

**“JURY” DELIBERATION SHEETS
FOR THE 750 WALNUT AVENUE APPLICATION**

**APPLICATION PB-22-002 SUBMITTED BY HARTZ FOR PRELIMINARY AND
FINAL SUBDIVISION APPROVAL AND SITE PLAN APPROVAL WITH “C”
VARIANCES AND EXCEPTIONS TO ALLOW CONSTRUCTION OF AN
INCLUSIONARY RESIDENTIAL DEVELOPMENT CONSISTING OF TWO
BUILDINGS AS WELL AS A COMMERCIAL DEVELOPMENT CONSISTING
OF TWO BUILDINGS TO BE USED AS AN OFFICE DISTRIBUTION CENTER
ON PROPERTY CURRENTLY DESIGNATED AS LOT 2 IN BLOCK 541
WHICH IS LOCATED AT 750 WALNUT AVENUE**

**PREPARED BY CRANFORD PLANNING BOARD ATTORNEY JONATHAN E. DRILL
JANUARY 6, 2023**

1. SHOULD THE BOARD GRANT A “C(2)” VARIANCE (A SO-CALLED “BENEFITS V. DETRIMENTS” VARIANCE) TO ALLOW A FRONT YARD SETBACK DEVIATION FOR ONE OF THE COMMERCIAL BUILDINGS TO BE 63.2- FEET FROM THE PROPOSED PROPERTY LINE SEPARATING THE COMMERCIAL LOT FROM THE RESIDENTIAL LOT WHERE THE REDEVELOPMENT PLAN REQUIPIRES A MINIMUM 100-FOOT SETBACK TO THE PROPOSED PROPERTY LINE?

A. HAS THE APPLICANT MET ITS BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THE POSITIVE CRITERIA OF THE “C(2)” VARIANCE (THAT PURPOSES OF THE MLUL WILL BE ADVANCED BY GRANTING THE VARIANCE WHICH ZONING BENEFITS WILL SUBSTANTIALLY OUTWEIGH ANY DETRIMENT)?
YES ____ NO ____

B. HAS THE APPLICANT MET ITS BURDEN BY PROVING BY A PREPONDERANCE OF THE EVIDENCE THE NEGATIVE CRITERIA OF THE “C(2)” VARIANCE (THAT THE VARIANCE CAN BE GRANTED WITHOUT SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD AND WITHOUT SUBSTANTIAL IMPAIRMENT OF THE INTENT AND PURPOSES OF THE MASTER PLAN AND ZONING ORDINANCE)?
YES: ____ NO: ____

(ONLY IF QUESTIONS 1.A AND 1.B ARE ANSWERED “YES” SHOULD YOU VOTE “YES” TO GRANT A “C(2)” VARIANCE FROM THE 100-FOOT FRONT YARD SETBACK REQUIREMENT.)

2. SHOULD THE BOARD GRANT A “C(2)” VARIANCE (A SO-CALLED “BENEFITS V. DETRIMENTS” VARIANCE) TO ALLOW THE APPLICANT TO ELIMINATE THE REQUIRED BASKETBALL COURT?

A. HAS THE APPLICANT MET ITS BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THE POSITIVE CRITERIA OF THE “C(2)” VARIANCE (THAT PURPOSES OF THE MLUL WILL BE ADVANCED BY GRANTING THE VARIANCE WHICH ZONING BENEFITS WILL SUBSTANTIALLY OUTWEIGH ANY DETRIMENT)?
YES ____ NO ____

B. HAS THE APPLICANT MET ITS BURDEN BY PROVING BY A PREPONDERANCE OF THE EVIDENCE THE NEGATIVE CRITERIA OF THE “C(2)” VARIANCE (THAT THE VARIANCE CAN BE GRANTED WITHOUT SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD AND WITHOUT SUBSTANTIAL IMPAIRMENT OF THE INTENT AND PURPOSES OF THE MASTER PLAN AND ZONING ORDINANCE)?
YES: ____ NO: ____

(ONLY IF QUESTIONS 2.A AND 2.B ARE ANSWERED “YES” SHOULD YOU VOTE “YES” TO GRANT THIS “C(2)” VARIANCE) TO ALLOW THE ELIMINATION OF THE REQUIRED BASKETBALL COURT.

- 3. SHOULD THE BOARD GRANT THE EXCEPTION FROM THE 8-FOOT SIDEWALK WIDTH REQUIREMENT TO ALLOW THE SIDEWALK ALONG WALNUT AVENUE TO VARY BETWEEN 4-FEET TO 6-FEET IN WIDTH?**
- A. HAS THE APPLICANT MET ITS BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT GRANTING THE EXCEPTION IS REASONABLE AND WITHIN THE GENERAL PURPOSE AND INTENT OF THE PROVISIONS FOR SITE PLAN REVIEW AND APPROVAL AND THAT LITERAL ENFORCEMENT OF THE SITE PLAN ORDINANCE REQUIREMENT WILL RESULT IN UNDUE HARDSHIP OR BE IMPRUDENT OR IMPRACTICAL?**
YES _____ NO _____

(ONLY IF QUESTION 3.A IS ANSWERED “YES” SHOULD YOU VOTE “YES” TO GRANT THE EXCEPTION FROM THE 8-FOOT SIDEWALK WIDTH REQUIREMENT.)

4. SHOULD THE BOARD GRANT THE EXCEPTION FROM THE 1.5 FOOTCANDLE MINIMUM LIGHTING REQUIREMENT IN PARKING AREAS TO ALLOW 0.5 FOOTCANDLES FOR THE PARKING LOT LIGHTING ON THE COMMERCIAL LOT?

**A. HAS THE APPLICANT MET ITS BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT GRANTING THE EXCEPTION IS REASONABLE AND WITHIN THE GENERAL PURPOSE AND INTENT OF THE PROVISIONS FOR SITE PLAN REVIEW AND APPROVAL AND THAT LITERAL ENFORCEMENT OF THE SITE PLAN ORDINANCE REQUIREMENT WILL RESULT IN UNDUE HARDSHIP OR BE IMPRUDENT OR IMPRACTICAL?
YES ____ NO ____**

(ONLY IF QUESTIONS 5.A IS ANSWERED “YES” SHOULD YOU VOTE “YES” TO GRANT THE EXCEPTION FROM THE 0.3 FOOTCANDLE MAXIMUM ILLUMINATION FOR SITE LIGHTING ON THE COMMERCIAL SITE.)

- 5. SHOULD THE BOARD GRANT THE EXCEPTION FROM THE 16-FOOT MAXIMUM HEIGHT LIMITATION FOR SITE LIGHTING FIXTURES TO ALLOW SITE LIGHTING FIXTURES AS HIGH AS 25-FEET ON THE COMMERCIAL LOT?**
- A. HAS THE APPLICANT MET ITS BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT GRANTING THE EXCEPTION IS REASONABLE AND WITHIN THE GENERAL PURPOSE AND INTENT OF THE PROVISIONS FOR SITE PLAN REVIEW AND APPROVAL AND THAT LITERAL ENFORCEMENT OF THE SITE PLAN ORDINANCE REQUIREMENT WILL RESULT IN UNDUE HARDSHIP OR BE IMPRUDENT OR IMPRACTICAL?**
YES _____ NO _____

(ONLY IF QUESTIONS 4.A IS ANSWERED “YES” SHOULD YOU VOTE “YES” TO GRANT THE EXCEPTION FROM THE 16-FOOT-HIGH SITE LIGHTING FIXTURE LIMITATION FOR THE COMMERCIAL SITE.)

6. SHOULD THE BOARD GRANT THE EXCEPTION FROM THE 150-FOOT SETBACK REQUIREMENT FOR COMMERCIAL FAÇADE SIGNS FACING RESIDENTIAL ZONES TO ALLOW COMMERCIAL FAÇADE SIGNS ON THE COMMERCIAL BUILDING AS CLOSE AS 100-FEET TO A RESIDENTIAL ZONE AND FACING THE RESIDENTIAL ZONE?

**A. HAS THE APPLICANT MET ITS BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT GRANTING THE EXCEPTION IS REASONABLE AND WITHIN THE GENERAL PURPOSE AND INTENT OF THE PROVISIONS FOR SITE PLAN REVIEW AND APPROVAL AND THAT LITERAL ENFORCEMENT OF THE SITE PLAN ORDINANCE REQUIREMENT WILL RESULT IN UNDUE HARDSHIP OR BE IMPRUDENT OR IMPRACTICAL?
YES ____ NO ____**

(ONLY IF QUESTIONS 6.A IS ANSWERED “YES” SHOULD YOU VOTE “YES” TO GRANT THE EXCEPTION FROM THE 150-FOOT SETBACK REQUIREMENT FOR COMMERCIAL FAÇADE SIGNS FACING RESIDENTIAL AREAS.)

7. SHOULD THE BOARD GRANT THE EXCEPTION FROM THE 35% TRANSPARENCY REQUIREMENT FOR THE GROUND LEVEL PRIMARY FAÇADES OF THE RESIDENTIAL BUILDINGS TO ALLOW THE GROUND LEVEL PRIMARY FAÇADES OF THE RESIDENTIAL BUILDINGS TO HAVE 34% TRANSPARENCY?

**A. HAS THE APPLICANT MET ITS BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT GRANTING THE EXCEPTION IS REASONABLE AND WITHIN THE GENERAL PURPOSE AND INTENT OF THE PROVISIONS FOR SITE PLAN REVIEW AND APPROVAL AND THAT LITERAL ENFORCEMENT OF THE SITE PLAN ORDINANCE REQUIREMENT WILL RESULT IN UNDUE HARDSHIP OR BE IMPRUDENT OR IMPRACTICAL?
YES ____ NO ____**

(ONLY IF QUESTIONS 7.A IS ANSWERED “YES” SHOULD YOU VOTE “YES” TO GRANT THE EXCEPTION FROM THE 35% TRANSPARENCY REQUIREMENT FOR THE GROUND LEVEL PRIMARY FAÇADES OF THE RESIDENTIAL BUILDINGS.)

8. SHOULD THE BOARD GRANT A DI MINIMIS EXCEPTION FROM THE RSIS REQUIREMENT FOR THE NUMBER OF RESIDENTIAL PARKING SPACES?

**A. HAS THE APPLICANT MET ITS BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT GRANTING THE DI MINIMIS EXCEPTION IS REASONABLE AND WITHIN THE GENERAL PURPOSE AND INTENT OF THE RSIS AND THAT LITERAL ENFORCEMENT OF THE REQUIREMENT WILL RESULT IN UNDUE HARDSHIP OR BE IMPRUDENT OR IMPRACTICAL?
YES ____ NO ____**

**B. IN THIS REGARD, IS THE GRANT OF THE EXCEPTION CONSISTENT WITH THE RSIS, LIMITED IN SCOPE AND NOT UNDULY BURDENSOME, MEETS THE NEEDS OF PUBLIC HEALTH AND SAFETY, AND TAKES INTO ACCOUNT EXISTING INFRASTRUCTURE AND POSSIBLE SURROUNDING FUTURE DEVELOPMENT?
YES ____ NO ____**

(ONLY IF QUESTIONS 8.A AND 8.B ARE ANSWERED “YES” SHOULD YOU VOTE “YES” TO GRANT THE DI MINIMIS EXCEPTION FROM THE RSIS REQUIREMENT FOR THE NUMBER OF RESIDENTIAL PARKING SPACES.)

9. SHOULD THE BOARD GRANT PRELIMINARY AND FINAL SITE PLAN AND SUBDIVISION APPROVAL?

A. DOES THE PROPOSED DEVELOPMENT AND THE SITE AND SUBDIVISION PLANS COMPLY WITH ALL PROVISIONS OF THE REDEVELOPMENT PLAN AND THE RSIS?

YES ____ NO ____

(IF THE ANSWER IS “YES” TO QUESTION #9.A THEN YOU SHOULD VOTE “YES” TO GRANT PRELIMINARY AND FINAL SITE PLAN AND SUBDIVISION APPROVAL.)

B. IF THE PROPOSED DEVELOPMENT AND/OR THE SITE AND/OR SUBDIVISION PLANS DO NOT COMPLY WITH ALL PROVISIONS OF THE REDEVELOPMENT PLAN AND THE RSIS BUT THE BOARD GRANTED VARIANCES AND/OR EXCEPTIONS FROM ALL OF THE ORDINANCE / RSIS REQUIREMENTS THAT HAVE NOT BEEN COMPLIED WITH, DOES THE PROPOSED DEVELOPMENT AND/OR SITE AND/OR SUBDIVISION PLANS COMPLY WITH THE REMAINING PROVISIONS OF THE REDEVELOPMENT PLAN AND THE RSIS REQUIREMENTS?

(IF THE ANSWER IS “YES” TO QUESTION #9.B THEN YOU SHOULD VOTE “YES” TO GRANT PRELIMINARY AND FINAL SITE PLAN AND SUBDIVISION APPROVAL.)

C. IF THE BOARD HAS NOT GRANTED VARIANCES AND/OR EXCEPTIONS FROM ALL OF THE ORDINANCE / RSIS REQUIREMENTS THAT HAVE NOT BEEN COMPLIED WITH, CAN CONDITIONS BE IMPOSED REQUIRING REVISION(S) THAT WILL THEN MAKE THE PROPOSED DEVELOPMENT AND/OR SITE AND/OR SUBDIVISION PLANS COMPLY WITH THE REMAINING PROVISIONS OF THE REDEVELOPMENT PLAN AND THE RSIS REQUIREMENTS?

(IF THE ANSWER IS “YES” TO QUESTION #9.C THEN YOU SHOULD VOTE “YES” TO GRANT PRELIMINARY AND FINAL SITE PLAN AND SUBDIVISION APPROVAL.)

D. IF THE PROPOSED DEVELOPMENT AND/OR THE SITE AND/OR SUBDIVISION PLANS DO NOT COMPLY WITH ALL PROVISIONS OF THE REDEVELOPMENT PLAN AND THE RSIS, AND VARIANCE AND EXCEPTIONS RELIEF HAVE NOT BEEN GRANTED TO ALLOW THE DEVIATIONS, AND IF NO CONDITIONS CAN BE IMPOSED TO ACHIEVE COMPLIANCE, THEN YOU SHOULD VOTE “NO” AND VOTE TO DENY SITE PLAN AND SUBDIVISION APPROVAL.