



RESOLUTION NO. 2026-23

**TOWNSHIP OF VERONA
ZONING BOARD OF ADJUSTMENT
COUNTY OF ESSEX, STATE OF NEW JERSEY**

In the Matter of Application No. 2026-20 of Penguin Holdings LLC
96 Pompton Avenue, Block 807, Lot 13
Zone: C-2 District

**RESOLUTION MEMORIALIZING THE GRANT OF A USE VARIANCE
PURSUANT TO N.J.S.A. 40:55D-70(d)(1)
AND A VARIANCE FROM OFF-STREET PARKING REQUIREMENTS**

WHEREAS, Penguin Holdings LLC (the “Applicant”) is the owner of the property located at 96 Pompton Avenue, Verona, New Jersey, designated as Block 807, Lot 13 on the Township of Verona Tax Map (the “Property”); and

WHEREAS, the Property is located in the C-2 Zone District on the Township of Verona Zoning Map, and is improved with an existing two-story commercial building, together with an existing parking lot containing twenty-five (25) parking spaces, which building was previously approved for office and professional use; and

WHEREAS, the Applicant submitted an application to the Verona Zoning Board of Adjustment (the “Board”) seeking approval to expand one existing non-permitted tenant use, to continue an existing non-permitted use with a new tenant, and to permit a new non-permitted tenant use, all within the first floor of the existing commercial building, without any change to the existing site plan, building footprint, building height, site access, parking layout, or exterior character of the Property (the “Application”); and

WHEREAS, this matter was heard during a Special Meeting of the Verona Zoning Board of Adjustment conducted on August 4, 2026, at which time the Board was advised that the required notice of the hearing had been properly served and published in accordance with the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., that the Application had been deemed complete, and the Applicant was permitted to proceed; and

WHEREAS, the Applicant was represented at the hearing by William Harrison, Esq., of the firm of Gaccione Pomaco, P.C.; and

WHEREAS, Frank Messineo, the principal of the Applicant and of Solutions Architecture, which occupies the second floor of the building, was sworn in by the Board Attorney, was accepted by the Board as an expert witness in the field of architecture, and testified in support of the Application; and

WHEREAS, Joseph Staigar of Dynamic Traffic, LLC, Chester, New Jersey, was sworn in by the Board Attorney, was accepted by the Board as an expert witness in the fields of professional engineering and professional planning, and testified in support of the Application; and

WHEREAS, the following exhibit was marked and received into evidence at the hearing: Exhibit A-1, a colored tenant diagram of the first floor of the building, the color coding of which corresponds to the plans submitted with the Application; and

APPLICABLE ORDINANCE PROVISIONS

WHEREAS, the Ordinance provisions applicable to this Application and the variances required by the Applicant are as follows:

§ 150-17.11 Principal Permitted Uses — C-2 Zone District. Medical spa use, massage and personal-service use, and wellness and recovery use offering contrast therapy, red-light therapy, and related services are not among the principal permitted uses in the C-2 Zone District. A use variance pursuant to N.J.S.A. 40:55D-70(d)(1) is required; and

§ 150-12.6 Off-Street Parking Requirements. Under the current provisions of the Ordinance, the proposed mix of uses within the existing building requires approximately thirty-nine (39) off-street parking spaces. The Property contains twenty-five (25) parking spaces, consisting of twenty-three (23) standard spaces and two (2) barrier-free spaces, and no additional spaces are proposed. A variance of fourteen (14) parking spaces from the calculated requirement is required; and

WHEREAS, a prior approval affecting the Property had referenced a requirement of twenty-seven (27) parking spaces while permitting twenty-five (25) spaces, including two (2) barrier-free spaces, and the Applicant initially maintained that no new parking variance was required because the proposed uses would generate a lower parking demand than the office use previously approved; and

WHEREAS, the Board Attorney advised the Board that, because the mix of uses at the Property had changed and the applicable provisions of the Ordinance had subsequently been amended, the prior parking relief did not necessarily carry forward to the uses proposed, and that the Board should address the parking variance as part of the present Application; and

WHEREAS, the Applicant thereupon amended the Application on the record to request, and the Board proceeded upon the basis that the Applicant sought, a variance authorizing the existing twenty-five (25) space parking configuration notwithstanding the calculated requirement of the current Ordinance, thereby establishing the parking variance affecting the Property on the record of this Application; and

TESTIMONY AND EVIDENCE

WHEREAS, Mr. Harrison stated that the Property contains an existing two-story commercial building previously approved for office and professional use; that the Applicant proposes no change to the existing site plan, building footprint, building height, site access, parking layout, or exterior character of the Property; and that the relief requested concerns solely the use of portions of the existing building by three tenants whose uses are not permitted in the C-2 Zone District; and

WHEREAS, the three uses for which relief was requested were identified as follows: (a) True Bliss Medical LLC, an existing first-floor medical spa tenant, which seeks to expand its premises into two adjoining vacant treatment rooms; (b) Grateful Massage New Jersey LLC, a massage and personal-service business already operating in the building, which would occupy the area designated in green on Exhibit A-1; and (c) The Plunge Room, a new wellness and recovery business which would occupy the remaining first-floor space and offer contrast therapy, red-light therapy, and related wellness and recovery services; and

WHEREAS, Mr. Messineo testified that he is the principal of the Applicant and of Solutions Architecture; that the Applicant acquired the Property in 2016; that the building has

historically accommodated professional, counseling, and wellness-related tenants; and that Solutions Architecture would remain the principal occupant of the second floor; and

WHEREAS, Mr. Messineo testified, with reference to Exhibit A-1, that a common area would serve the massage and Plunge Room uses; that all of the proposed uses would operate by appointment only; and that the proposed uses would be conducted entirely indoors and would not involve overnight, emergency, or surgical services; and

WHEREAS, in response to questions of the Board concerning the second-floor office occupancy, Mr. Messineo testified that Solutions Architecture has operated from the Property since 2016 and employs approximately twenty-seven (27) persons; that the proposed expansion of its space is intended primarily to relieve cramped conditions rather than to materially increase staffing; and that, because its employees work on multiple shifts and frequently travel to project sites, the full complement of employees is not present at the building simultaneously; and

WHEREAS, in response to questions of the Board concerning the expansion of non-conforming uses, Mr. Messineo testified that wellness and recovery services are increasingly prevalent; that the proposed Plunge Room would provide a service not otherwise readily available in the immediate area; that the massage and wellness uses complement one another; and that the proposal would permit the building to remain fully occupied rather than leave portions of the Property vacant; and

WHEREAS, Mr. Messineo testified with respect to traffic and parking that the proposed uses are appointment-based with limited customer turnover; that the Plunge Room would accommodate no more than two customers at a time; that the massage use would involve one therapist and one customer at a time; and that True Bliss Medical LLC operates with one aesthetician and one additional employee and serves only one or two customers at a time; and

WHEREAS, Mr. Messineo compared the proposed uses with a prior counseling center that had occupied space within the building and had accommodated approximately eight to ten persons during sessions, and testified that the proposed uses would not generate greater parking or traffic demand than that prior use and could result in a less intensive use of the site; and

WHEREAS, Mr. Messineo testified that the parking lot contains two visitor spaces and two barrier-free spaces; that certain tenant principals and designated staff have reserved spaces, but that the Applicant does not assign individual spaces to every employee; that occasional parking shortages had occurred during unusually large meetings at the office, which circumstances were unusual; and that the Applicant is not aware of any recurring problem involving tenants or customers parking upon neighboring properties; and

WHEREAS, the Chairman opened the hearing to members of the public for questions of Mr. Messineo, and there were none; and

WHEREAS, Mr. Staigar testified that he had visited the Property on numerous occasions during the two weeks preceding the hearing, primarily on Tuesdays, Wednesdays, and Thursdays, to observe traffic entering and leaving the site and the accumulation of parked vehicles; that on each of his observations parking was available on the site and traffic activity was generally light; that vehicle activity in the parking lot was relatively limited and tended to occur at appointment changes on the hour and half-hour; and that, while traffic associated with the signal at Claremont Avenue could back up across the driveway during afternoon peak periods, that condition cleared when the signal changed and did not present a significant traffic-flow problem; and

WHEREAS, Mr. Staigar testified that office uses tend to generate concentrated morning and afternoon peak-hour traffic, whereas the proposed appointment-based personal-service and medical/wellness uses distribute trips throughout the day, and concluded that the proposed uses would not increase traffic on the surrounding roadway network and could reduce peak-period traffic as compared with a conventional office use; and

WHEREAS, Mr. Staigar testified that the parking ratio applicable to office use under the current Ordinance is six (6) spaces per 1,000 square feet, whereas the ratio applicable to personal-service use is approximately 3.33 spaces per 1,000 square feet, such that the conversion of space from office use to personal-service use reduces the applicable parking demand; and that the twenty-five (25) existing spaces are sufficient for the proposed clientele, particularly in light of the appointment-only nature of the uses, which reduces the likelihood of overlapping parking demand; and

WHEREAS, in response to questions of the Board concerning the allocation of designated tenant spaces, Mr. Staigar testified that fewer than half of the twenty-five (25) spaces are designated, and the Applicant thereafter clarified that six (6) spaces are designated for particular users, leaving nineteen (19) spaces generally available; and

WHEREAS, Mr. Staigar presented planning testimony in support of the requested use variance, which he characterized as a D(1) variance, and the requested parking variance, and testified regarding the special reasons and the positive and negative criteria supporting the requested relief; and

WHEREAS, Mr. Staigar reviewed the Township's 2022 Master Plan, and in particular its treatment of Pompton Avenue as a connector road between major highways and its recognition that changing commercial demands may require adjustments to the zoning regulations; and testified that office vacancies have increased substantially while demand for medical spa and personal-service and wellness uses has increased, such that the proposed uses are consistent with the objectives of the Master Plan concerning changing commercial conditions and the efficient use of existing properties; and

WHEREAS, Mr. Staigar further testified that the proposal makes productive use of an existing building; requires no expansion of the building or alteration of the parking lot; maintains existing open space and site characteristics; would not create significant traffic impacts; would not generate substantial noise, odors, or other neighborhood nuisances; and would introduce uses having a lower parking demand than conventional office use; and

WHEREAS, Mr. Staigar further testified that other uses permitted in the C-2 Zone District, including certain commercial schools and daycare uses, could generate greater traffic and parking demand than the uses proposed by the Applicant; and

WHEREAS, in response to questions of the Board concerning the relationship of the Property to neighboring residential and commercial properties, Mr. Staigar testified that the proposed uses are compatible with the mixed commercial and residential character of the surrounding area, and that similar personal-service uses exist in the vicinity of the Property along Pompton Avenue; and

WHEREAS, the Chairman opened the hearing to members of the public for questions of Mr. Staigar, and there were none; and

WHEREAS, Mr. Harrison presented a closing statement on behalf of the Applicant; and

WHEREAS, the Chairman opened the hearing to members of the public for statements concerning the Application, and there being no member of the public who wished to be heard, the public portion of the hearing was closed; and

WHEREAS, the Board thereafter deliberated upon the Application, and in the course of its deliberation considered whether the Application represented an inappropriate expansion of a pre-existing non-conforming use or instead reflected the changing commercial conditions contemplated by the Township's Master Plan; considered the calculated parking requirement of approximately thirty-nine (39) spaces against the substantial testimony concerning the limited parking demand of the proposed uses and the operation of the existing twenty-five (25) space configuration for many years without significant documented problems; and considered the importance of limiting any approval to the uses actually presented so that the approval would not become a blanket authorization for future, materially different uses; and

FINDINGS OF FACT AND CONCLUSIONS OF LAW

WHEREAS, the Board, having considered the Application, the plans, the exhibits, the testimony and evidence presented, and the advice of the Board Attorney, makes the following findings of fact and conclusions of law:

1. The Board has jurisdiction over this Application pursuant to N.J.S.A. 40:55D-70(d)(1), and, the Application requiring a use variance, the Board has jurisdiction pursuant to N.J.S.A. 40:55D-76(b) to grant the ancillary variance from the off-street parking requirements of the Ordinance pursuant to N.J.S.A. 40:55D-70(c). The notice and publication requirements of N.J.S.A. 40:55D-11 and 40:55D-12 were satisfied.
2. The Property is located in the C-2 Zone District, in which medical spa, massage and personal-service, and wellness and recovery uses are not principal permitted uses. The relief sought with respect to the three uses identified in the Application is accordingly a use variance under N.J.S.A. 40:55D-70(d)(1).
3. The Board finds, consistent with the advice of the Board Attorney, that the parking relief reflected in the prior approval affecting the Property does not carry forward to the uses proposed in this Application, because the mix of uses at the Property has changed and the applicable provisions of the Ordinance have since been amended. The Board accordingly addresses the parking variance on the record of this Application. Under the current Ordinance the proposed mix of uses requires approximately thirty-nine (39) spaces; the Property provides twenty-five (25) spaces, including two (2) barrier-free spaces; and the relief granted herein is a variance of fourteen (14) spaces from that requirement.
4. The Applicant bears the burden of establishing both special reasons for the grant of the use variance (the positive criteria) and that the variance can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance (the negative criteria). *See* N.J.S.A. 40:55D-70(d); *Medici v. BPR Co.*, 107 N.J. 1 (1987). Because the uses proposed are commercial uses that are not inherently beneficial, the Applicant must satisfy the enhanced quality of proof required by *Medici*, and the Board must make clear and specific findings reconciling the grant of the variance with the omission of the proposed uses from the uses permitted in the C-2 Zone District.
5. The Board finds that the Property is particularly suited for the proposed uses, which constitutes a special reason for the grant of the variance. *See Price v. Himeji, LLC*, 214 N.J.

263 (2013). The Property is improved with an existing two-story commercial building that has historically accommodated professional, counseling, and wellness-related tenants; two of the three uses are already operating within the building; the Property fronts on Pompton Avenue, which the 2022 Master Plan identifies as a connector road between major highways; the proposed uses will be conducted entirely within the existing building without any expansion of the building, alteration of the parking lot, or change to the site; and the appointment-based, low-intensity nature of the proposed uses is well matched to the existing twenty-five (25) space parking configuration.

6. The Board further finds that the proposed uses advance the purposes of the Municipal Land Use Law, including N.J.S.A. 40:55D-2(a), by promoting the general welfare through the productive occupancy of an existing commercial building that would otherwise experience vacancy; N.J.S.A. 40:55D-2(g), by providing sufficient space in an appropriate location for a variety of commercial uses; and N.J.S.A. 40:55D-2(m), by encouraging the more efficient use of land through the re-tenanting of existing building space in lieu of new construction.
7. The Board finds that the grant of the use variance can be reconciled with the omission of the proposed uses from the list of permitted uses in the C-2 Zone District, as required by *Medici*. The Township's 2022 Master Plan, adopted after the C-2 Zone District regulations, expressly recognizes that changing commercial demands may require adjustments to the zoning regulations. The uncontroverted testimony established that demand for traditional office space has declined substantially while demand for medical spa, personal-service, and wellness uses has increased, and the Board finds that the C-2 use and parking regulations predate these significant changes in the manner in which professional offices and commercial properties are used. The Board further finds that the proposed uses are of a character similar to the professional and personal-service uses the C-2 Zone District is intended to accommodate; that similar personal-service uses exist in the vicinity of the Property along Pompton Avenue; and that other uses permitted as of right in the C-2 Zone District, including certain commercial schools and daycare uses, would generate greater traffic and parking demand than the uses proposed.
8. The Board finds that the use variance can be granted without substantial detriment to the public good. No change to the site plan, building footprint, building height, site access, parking layout, or exterior character of the Property is proposed; the uses will operate by appointment only, entirely indoors, and without overnight, emergency, or surgical services; the unrebutted testimony of the Applicant's traffic engineer, based upon repeated field observation, established that the proposed uses will not increase traffic on the surrounding roadway network and may reduce peak-period traffic as compared with a conventional office use; the uses will not generate substantial noise, odors, or other neighborhood nuisances; the uses are compatible with the mixed commercial and residential character of the surrounding area; and no member of the public appeared in opposition to the Application.
9. The Board finds that the use variance can be granted without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinance of the Township of Verona, for the reasons set forth in Findings 5 through 8 above, because the proposed uses are consistent with the objectives of the 2022 Master Plan concerning changing commercial conditions and the efficient use of existing properties, and because the relief is confined to the existing building and to the specific uses and space allocations presented to the Board, with any materially different use requiring further zoning review and, where required, further application to this Board.

10. With respect to the parking variance, the Board finds that the purposes of the Municipal Land Use Law would be advanced by a deviation from the off-street parking requirements of the Ordinance and that the benefits of the deviation substantially outweigh any detriment. *See* N.J.S.A. 40:55D-70(c)(2); *Kaufmann v. Planning Bd. for Warren Twp.*, 110 N.J. 551 (1988). The parking ratio applicable to personal-service use under the current Ordinance, approximately 3.33 spaces per 1,000 square feet, is substantially lower than the six (6) spaces per 1,000 square feet applicable to office use, such that the conversion of space from office use to personal-service use reduces actual parking demand; the appointment-only operation of the proposed uses limits the number of customers on the site at any one time and reduces the likelihood of overlapping demand; nineteen (19) of the twenty-five (25) spaces remain generally available to tenants and customers; the twenty-five (25) space configuration has served the Property for many years without significant documented problems and without recurring off-site parking upon neighboring properties; and the field observations of the Applicant's traffic engineer confirmed available parking on the site on each occasion observed. The Board finds that the variance can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance.
11. The Board finds that the approval must be confined to the specific uses, tenants, and space allocations presented to the Board, and that the approval shall not be construed as a blanket authorization for unrelated or materially different future uses of the Property. The Board further finds that the medical spa use must conform to the current definition of that use contained in the Ordinance, and that any change from the approved uses must be subject to appropriate zoning review.
12. The Board finds that the Applicant has sustained its burden of proof with respect to both the positive and the negative criteria applicable to the use variance, and with respect to the parking variance, and that the requested relief is warranted, subject to the conditions set forth below.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Verona that Application No. 2026-20 of Penguin Holdings LLC is hereby **GRANTED**, and the Applicant is granted a use variance pursuant to N.J.S.A. 40:55D-70(d)(1) permitting the medical spa, massage and personal-service, and wellness and recovery uses described herein within the first floor of the existing building on the Property, together with a variance pursuant to N.J.S.A. 40:55D-70(c) from the off-street parking requirements of the Ordinance, subject to the following conditions:

1. The approval granted herein is limited to the specific uses presented and testified to by the Applicant, being the following:
 - (a) the medical spa use of True Bliss Medical LLC on the first floor of the building, as expanded into the two adjoining treatment rooms identified in the Application and on Exhibit A-1;
 - (b) the massage and personal-service use of Grateful Massage New Jersey LLC within the area designated in green on Exhibit A-1; and
 - (c) the wellness and recovery use of The Plunge Room, offering contrast therapy, red-light therapy, and related wellness and recovery services, within the remaining first-

floor space identified in the Application and on Exhibit A-1, together with the common area serving the massage and Plunge Room uses.

2. The medical spa use shall conform to the current definition of a medical spa set forth in § 150-2.3 of the Ordinance.
3. The square footage and allocation of space for the respective uses shall conform to the Application, the plans submitted therewith, Exhibit A-1, and the testimony and representations made to the Board at the hearing of August 4, 2026.
4. The parking variance granted herein authorizes the continued provision of twenty-five (25) off-street parking spaces, including two (2) barrier-free spaces, notwithstanding the calculated requirement of the current Ordinance. The number of parking spaces shall not be reduced, and the existing parking layout shall not be altered, without further application to and approval of this Board.
5. The approval granted herein shall not constitute a blanket authorization for unrelated or materially different future uses of the Property. Any change from the uses approved herein, and any expansion or intensification of the uses approved herein, shall be subject to review by the Zoning Official and, where the use is not permitted in the C-2 Zone District, shall require further application to and approval of this Board.
6. The Applicant shall comply with the representations made to the Board at the hearing concerning the nature and operation of the approved uses, including that the uses shall operate by appointment only; that the uses shall be conducted entirely within the building; and that no overnight, emergency, or surgical services shall be provided.
7. No change to the existing site plan, building footprint, building height, site access, parking layout, or exterior character of the Property is authorized by this Resolution.
8. The Applicant shall obtain all permits and approvals required by any governmental agency having jurisdiction over the Property or the approved uses, and shall comply with all applicable ordinances of the Township of Verona not otherwise varied herein.
9. The Applicant shall pay all applicable fees, escrows, and real estate taxes, and shall satisfy any outstanding obligations to the Township of Verona as a condition of the issuance of permits and certificates of occupancy.

BE IT FURTHER RESOLVED that the variances granted herein run with the land, and that the variances are granted only as to the specific relief set forth in this Resolution and subject to each of the conditions imposed herein.

VOTE OF AUGUST 4, 2026

On motion of Mr. Ryan, seconded by Dr. Ries, the foregoing Application was approved at the Special Meeting of the Board held on August 4, 2026, by the following roll call vote, seven (7) members voting in the affirmative, thereby satisfying the requirement of N.J.S.A. 40:55D-70(d) that a use variance be granted only upon the affirmative vote of at least five (5) members of the Board:

Board Member	AYE	NAY	ABSTAIN	RECUSED	ABSENT	NOT ELIGIBLE
Mr. Konrad-Parisi						X

Board Member	AYE	NAY	ABSTAIN	RECUSED	ABSENT	NOT ELIGIBLE
Mr. Tully	X					
Dr. Ries	X					
Dr. Cuartas	X					
Mrs. Murphy-Bradacs	X					
Mr. Mathewson					X	
Mr. Ryan	X					
Mrs. DiBartolo	X					
Vice Chair Weston					X	
Chairman McGinley	X					

MEMORIALIZATION

BE IT FURTHER RESOLVED that this Resolution constitutes the memorialization, pursuant to N.J.S.A. 40:55D-10(g), of the action taken by the Board on August 4, 2026, and was adopted at the Regular Meeting of the Zoning Board of Adjustment of the Township of Verona held on September 10, 2026, by the following vote of the members eligible to vote, being those members who voted in favor of the action on August 4, 2026:

Motion to adopt: Mr. Ryan Second: Mrs. DiBartolo

Board Member	AYE	NAY	ABSTAIN	RECUSED	ABSENT	NOT ELIGIBLE
Mr. Tully	✓					
Dr. Ries	✓					
Dr. Cuartas	✓					
Mrs. Murphy-Bradacs	✓					
Mr. Ryan	✓					
Mrs. DiBartolo	✓					
Chairman McGinley	✓					

CERTIFICATION

I, Dolores Carpinelli, Secretary of the Zoning Board of Adjustment of the Township of Verona, do hereby certify that the foregoing is a true and accurate copy of a Resolution adopted by the Zoning Board of Adjustment of the Township of Verona at its Regular Meeting held on September 10, 2026, memorializing the action taken by the Board at its Special Meeting held on August 4, 2026.

Dolores Carpinelli
Dolores Carpinelli, Secretary
 Verona Zoning Board of Adjustment

Daniel McGinley
Daniel McGinley, Chairman
 Verona Zoning Board of Adjustment

