

Planning & Real Estate Consultants

October 29, 2020

Edwin F. Gerecht, Jr., Chair
Long Hill Township Zoning Board of Adjustment
915 Valley Road
Gillette, New Jersey 07933

RE: **Application: #2020-02Z**
Applicant: Jonathan Rocker
Variances (Bifurcated Application)
44 Plainfield Road
Block 10515 Lot 7
B-D Downtown Valley Commercial Zone

Dear Chairperson Gerecht and Members of the Board:

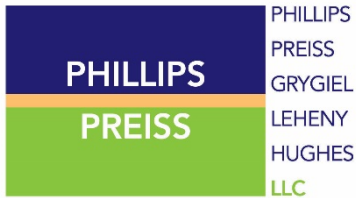
The following is a review letter of the above-referenced development application. The following documents have been reviewed:

- Application for Development for 44 Plainfield Road, signed by Jonathan Rocker, dated 3/30/2020, including addendum and attachments.
- Variance Site Plan entitled "Block 10515, Lot 7 (Tax Map Sheet 5) Township of Long Hill Morris County, New Jersey," prepared by Page-Mueller Engineering Consultants, PC, dated 3/25/2020.
- Boundary & Topographic Survey of "Lot 7 Block 10515 44 Plainfield Road Township of Long Hill Morris County New Jersey," prepared by Murphy & Hollows Associates LLC, dated 11/27/2017, last revised 8/20/2018.
- Wetlands Location Map of "Lot 7 Block 10515 44 Plainfield Road Township of Long Hill Morris County New Jersey," prepared by Murphy & Hollows Associates LLC, dated 6/13/2019, last revised 11/19/2019.
- Architectural Plan entitled "Village Plaza at Long Hill Lot 7 Block 10515 44 Plainfield Road Long Hill New Jersey," prepared by Architecture Plus, dated 3/25/2020.

This is a bifurcated application, in which the applicant is only seeking variance approval from the Board at this time. The Board should note that the applicant previously submitted a similar application for the subject property in 2018, which was denied by the Board via Resolution No. 2018-12-ZBA. The applicant is now before the Board with a revised development concept, with a full site plan application to follow if the variance relief is granted.

Description of Site and Surroundings

The subject property is a ±1.87 acre lot located at 44 Plainfield Road. The property is currently developed with a 1.5 story residential building fronting on Plainfield Road, a detached garage and gravel parking area to the rear, accessory structures, and other associated improvements. There is an additional gravel area behind the shed previously



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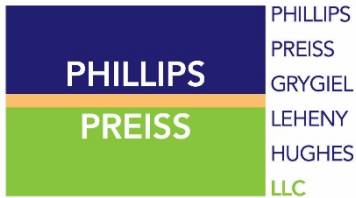
used for outdoor vehicle and equipment storage. Wetland areas and mature woodlands cover the rear of the property. Additional trees are located along the Plainfield Road driveway, around the main building, and along the northern and southern property lines. The location of the wetland areas have been verified by the NJDEP as noted in the Letter of Interpretation issued on January 13, 2020.

The property is located within the B-D zone, at the border between the zone and R-5 Residential, PSO Planned Shopping Overlay, and VIO Downtown Valley Industrial Overlay zones. Accordingly, the property is surrounded by a mix of land uses. Single-family residential dwellings are located immediately adjacent to the north and south, while a day care center and restaurant across the street. Additional commercial uses are located slightly farther to the north along Valley Road, and the property is also in close proximity to Valley Mall to the east. To the west is the 1 Bay Street Business Center containing a fitness & training center and several industrial and warehouse facilities.

Previous and Present Applications

The applicant previously submitted Application No. ZB-18-16Z, also a bifurcated application, that sought variance approval to develop an inclusionary multifamily building with 30 units, including 5 set-aside as affordable units for low- and moderate-income households. The building was proposed to be 3 stories, with 2 dwelling units and 65 parking spaces on the ground floor, and additional units located on the upper floors supported by stilts. At that time, the applicant requested a d(1) use variance for the proposed residential use, as well as a bulk variance for the excessive number of building stories.

The present application offers several changes to the previous concept. The applicant now proposes a mixed-use building with 2,399 square feet of retail space and a garage on the ground floor and 24 multifamily units on two upper floors. On each residential floor, there would be 1 one-bedroom unit, 10 two-bedroom units, and 1 three-bedroom unit. Of the 24 units, 3 units on the second floor will be set-aside as affordable for low- and moderate-income households, including 1 one-bedroom unit, 1 two-bedroom unit, and 1 three-bedroom unit. There will also be amenity spaces on the ground floor, including a 1,108 square foot common hall, a 2,754 square foot residential storage area, a 316 square foot utility area, and an elevator lobby. The development will provide 60 parking spaces total, including 24 tandem spaces in the garage and 36 additional surface parking spaces along the southern property line and to the rear of the building. The applicant will construct a new driveway from Plainfield Avenue, as well as provide a 4-foot wide concrete sidewalk along the Plainfield Road frontage that connect to pedestrian walkways leading to the retail space and residential entrance of the building. A 64 square foot concrete pad dedicated to school bus pick up will be provided adjacent to the sidewalk in the northeastern corner of the site.



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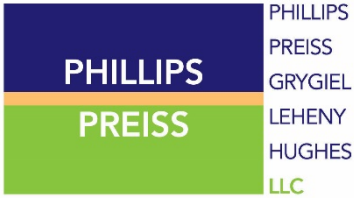
The proposed building will be three stories in appearance at all elevations. The facades will mainly be constructed of thin stone veneer at the base and along the front “towers” of the building, thick brick veneer and cementitious painted siding on upper building wall portions, and a combination of composite shingles and standing seam metal roofs. The roofline will additionally be adorned with composite painted trim, fascia, panels, and soffits. The first story front façade will have insulated, tinted glass sidelites and entrance door for the retail space, and the residential entrance will be covered by a portico in the same brick and stone veneer design. Along the first floor southern elevation, there will be 12 garage doors to provide parking access from the driveway. All other windows will be insulated and double hung, with additional decorative painted shutters for a number of upper-story residential units.

The applicant proposes two signs: one monument sign by the walkway near the entrance and one wall-mounted retail sign on the first floor front façade. The monument sign will be two-sided, with a thin stone veneer base, two internally illuminated sign plates enclosed in stone cap accents, and a stone cap arch at the top. The applicant indicates that the total area of the sign faces is 16 square feet per side, while the entire sign (including supporting structures) measures 3 feet and 8 inches wide at the base, 4 feet and 1.5 inches wide across the arch, 1.25 feet in depth, and 4 feet and 8 inches in height above finished grade. The wall-mounted retail sign will be 18 square feet and placed next to the retail space entrance.

Zoning Compliance

The proposed development requires a d(1) use variance because residential use is not permitted in the B-D zone. The applicant has posited that a use variance is not required because all residential units are proposed on the upper floors whereas §LU-122.6d only explicitly prohibits “single family detached residences or any other residential uses on the first floor” in the zone. However, we note that §LU-122.6a to §LU-122.6c do not include residential or mixed residential & retail uses, whether as a primary, accessory, or conditional use. Further, §LU-123.1 notes that “all uses not specifically permitted by this Ordinance are expressly prohibited.” As such, it is our office’s opinion that the proposed development continues to require a d(1) use variance despite the elimination of residential units from the ground floor. This interpretation is also consistent with previous Board determination on the matter that the B-D zone does not permit residential use of any form, as detailed in Resolution No. 2018-12-ZBA.

At this time, an additional c variance is identified for the deviation from the maximum building height requirement in the B-D zone: 2 stories and 35 feet allowed, whereas 3 stories and 35 feet proposed. In other words, the physical height of the building is compliant at 35 feet, but the building has an excess of 1 story over what is permitted.



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Planning Review Comments

1. In regards to the d(1) use variance, the MLUL at N.J.S.A. 40:55D-70d(1) permits a Board to grant such variance only “in particular cases for special reasons.” Pursuant to the standard set forth in Medici v. BPR Co. (107 NJ 1 [1987]), a d(1) applicant for a non-inherently beneficial use is required to demonstrate either that strict application of the ordinance would result in an “undue hardship,” or that the site is “particularly suited” for the proposed use. In addition, the applicant must affirmatively demonstrate that the variance can be granted “without substantial detriment to the public good” and “without substantial impairment to the intent and purpose of the zone plan and zoning ordinance” of the municipality. Pursuant to Medici “enhanced quality of proof” standard, the applicant must reconcile the grant of the use variance with the fact that the zoning ordinance and master plan explicitly prohibit the use in the zone.

The applicant is thus required to provide planning testimony justifying the proposed residential use in accordance with the positive and negative criteria stated above.

2. As noted in Resolution No. 2018-12-ZBA, the Board had previously determined that the 30-unit multifamily development concept proposed at that time failed to satisfy the “particular suitability” test. In particular, the Board raised concerns regarding the lack of pedestrian facilities in the area despite the applicant’s claims of the property’s proximity to jobs and services; difficulty of school bus pickup/dropoff at the site due to the volume of traffic on Plainfield Road and the previous driveway design; lack of access to recreation, whether on-site or in close enough proximity that is safely accessible by sidewalks; and the general size and scale of the proposed development, in particular the proposed density of 16 units/acre whereas multifamily zones in the Township only allowed up to 12 units/acre.

In its review of the present application, the Board may consider to what extent these concerns have been ameliorated by the revised development concept, and if such revisions are sufficient to support the “particular suitability” of the site for the proposed use.

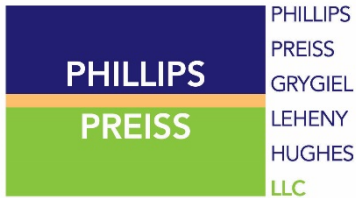
3. It should be noted that the current bulk standards of the B-D zone are meant to regulate commercial uses. In reviewing the size and scale of the development and whether they are suitable for the site, the Board may want take into consideration standards for multi-family buildings in the R-MF-3 and R-MF-4

Multifamily Residential zones. The R-MF-3 zone is located near the Stirling Station and surrounded by a mix of single family residential, business, and industrial zones similar to the land use context of the subject property, albeit in a more walkable, transit-oriented environment. The R-MF-4 zone includes properties in different locations of the Township specifically zoned for inclusionary housing development. A comparison of the proposed conditions and standards for apartments in each multifamily zone is provided in the table below:

	B-D	Proposed Project	R-MF-3	R-MF-4
Min Lot Size	20,000 sf	1.87 ac	20,000 sf (0.46 ac)	5 ac
Min Lot Width	100	167.69 ft	100 ft	250 ft
Max Building Height	2 stories/ 35 ft	3 stories/ 35 ft	3 stories/ 35 ft	3 stories/ 45 ft
Min Front Yard	20 ft- 50 ft.	29.8 ft	25 ft	50 ft
Min Side Yard	20	30.2 ft	25 ft	30 ft
Min Rear Yard	25	282.2 ft	25 ft	50 ft
Max Building Coverage	30%	17.9%	15%	20%
Max Lot Coverage	60%	38.1%	40%	40%
Floor Area Ratio	0.50	0.448	*0.089	0.5
Min Residential Buffer	10	N/A	N/A	N/A
Max Density	N/A	12.8 du/ac	12 du/ac	12 du/ac
Min Affordable Units	N/A	12.5%	N/A	15%
Min Recreation Space		0 sf	400 sf/du	N/A

*Pursuant to §LU-132.6, the combined floor area of all buildings may not exceed 7,261.36 sf: 6,000 sf + 4% of (81,534 sf lot area – 50,000 sf).

- In regards to the bulk variance for building height, the MLUL at N.J.S.A. 40:55D-70c provides that the Board may grant a “c” variance on two basis: (1) by reason of exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary and exceptional situation uniquely affecting a specific piece of property, the strict application of the regulation would result in practical difficulties or undue hardship upon the developer; or (2) the purposes of zoning would be advanced by the deviation and the benefits of deviating from the ordinance requirements outweigh any detriments. The granting of the variance must also satisfy the negative criteria as described previously.

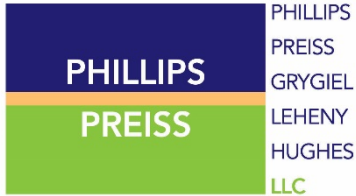


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5. While only one bulk variance for the number of building stories is currently identified, we reserve the right to reevaluate all plans and request testimony for any additional deviations if the applicant moves forward with a more detailed site plan application. At this time, we additionally note the following regarding the submitted site plan:
 - a. While the proposed number of parking spaces is compliant, the Board should note that the ground floor garage has a tandem parking system, with each pair of parking spaces sharing one entrance that opens towards the driveway and no internal circulation within the garage. The applicant should provide testimony on the site circulation and parking, in particular if/how the parking spaces will be allocated to residents, retail employees, customers, and other visitors.
 - b. In the B-D Zone, a 10-foot wide year-round buffer is required between nonresidential uses and where the property abuts neighboring residences. While the proposed improvements are setback 10 or more feet from the northern and southern property lines abutting residential uses, it is unclear whether the setback areas will have compliant screening and landscaping as required in §LU-156.1.
 - c. Similarly, pursuant to §LU-156.1.c2, a buffer strip of minimum of 5 feet in width is required around the perimeter of parking lots and trash areas. Compliance cannot be determined at this time because no landscaping plan has been submitted.

6. It should be noted that at time of the 2018 application, the Board also did not find that the applicant had satisfactorily addressed the negative criteria. In regards to the first prong of the negative criteria: impact to the public good, the Board raised particular concerns regarding traffic impacts to Plainfield Road, for which “contradictory and undeveloped” testimony was provided at the time. In regards to the second prong of the negative criteria: detriments to the zoning and master plan, the Board rejected the argument by the applicant that the proposed 30-unit apartment would protect the rural and residential nature of the Township as promoted by the Master Plan. Further, the applicant had failed to analyze the 2015 Downtown Valley Commercial District Element of the Master Plan, which specifically addressed the B-D zone.

In light of the previous criticisms, the applicant should provide updated testimony on the traffic impacts and other potential impacts to the public good, and further reconcile the proposed use with the 2015 Element. To note, the



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2015 Element established the vision for a downtown that is “highly accessible to pedestrians,” “where people will come to stroll, shop, work, attend cultural and entertainment events, enjoy food and drink, and conduct civic and other business activities.” To this effect, it specifically recommended to “develop Plainfield Road from Valley Road to Metzler Road as a commercial area” and to “not permit single family detached residences or any other residential uses within the B-D zone.” As evidenced by the current B-D zone regulations incorporated in the Land Use Ordinance, the Township has implemented these Master Plan recommendations, along with additional design standards.

- 7. The proposed development is not located within an affordable housing overlay zone and not subject to mandatory low- and moderate-income set-aside requirements. However, the Board should note that the applicant proposes to provide 3 affordable units.
- 8. The applicant has provided architectural elevations. If this application is approved by the Board and moves to Site Plan review, then the applicant should provide testimony as to compliance with Section 152 Building Design of the Township ordinance.
- 9. The proposed development would require approval from the NJDEP for disturbance within wetlands transition areas. The applicant proposes to eliminate all existing improvements, some of which currently encroach upon the wetlands transition area. However, small portions of the building and the rear parking lot, as well as the dumpster area and the retaining wall at the edge of the parking area would be located within the buffer area. If the Board grants approval for the proposed development, such approval should be conditioned upon NJDEP approval for the disturbances.

We trust that the above information is responsive to your needs.

Respectfully submitted,

Elizabeth Leheny, AICP, PP

cc: Debra Coonce
Rich Keller, PE, PP, CME
Jolanta Maziarz, Esq.