

**RESOLUTION  
LEONIA PLANNING BOARD  
APPLICATION OF REUTEN SENIOR VENTURES, LLC  
CALENDAR NO. 2023-02**

WHEREAS, Reuten Senior Ventures, LLC (hereinafter referred to as the “Applicant”) applied for preliminary and final site plan approval with use and parking variances (hereinafter referred to as the “Application”), as further described herein; and

WHEREAS, the property subject of the Application is identified on the Tax Map of the Borough of Leonia as Block 503, Lot 2, and is more commonly known as 2 Christie Heights Street, Leonia, New Jersey (the “Property”); and

WHEREAS, the Property is located in the LI Zone; and

WHEREAS, the Property is improved with a multi-story office building that is currently vacant; and

WHEREAS, the Applicant seeks permission to utilize the Property for an adult day care use, which is not permitted in the LI Zone; and

WHEREAS, the application was called for public hearings on June 28, 2023 and July 26, 2023 on proper notice, at which time the Applicant was represented by David M. Repetto, Esq. of Harwood Lloyd, LLC, 130 Main Street, Hackensack, New Jersey; and

WHEREAS, the Applicant presented the sworn testimony of its managing member, Michael Reuten; its architect, Thomas DeGraw; its traffic consultant, Lou Luglio, P.E., of Dynamic Traffic; and its planner, John Szabo, P.P., of Burgis Associates; Mr. DeGraw, Mr. Luglio and Mr. Szabo were qualified as experts in the fields of architecture, traffic engineering and professional planning, respectively; and

WHEREAS, the following exhibits were marked into evidence at the hearing:

- A-1: Aerial Photograph prepared by Dynamic Traffic
- A-2: Supplemental Traffic Report, dated July 25, 2023
- A-3: Parking Layout Plan, dated July 22, 2023
- A-4 Schematic Landscape Plan, dated June 21, 2023; and

WHEREAS, the Applicant submitted in support of the Application a 1-page plan entitled “Site Plan – Proposed Adult Day Care Facility” prepared by Job & Job, dated February 9, 2023 that depicted the Property and its existing improvements (the “Site Plan”); an 8-page plan entitled “Leonia Adult Day Care” prepared by DeGraw & DeHaan Architects, dated February 9, 2023 that depicted the floorplan of the building on the Property (the “Architectural Plan”); Exhibit A-3 (the “Parking Plan”); and Exhibit A-4 (the “Landscape Plan”); and

WHEREAS, the following members of the public appeared at the hearing and either asked questions or provided comments:

Vito Mazza, 430 Grandview Terrace, Leonia, New Jersey; and

WHEREAS, the Board was assisted in the hearing by its planner, Sanyogita Chavan, P.P., who prepared a review memorandum dated May 23, 2023, and its engineer, Drew DiSessa, P.E.; and

WHEREAS, because the Applicant sought use variance relief pursuant to *N.J.S.A.* 40:55D-70(d)(1), Mayor Zeigler and Councilman Fusco did not participate in the consideration of the Application; and

WHEREAS, the Board has carefully considered the testimony of the Applicant; and

WHEREAS, the Board has made certain findings of fact and conclusions with respect to this Application.

**NOW THEREFORE BE IT RESOLVED** by the Planning Board of the Borough of Leonia that the following facts and conclusions of law are made and determined.

1. All of the recitals set forth above are incorporated herein by reference.
2. The Property is owned by Ambrose DC Assets, which has consented to the Application.
3. The Property is located in the Borough of Leonia's LI Zone, which does not permit adult day care as a use.
4. Save for landscaping and restriping in the existing parking lot, the Applicant does not propose any alterations to the existing building or the other areas of the Property. The interior of the building on the Property, which is currently vacant, is to be retrofitted to the proposed use.
5. According to the Applicant's principal, the Applicant intends to provide daycare services to approximately 800 senior citizens every day, with approximately 400 during the morning shift and 400 during the afternoon shift. Typical shifts would be from 8:30 a.m. to 1:30 p.m. and 1:30 p.m. to 6:30 p.m., but the start and end times of each are flexible to ensure that traffic generated by the Property does not conflict with operations at Leonia High School, which is located nearby. The facility will be open only during the business week, with no operations on Saturdays or Sundays.
6. These customers, who are advanced in age and need assistance with daily life activities, would be transported to the Property by a fleet of 28 vans (maximum of 14 passengers) that the Applicant will operate, and which will circulate through Leonia and the surrounding municipalities to bring customers to the Property and return them to their homes when their session concludes. The facility will not offer medical care and will close every day,

so there will be no overnight shift or any people staying on the Property after the afternoon shift concludes. However, given the population served by the facility even though no acute care patients will be served, it is required to have a medical director and will employ seven (7) nurses and licensed nurse practitioners.

7. Mr. Reuten explained that because these individuals need daycare services, they are extremely unlikely to operate motor vehicles, and as such, the traffic to be generated by the proposed use would come from employees and the van service. The typical catchment radius for these types of uses is 10 miles, so the proposed use would serve both Leonia and the surrounding communities.

8. According to Mr. Reuten, truck traffic would be minimal, with an average of two food deliveries per day, in addition to typical trash and recycling. With regard to the food deliveries, Mr. Reuten explained that customers would be provided with hot meals for lunch or dinner, and that there would be no food preparation on site; instead, the prepared food would be delivered in the early and late morning and stored at temperature for consumption.

9. In response to concerns raised by the Board about flooding in the area of the Property, Mr. Reuten explained that the Applicant was aware of the situation – given the proximity of the Property to the Overpeck Brook – and that the Applicant intended, in instances of bad weather where flooding, heavy snow or other conditions were a possibility, to cancel its shifts and not pick up its customers so as to avoid a hazardous situation on the Property.

10. The Applicant's traffic consultant, Mr. Luglio, indicated that employees would account for 111 vehicle trips during the morning arrival and evening departures, but that their arrival time would be at approximately 7:00 a.m., which is not during the peak hour for traffic on the adjacent roadways, or when the Leonia High School is in session; he explained that this level

of trip generation was lower than if the building were used for its intended purpose as an office, and that the impacts to the roadway network would be minimal. To further mitigate impacts to the school, Mr. Luglio indicated that the Applicant would direct its employees and the shuttle van service to enter and exit the Property from the southern site driveway on Leyland Drive, which is further away from the Leonia High School, rather than the northern site driveway on Christie Heights Street, which fronts the Leonia High School. Mr. Luglio testified that the proposed use would have less of an impact on traffic than a permitted use, and also considered the shifts of the employees from the nearby Kulite offices. The Board agrees that the trip generation of the proposed development is lower than the permitted use.

11. The Applicant's planner, John Szabo, compared the proposed use to a child daycare facility, which the Board notes is a permitted use in all non-residential zones, with the difference being the age of the people for whom care is being provided. Mr. Szabo asserted, and the Board Planner concurred, that the proposed use is inherently beneficial. He reached that conclusion because people are living longer and in their later years, are not as able to perform activities of daily life without assistance. Without the proposed use, alternatives for assistance are limited; the task often falls to family members in the absence of congregate care living. As such, the proposed use fills a need in the community by providing services to elderly citizens without imposing obligation on family members who might otherwise be unavailable to due to work or geographic constraints.

12. Mr. Szabo confirmed that the appropriate vehicle for evaluating the application is pursuant to the New Jersey Supreme Court's decision in *Sica v. Wall Twp. Bd. of Adj.*, 127 N.J. 152 (1993). The *Sica* case requires the Board to (i) evaluate the public interest at stake in the application, (ii) determine the negative impacts associated with the project; (iii) seek to impose

mitigating conditions to reduce the impact of the variance; and (iv) balance the positive aspects of the project against the negative impacts associated therewith as reduced through mitigation. Additionally, the Board must consider whether the grant of relief will substantially impair the intent and purposes of the zone plan and zoning ordinance.

13. The Board concludes, based upon the testimony presented, that the public interest at stake is the provision of care to senior citizens, which ranks high on the spectrum of uses that inherently benefit the general welfare. In this regard, the Board credits the testimony of the Applicant's planner, who compared the proposed use favorably to childcare centers, which are specifically defined as inherently beneficial by the Municipal Land Use Law. The Board acknowledges that the proposed use is not so defined, but agrees with Mr. Szabo and Mr. Reuten that the proposed use is an emerging one that warrants special consideration because the essential purpose of this use is very similar to a childcare use – it provides services to persons who might otherwise be unable to do so themselves while allowing immediate family members, who would otherwise be burdened with doing so, to maintain employment and perform other activities in the community.

14. The Board finds that the impacts associated with the proposed development are minimal. First, it is noted that there is no construction or site modification proposed. Thus, impacts from the proposal come entirely from the Applicant's operations. As more fully described below, the Applicant has satisfied the Board that it will mitigate traffic impacts associated with the project.

15. The Applicant indicated that the facility would strive to avoid conflicts with traffic coming and going to Leonia High School. It indicated that its shift hours would not coincide with traffic from the High School and that the project would generate less vehicle trips

than a permitted use. Additionally, the Applicant agreed to provide additional landscaping around the perimeter of the parking area to improve the aesthetics of the Property.

16. On balance, the Board finds that the positives of the project substantially outweigh the detriments, as mitigated. The Board also concludes that the grant of relief will not substantially impair the intent and purposes of the zone plan and zoning ordinance. While the use is not specifically permitted, it is recognized that the use is not out of character with the types of uses permitted in the LI Zone, and further, the Board is, at the direction of the Borough Council, in the middle of a comprehensive reevaluation of development regulations on the Property for the purpose of generating new forms of economic activity and development. Likewise, the proposal does not interfere with any of the goals of the recently adopted Master Plan.

17. The Applicant also requires a parking variance because 185 parking spaces are provided on the Property (after re-striping) and a minimum of 323 spaces are required, as determined by the Borough's Zoning Officer. The Board finds that a parking variance can be granted pursuant to *N.J.S.A. 40:55D-70(c)(2)* because the proposal advances the general welfare and because the benefits of the project substantially outweigh the detriments of not having sufficient off-street parking. This is because the customers served by the development do not operate their own motor vehicles and will instead arrive at and depart from the Property via shuttle vans owned by the Applicant. As such, they will not need off-street parking, and therefore, the apparent shortfall in the number of spaces will actually result in a vast, empty parking field, given that there are fewer employees than parking spots. Requiring additional parking would prevent the Property from being used for the proposed use, which would impair the

general welfare. For this same reason, the Board concludes that the grant of a parking variance will not impair the intent and purpose of the Zoning Ordinance's off-street parking requirement.

**NOW THEREFORE, BE IT RESOLVED** the Application of Reuten Senior Ventures, LLC for preliminary and final site plan along with use and parking variances as set forth herein is hereby approved, subject to the following conditions:

1. **Location and Type:** The Applicant shall be permitted to utilize the Property for an adult daycare use as shown on the Architectural Plan and Site Plan subject to the following conditions:

A. The Applicant shall submit its proposed landscaping plan to the Borough of Leonia Shade Tree Commission for its review. The Applicant shall incorporate the reasonable suggestions of the Borough of Leonia Shade Tree Commission into its landscaping plans.

B. The Applicant shall install eight (8) "Make Ready" electric vehicle spaces. The requirement for eight (8) "Make Ready" spaces does not include electric vehicle charging stations; instead, the Applicant shall install the electrical conduit for these "Make Ready" spaces and shall, in the event it becomes necessary, install charging stations for vehicles, except that the Applicant shall provide charging stations for two (2) electrical vehicles at the time of the issuance of a certificate of occupancy.

C. The Applicant shall use its best efforts to market its services to residents of the Borough of Leonia for a period not less than thirty (30) days prior to commencing marketing on a regional level, and shall use its best efforts to make its services available, on a priority basis, to residents of the Borough of Leonia.



2. **Legal and Engineering Fees:** The Applicant shall be responsible for all legal and engineering fees of the Planning Board in connection with this application and no Certificate of Occupancy shall be issued until all such fees are paid.

3. **Other Fees:** All additional fees, if any, required by the Borough Ordinances shall be paid.

4. **Reliance by Board on Testimony and Application:** This approval is specifically granted based upon the testimony of the Applicant, the exhibits, the application, any and amendments to same, submitted to the Board, all of which have been relied upon by the Board.

5. **Compliance with Ordinance:** Except for the variance(s) approved herein, the Applicant shall comply with all other provisions of the Zoning Code of the Borough of Leonia.

6. **Compliance with Laws:** The Applicant shall comply with all Borough Ordinances, and any and all State and Federal laws and applicable regulations.

7. **Non-Severability of Conditions:** The relief granted to the Applicant is specifically made subject to the conditions referred to herein. In the event any condition is held to be invalid, unenforceable, or unlawful, the entire variance shall be unenforceable. It is the intent of the Board that the variance(s) not be approved if any condition is invalid, and that the conditions are not severable from any variances or relief granted herein.

8. **Appeal Period:** The Applicant has been advised that there is an appeal period for the relief granted herein for a period of forty-five (45) days from the date of publication of notice of the relief granted pursuant to this Resolution in a newspaper of general circulation approved by the Board. Accordingly, any work or construction done prior to the expiration of the appeal period is accomplished at the sole risk of the Applicant.

The Board rendered its decision at the meeting prior to the adoption of this Resolution by the following vote:

Moved by: Chairman DeGidio  
 Seconded by: Mr. Russell

	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Michael DeGidio, Chairman	x				
Mayor Zeigler					x
Councilman Fusco					x
Ira Gold, Vice Chairman	x				
William Russell	x				
Ron Wolf				x	
Patrick Botten	x				
Timothy Ford	x				
Sean Thompson	x				
Haesok Ko				x	
Damee Choi	x				

Said Resolution was adopted by the following vote:

Moved by: Mr. Botten  
 Seconded by: Mr. Russell


	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Michael DeGidio, Chairman	✓				
Mayor Zeigler					x
Councilman Fusco					x
Ira Gold, Vice Chairman	✓				
William Russell	✓				
Ron Wolf					x
Patrick Botten	✓				
Timothy Ford	✓				
Sean Thompson	✓				
Haesok Ko					x
Damee Choi	✓				

Dated: August 23, 2023

LEONIA PLANNING BOARD

By:   
 Michael DeGidio, Chairman

CERTIFIED TO BE A TRUE COPY

By:   
 Michael Greco, Administrative Secretary to  
 the Planning Board