, Construction Code Enforcement Official and/or Building Sub-Code Official, the Applicant and/or the Applicant's attorney, the subject property Owner if other than the Applicant, and to the Borough Attorney, Borough Engineer and Board Engineer.

The undersigned certifies that the within Resolution was adopted by the Board and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on April 7, 2022.

Dated: April 7, 2022



Jeff Bischoff, Chairman
Emerson Land Use Board

Dated: April 7, 2022



Marie Shust, Secretary
Emerson Land Use Board

OFFERED BY: Vice Chairman Myers

SECONDED BY: Mr. Cimino

VOTE: Ayes: 5

Nays: 0

Abstain: 0

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