



June 16, 2020

**MEMORANDUM TO:** Mendham Borough Zoning Board of Adjustment

**FROM:** Jessica C. Caldwell, P.P., A.I.C.P., Zoning Board Planner

**SUBJECT:** Interpretation for Iconic Medical and Wellness Centers, LLC  
Block 2701, Lot 5  
5 Cold Hill Road South, Unit 26  
Mendham Borough, Morris County

Dear Board Members:

The Applicant Iconic Medical and Wellness Centers, LLC has submitted an application for an interpretation of whether the Applicant's business is a medical office and therefore not permitted on the subject property. A maximum number of medical offices were permitted on the subject property pursuant to the resolution of approval of the Mendham Planning Board for Final Site Plan for the Application No. 392-1, decided on November 14, 1983. The Applicant is proposing to utilize the commercial space at the above-referenced property as an upscale wellness spa. The business proposes to provide weight loss and nutrition consultation to individuals, offer facial and cosmetic skin treatments including Botox injections and provide IV vitamin therapy. The therapy can be administered at home or at the wellness center. The property is located in a professional business park consisting of several building units with the Applicant occupying one (1) unit (unit 26). Off-street parking is available on the subject property.

The following documents were reviewed for this application

- a. Application with supporting documentation
- b. November 14, 1983 Final Site Plan Resolution of the Mendham Planning Board

**1. Interpretation:**

The subject site is located in the LB Limited Business Zone, wherein the following principal uses such as business office buildings and professional and administrative office buildings; banks savings and loan associations and other financial institutions; civic and public buildings; houses of worship; outdoor essential services, including electric substations, transformers, switches and similar equipment; accessory uses and structures incidental to permitted uses, including off-street parking and solar panel systems as well as the storage of all goods and materials; and one accessory apartment per permitted commercial building are permitted.

The limitation to the number of medical office spaces was imposed as a condition of approval of the development presumably due to parking demand on the site and the fact that medical

offices typically have a higher parking demand and turnover than typical offices. The interpretation then can be two-fold: does the use as proposed constitute a medical office as was conceived of by the resolution of the Planning Board and does the use as proposed constitute a violation of the deed and resolution? The Board could consider that the use is a medical use and therefore not permitted or that the use is another type of use, either a personal service use, or some other type of use not conceived of at the time of the resolution and although there are medical aspects to the use, the use itself doesn't present the types of issues the Board was hoping to overcome by limiting medical offices. If so, then the interpretation would allow the use to occupy the space. In the alternative, if the Board found the use was a medical use, the Applicant could apply to the Planning Board to amend the resolution of approval and remove the restriction.

Further, per Borough Code Section 215-1 Word usage and definitions:

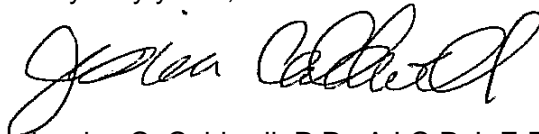
A Professional Office is defined as *the office of an accountant, architect, attorney, dentist, engineer, physician, planner, realtor or such similar use as interpreted by the Zoning Board of Adjustment.*

A Personal Service is defined as *a type of business enterprise, a service performed on or closely related to the physical person, such as barbering, custom tailoring, manicuring, shoe shining and the like.*

*A medical office is not defined; however, it would appear to fall under the definition of Professional Office.*

The Applicant should provide testimony regarding the proposed wellness spa and if it falls under a Professional Office, that is a medical office or if it is a Personal Service establishment that would not fall under either Professional Office or Medical Office.

Very truly yours,



Jessica C. Caldwell, P.P., A.I.C.P., L.E.E.D. –G.A.  
**J. Caldwell & Associates, LLC**  
Mendham Borough Zoning Board Planner

cc: Via-Email Only

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