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Zoning Board of Adjustment
Borough of Fair Lawn
Municipal Building
8-01 Fair Lawn Avenue
Fair Lawn, New Jersey 07410

February 24, 2022

Re: Amended Site Plan & Variance Approval For
iLearn Schools, Inc.
Block 2218, Lot 13
#33-00 Broadway
Borough of Fair Lawn
Our File No. FL-91

Dear Board Members:

Please be advised that we are in receipt of and have reviewed the following items:

- Correspondence dated February 10, 2022, as prepared by Wells, Jaworski & Liebman, LLP, Attorneys at Law, of Paramus, New Jersey;
- Correspondence dated February 3, 2022, as prepared by Dykstra Walker Design Group, of Lake Hopatcong, New Jersey, and
- a set of drawings entitled “Preliminary & Final Major Site Plan, iLearn Schools, Block 2218, Lot 13, #33-00 Broadway, Borough of Fair Lawn, Bergen County, New Jersey”, comprised of the following sheets:

<u>Dwg. No.</u>	<u>Title</u>	<u>Dated</u>	<u>Revised</u>
1 of 6	Title Sheet	08-09-21	02-03-22
2 of 6	Boundary & Topographic Survey Plan	08-09-21	02-03-22
3 of 6	Site Layout & Grading Plan	08-09-21	02-03-22
4 of 6	Lighting & Landscaping Plan	08-09-21	02-03-22
5 of 6	Sight Distance Plan	08-09-21	02-03-22
6 of 6	Construction Notes & Details	08-09-21	02-03-22

as prepared by Dykstra Walker Design Group, of Lake Hopatcong, New Jersey.

Pursuant to our review of these items and a field inspection of the subject site, we offer the following comments at this time:

I. Location and Description of Tract

1. The subject tract is a “corner lot”, approximately rectangular in shape, designated on the current Tax Assessment Map Sheet #22, as Lot 13 in Block 2218 and possesses street frontages along both Broadway (178.81’) and 34th Street (341.96’). The subject property is commonly known as 33-00 Broadway and is “Split-Zoned” being situated within both the B-2 General Business Zone district and in the R-1-3 One Family Residential Zone district.
2. As stated in the above referenced Application, the Applicant and owner in this matter is iLearn Schools, Inc.
3. The site is accessed via a single full movement driveway opening along Broadway providing both ingress to and egress from the site.
4. Lot 13 has a total area 81,112 square feet (1.86 acres) and is presently developed with the following improvements and/or topographic features situated thereupon:
 - A 3 story commercial building currently occupied by iLearn Schools Inc. as well as several other medical office and/or general office tenants,
 - A full movement driveway along Broadway,
 - Paved off-street parking facilities for 144 (one hundred forty four) vehicles, 48 (forty eight of which are situated at ground level below the footprint of the building) and including 2 (two) accessible parking spaces situated at the northeast corner of the parking field,
 - A wooded area along the southerly limits of the site,
 - Planted areas along the Broadway frontage of the building,
 - 8 (eight) pole mounted light fixtures within the surface parking lot, and
 - An existing chain link fence along the southerly and a portions of the westerly property line
5. The subject property is contiguous to residential properties along its southerly boundary and is surrounded by other commercial uses along Broadway (both east and west of the Building) as well as approximately 5 residential properties located along the east side of 34th Street, opposite the existing surface parking facility.

II. Applicant’s Proposal

1. The applicant is seeking Amended Preliminary and Final Major Site Plan approvals as required in connection with the proposed construction of a second, 24’ wide (egress only) driveway opening along 34th Street, allowing both left and right turn movements toward 34th Street and if required, approval for the modification of the existing Use Variance

granted to permit parking in a Residential Zone for the adjoining Commercial Use, pursuant to a July 5, 1983 Resolution of this Board, adopted on July 5, 1983, which Resolution allows for the parking of vehicles in the rear portion of the property which is situated in the R-1-3 Residential Zone, but states that 142 parking spaces are required for the existing Commercial Use, whereas the actual quantity of parking stalls provided on the site shall be reduced in number to 139 (one hundred thirty nine) spaces, including 4 (four) **“Make Ready Parking Spaces”**, as defined under the “Model Statewide Municipal Electric Vehicle (EV) Ordinance” which became effective in each municipality upon its publication on the Department of Community Affairs’ (DCA) Internet website on September 1, 2021.

2. In connection with the proposed driveway improvement, the applicant is also proposing certain other minor site improvements, including, but not limited to:
 - increasing the number of Accessible Parking facilities and relocating the same within the confines of the parking field situated below the “footprint” of the building,
 - installing a proposed dumpster enclosure with 4’ high PVC fence,
 - the in-kind replacement of the existing concrete sidewalk along the entire 34th Street frontage,
 - partial reconstruction of the of the existing concrete curb, sidewalk and asphalt pavement areas situated within the surface parking facility located below the building to provide 5 (five) Accessible Parking Spaces and an associated Pedestrian Access Route, in accordance with current A.D.A .requirements and
 - Placing a cluster of 5 (five) picnic tables situated north of the “limit of the existing wooded area”, which amenity shall be accessed via six proposed steps with handrail, to be constructed at or about the central limit of the southernmost (i.e. 19 space) parking nodule.

III. Summary of Plan Revisions

1. In response to the comments set forth in our Report to the Board dated December 17, 2021, as well as the comments by the other Board Professionals, we note that the above referenced drawing has been revised/supplemented as follows:
 - i. Title Sheet (Sheet 1 of 6)
 - a) The Parking Requirements Table has been updated to state the correct number of existing parking spaces (142 spaces).
 - b) The spaces provided are shown to equal 135 (139) spaces with footnote reference.
 - c) The Approval Block has been corrected to read Zoning Board of Adjustment, as opposed to the Planning Board.
 - d) A calculation of the impervious coverage has been included.
 - e) The Zoning Requirements Table has been updated to include additional items including:

- Minimum Front Yard (34th Street) and
 - Minimum Safety Access
 - f) The Zoning Requirements Table values have been revised.
 - g) The proposed limit of disturbance has been re-calculated at 3,903 s.f. (0.09 acres).
- ii. Boundary & Topographic Survey Plan (Sheet 2 of 6)
- a) The survey has been updated to depict the existing building columns situated within the parking lot.
 - b) The number of parking spaces contained within the southernmost parking nodule below the building has been corrected to read 15 spaces (as opposed to 17 spaces previously indicated).
- iii. Site Layout & Grading Plan (Sheet 3 of 6)
- a) The Zone Limit line is depicted at a uniform offset dimension of 200 feet as measured from the Broadway R-O-W.
 - b) Picnic tables have been relocated as noted hereinabove and steps with handrail have been provided to provide access to the same.
 - c) An 18' x 18' dumpster enclosure with 4 feet high PVC fence has been added the southwest corner of the parking lot, resulting in the loss of 2 (two) existing parking spaces.
 - d) The proposed Pedestrian Access Route between the Accessible Parking facilities and the entrance to the building has been depicted.
 - e) The propose limits of sidewalk reconstruction within the parking lot and along the 34th Street frontage have been depicted.
 - f) Setback lines are now depicted on the plan.
 - g) A 1" = 10' scale, "A.D.A Parking Plan" detail has been added to the drawing.
- iv. Lighting & Landscaping Plan (Sheet 4 of 6)
- a) The proposed Maple Tree has been relocated to the west side of the proposed sidewalk.
 - b) The proposed limit of disturbance has been increased from 2,400 s.f. to 3,903 s.f. which is noted to include the proposed reconstruction(s) within the parking lot below the first floor of the building.
- v. Sight Distance Plan (Sheet 5 of 6)
- a) A "Vehicle Maneuvering Plan" has been added to the sheet.
- vi. Construction Notes & Details (Sheet 6 of 6)
- a) Several details have been added to the sheet including
 - Crosswalk Striping,
 - Trash Enclosure Detail,
 - PVC Enclosure Fence Detail and
 - Concrete Sidewalk.

IV. Zoning

1. As noted hereinabove, the subject property is “split-zoned” being situated within the B-2 General Business Zone and R-1-3 Residential Zone. The applicant is seeking Amended Preliminary and Final Major Site Plan approval to permit the construction of a secondary, unrestricted (i.e. both left and right turn movements permitted) egress (only) driveway along 34th Street, which driveway access is wholly situated within the limits of the B-2 Zone District.
2. As reflected in the Schedule entitled “Borough of Fair Lawn Zoning Requirements” (Sheet No. 1 of 6) there are certain **pre-existing, non-conforming conditions** associated with the subject property and/or the existing structure located thereupon, for which deviations from the literal requirements of the Borough’s Zoning Ordinance it is assumed that the requisite Variances have been previously granted by this Board, but perhaps not accurately described within the text of the Resolutions adopted by the Board on July 5, 1983 and November 7, 1983 with specific reference to:

a) Building Height (Code Section 125-12)

Required:	35.0’ (B-2 Zone)
Existing & Proposed:	44.5’

Notes:

- i. As per the above referenced Resolutions, the maximum building height is stated to be 40 feet.
 - ii. The plan, as presented indicates an existing building height of 44.5 feet, accurately calculated in accordance with the requirements of Borough Code Section 125-8, utilizing the mean grade in the center of the streets opposite center of the building wall facing the street (i.e. 89.0 feet at Broadway and 84.7 feet at 34th Street) as subtracted from the elevation of the roof.
 - iii. It is unclear if this same methodology was utilized in the determination of building height as presented in the 1983 application.
 - iv. This condition is nonetheless recognized as a pre-existing non-conforming condition.
 - v. The Board is therefore asked to provide the applicant with its reasonable interpretation of the findings presented in the prior Resolutions and if any such further variance relief pertaining to the otherwise conforming primary structure shall be required in connection with the subject Application for Development.
3. With respect to off-street parking requirements, the plans submitted for review include a revised Parking Calculation which may be summarized as follows:

Required:	142 spaces (As originally approved)
Required:	139 spaces (As presented under this application based on gross floor areas and current uses within the building)
Existing:	142 spaces
Proposed:	139 spaces (counted as 143 spaces – see Note i, below), consisting of: 130

(one hundred thirty) Standard Parking Spaces, 5 (five) Accessible Parking Spaces and 4 (four) "Make-Ready Parking Spaces" (MRPS).

Note:

- i. With respect to the 4 MRPS's and in accordance with the requirements set forth within the "Model Statewide Municipal Electric Vehicle (EV) Ordinance" which became effective in all municipalities of the State as of September 1, 2021, it is noted that Section E (minimum Parking Requirements), Item 2, reads as follows:

A parking space prepared with EVSE or Make-Ready equipment shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement. This shall result in a reduction of no more than 10 percent of the total required parking.

- ii. Applying this standard to the counts as noted above, will equate to 143 (one hundred forty three) spaces being proposed at this site, calculated as follows:

- Number of Standard Parking Spaces provided: 130 Spaces
- Number of Accessible Parking Spaces provided: 5 Spaces
- Number of MRPS's provided: 4 Spaces x 2 = 8 Spaces

Total Number of Off-Street Parking Spaces provided: 143 Spaces.

- iii. The above noted parking requirement as set forth in the 1983 Resolution is based upon an "estimated" floor area of 13,959 square feet per floor (i.e. 27,918 s.f. Total).
- iv. The Parking Requirements as depicted on Sheet 1 of 6 are based upon a Gross Floor Area of 32,606 s.f. and proration of that area between general office use (23,821 s.f.) and medical office use (8,785 s.f.)
- v. Given the 4,688 s.f. difference between the floor areas as stated in the original application as compared to the current application, it is assumed that the original application was based upon the "Net" as opposed "Gross" floor area of the building.
- vi. The applicant's engineer is therefore asked to provide specific testimony pertaining to any research that may have been performed with respect to the original parking calculations as compared to the current calculation, including reference to any archive Architectural Drawings utilized or measurements taken in order to quantify the floor areas occupied by the respective general and medical office uses within the building.
- vii. In this regard and pursuant to our recent site visit on December 15, 2021 at approximately 3:00 PM, it estimated that approximately 25% of the existing parking spaces were unoccupied at that time.
- viii. Notwithstanding the actual loss of 3 (three) designated parking spaces (offset by the inclusion of 4 MRPS's) within the parking lot, the Board is asked to provide the applicant with its Findings and Conclusions of Law as to the applicant's compliance/non-compliance with the applicable Zoning Standards.

V. Site Plan Detail Requirements

1. The applicant is seeking Amended preliminary and Final Site Plan Approval at this time. As indicated in the above referenced Checklist document, the Applicant has deemed certain information to be "Not Applicable" to the subject application for development. We note the following with respect to these specific checklist items:
 - Item 18 – Copy and/or delineation of any existing or proposed deed restrictions or covenants
 - Item 21 – List of variances required or requested
 - Item 22 – Requested or obtained design waivers or exceptions
 - Item 25 – All... land subject to flooding on the site and within 200 feet of the site
 - Item 29 – Additional road right-of-way as specified in the Borough Master Plan or Official Map
 - Item 33 – Drainage calculations
 - Item 36 – Soil erosion and sediment control plan, if soil disturbance exceeds 5,000 square feet
 - Item 37 – New block and lot numbers confirmed with local assessor
 - Item 39 – Proposed utility infrastructure plans, including disposal of sanitary sewerage, water and stormwater management
 - Item 41 – Preliminary architectural plan and elevations
 - Item 42 – Road and paving cross-sections and profiles
 - Item 44 – Location and design/details of containers for solid waste, including recyclables
 - Item 49 – Development stages or staging plans
 - Item 50 – Any recorded documents that may affect the application shall be submitted

In this regard, we concur with the applicant's position with respect to the non-applicability of the stated checklist items given the pre-existing conditions associated with site and minor scope of improvement.

2. Similarly, the applicant has indicated that they wish to obtain waiver relief for certain items in the above referenced Checklist document including:
 - Item 43 – Lighting plan and details, including height of fixtures, light type and Isolux traces
 - Item 45 – Landscaping plan details, including plant names (common and botanical) shall be shown
 - Item 47 – Traffic Impact Statement
 - Item 48 – Environmental Assessment Report (in accordance with section 125-65D at the discretion of the Planning Board or Borough Engineer)
3. With respect to these Checklist requirements, we once again concur with the findings of the applicant with the exception of Item No. 47, the subject matter of which is the purview of the Board's Traffic Engineer and as such we defer to the findings of the Board's Traffic Engineer as regards the requested Waiver relief.

VI. Major Site Plan Review Comments

We offer the following comments with the respect to certain critical aspects of the proposed site design:

I. Off-Street Parking Facilities and On-Site Circulation

- a. As depicted on the above referenced "Site Layout & Grading Plan", the Applicant proposes to reconfigure the easterly and northerly parking nodules to accommodate the proposed driveway access along 34th Street.
- b. The number of parking spaces situated within the easterly parking nodule shall be reduced from its current total of 24 (twenty four) spaces (including 2 Accessible Parking spaces) to a total of 20 (twenty) 9' x 18' parking stalls; with 11 parking spaces being situated to the north of the proposed egress driveway and the remaining 9 spaces being situated to the south of the proposed egress driveway.
- c. Similarly, the number of parking spaces situated within the northernmost parking nodule (i.e. below the building), shall be reduced from its current total of 16 (sixteen) spaces to a total of 14 (fourteen) parking spaces, including 9 (nine), 9' x 18' parking stalls and 5 (five), 8' x 19' Accessible Parking spaces.
- d. A single parking space shall be added to the southerly row of parking stalls situated within this nodule, increasing the total number of spaces within this row from 15 (fifteen) to 16 (sixteen). This additional space is made possible with the on-site relocation of the existing +/- 9 c.y. container for cardboard recyclables, now situated at or about this same location. Please refer to Section VI- Item 7 for additional comments regarding the storage of solid waste and recyclable materials.
- e. 24' wide, 2 way circulation aisles are depicted on the plans. The flow of traffic within the site is controlled with existing Directional Arrows situated within the limits of each circulation aisle.
- f. Pursuant to our recent site visit, it is noted the exiting Arrows are yellow in color and are faded in appearance. The applicant's engineer is therefore asked to apprise the Board if the subject pavement markings shall be re-painted white and enlarged in size, in accordance with the standards set forth in the current edition of the Manual on Uniform Traffic Control Devices. The plans shall be revised to be depict any such proposal.
- g. The plans have been revised to include all the appropriate Construction Details for all proposed pavement markings with the exception of:
 - Elongated letters for the word "ONLY"
 - Through Lane Use Arrow and
 - Turn Lane Use Arrow.

The plans shall be revised accordingly.

2. Accessible Parking Facilities

- a. Five (5) Accessible Parking Spaces are provided at the westerly limits of the northernmost row of the parking nodules situated below the building.
- b. Given the total number of available parking spaces, we find the quantity and dimensions of the proposed accessible parking facilities (including 3 Van Accessible Spaces) to be in compliance with the applicable ADA Accessibility Guidelines.
- c. As is noted in the above referenced correspondence prepared by Marc. G. Walker, P.E, *the location of the handicap spaces was chosen in order to provide the most run to get up to the first floor elevation in the safest manner possible. The cross slope in the parking area directly in front of the door is 6.71% which is much too steep for ADA compliance.*
- d. We concur with Mr. Walker's findings in this regard and therefore offer no objection to the proposed design given the difference in elevation between the existing ground level parking facility and the existing Elevator Lobby.
- e. With respect to the means and methods by which the reconstructive efforts are to take place, the plans depict two distinct, curvilinear shaped sawcut limits. In this regard, it is noted that sawcuts be are typically made in a linear fashion. Given the requirements for strict adherence to the maximum slope requirements for the construction of ADA compliant improvements such as these, it is the recommendation of this office that the sawcuts be constructed perpendicular to the curb line, with the distance between the same corresponding to the overall length of the 5 (five) proposed Accessible Parking Spaces.
- f. Moreover, in order to attain the prescribed slope tolerances within the limits of the proposed parking stalls/access aisles and proposed accessible route within the circulation aisle, it is strongly recommended that the same be constructed as a reinforced concrete pavement as opposed to Hot Mix Asphalt pavement.
- g. With respect to the ADA Parking Striping Detail as depicted on Sheet No. 6 of 6, as compared to the A.D.A. Parking Plan as depicted on Sheet 3 of 6, the same are noted to be inconsistent with one another with respect to the consideration and depiction of the existing columns and the layout of the parking spaces and access aisles within this space. The Striping Detail and/or Plan View depictions of Accessible Parking facilities must therefore be revise accordingly.

3. Proposed Picnic Tables

- a. As is noted hereinabove, the proposed picnic tables are now arranged in a grouping of five units and shall be accessed via six steps with handrail providing a safe and convenient means of access between the southernmost parking nodule and the proposed site amenity.
- b. The plans must, however, be revised to include a description of the type of steps to be constructed along with the appropriate Construction Details.

4. Parking Lot Improvements

- a. Proposed improvements to the existing parking facilities are limited to the accessible parking facilities as described above.
- b. Notwithstanding the generally fair to poor condition of the remaining areas within the existing surface parking facility (i.e. those not situated below the building) as well as the absence of any existing system of drainage within the limits of the parking lot, it is affirmatively stated in Mr. Walker's correspondence that the applicant does not propose any such work in connection with the subject Application for Development.
- c. With respect to the lack of any such existing drainage facilities, the applicant and/or the applicant's engineer is asked to provide specific testimony as to any knowledge they may have relative to any localized flooding within and along the sidewalk and/or cartway portions of 34th Street, given the topography of the site and absence of any drainage facilities on the site or otherwise in close proximity to the site.

5. Sidewalk Reconstruction

- a. The plans, as presented depict reconstruction of the existing network of concrete curb and/or sidewalks in connection with the proposed Accessible Parking Facilities and new egress driveway at 34th Street.
- b. In accordance with the comments contained in our initial Report to the Board dated December 17, 2021, the plans have been revised to include the proposed removal and in-kind replacement of the concrete sidewalk along the entire limits of the 34th Street frontage.

6. Tree Removal and Replacement

- a. A single 12" Ash tree situated within the municipal right-of-way shall be removed in connection with the improvements to this site.
- b. Proposed landscape improvements include 1 (one) Maple tree along the 34th Street frontage.
- c. The proposed location of this tree is now depicted on the "Sight Distance Plan". The plan confirms that its proposed location shall not interfere with line of sight when viewed in a southerly direction.
- d. As stated in Mr. Walker's correspondence: *Any unhealthy trees along the 34th Street frontage will be removed and replaced with new plantings.*
- e. The Lighting & Landscaping Plan shall be revised to include a note stating that the health of the six trees in questions (i.e. 14" Ash, 16" Ash, 8" Maple, 18" Ash, 6" Fir and 12" Fir) shall be assessed by a qualified Arborist and shall be removed and replaced in accordance with his recommendations.
- f. The species of any such replacement tree, if required, shall be as determined by the Borough Manager and Superintendent of the Department of Public Works.

7. Storage of Solid Waste and Recyclable Materials

- a. As in indicated on the revised Site Plan, the Applicant is now proposing to construct an 18' x 18' Trash Enclosure bounded by 4' High PVC Fence.
- b. Said enclosure shall be situated at the southwest corner of the parking lot resulting in the loss of 2 (two) parking spaces as noted hereinabove.
- c. With respect to the design of this structure it is noted that the same does not strictly comply with the design standards set forth under the Land Development Ordinance at Section 125-47.1.J.6, which states that the enclosure shall be a 6' high, masonry enclosure with a gated access constructed of a solid material.
- d. The plans must therefore be revised accordingly or conversely design waiver relief must be requested by the applicant and the applicant shall also confirm through expert testimony that the size of this facility is sufficient to accommodate both the solid waste disposal and recycling demands of all tenants within the building.

VII. Recommendations

1. Should the Board vote in favor of this application, it is the recommendation of this office that the following conditions be included in any such Resolution of Approval:
 - a. the Site Plan drawings shall be revised/supplemented in accordance with the comments contained herein and/or in accordance with the directives of the Board and
 - b. the applicant shall obtain all required agency approvals and/or recommendations from the following agencies:

BOROUGH OF FAIR LAWN

- Borough Engineer
- Construction Code Official
- Fire Official
- Police Department
- Ambulance Corp.
- Environmental Commission/Shade Tree Commission
- Superintendent of Public Works
- Zoning Board Engineer
- Zoning Board Traffic Engineer
- Zoning Board Planner.


February 24, 2022

If there are any questions, please feel free to call.

Very truly yours,

AZZOLINA & FEURY
ENGINEERING INC.

Zoning Board Engineers



Paul Azzolina, PE, CME

DOC: FL-91-iLearnSchools-SPR2-02-24-2022

cc: Richard Bolan, Construction Official/Zoning Officer *(via e-mail)*
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