

Planning Report
Conditional Use Variance Application – 104 South Avenue East
Cranford, New Jersey

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Prepared for:
South Avenue Dental Group, LLC

Prepared by:
Phillips Preiss Grygiel Leheny Hughes LLC
Planning and Real Estate Consultants

33-41 Newark Street
Third Floor, Suite D
Hoboken, NJ 07030

The original of this report was signed and
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Paul Grygiel, AICP, PP
New Jersey Professional Planner License # 5518

TABLE OF CONTENTS

I. Introduction.....1

II. Description of Property and Surrounding Area2

III. Description of Proposed Development and Zoning Compliance3

IV. “d(3)” Variance Proofs.....4

 A. Statutory Requirements4

 B. Positive Criteria4

 C. Negative Criteria5

V. “c” Variance Proofs.....7

 A. Statutory Requirements7

 B. Positive Criteria7

 C. Negative Criteria8

VI. Conclusion.....9

I. INTRODUCTION

This report was prepared on behalf of South Avenue Dental Group, LLC, an applicant for “c” and “d” variance approvals from the Cranford Zoning Board of Adjustment for a recently renovated building located on the south side of South Avenue East between Walnut Avenue and High Street in the Township of Cranford, New Jersey. The property in question is currently developed with a one-story building that covers the entire property. The proposed use of the property is as a dental office. The purpose of this report is to analyze this application from a planning and zoning perspective.

As part of our analysis, we undertook the following tasks: an inspection of the subject premises; a survey of surrounding land uses; review of the application materials; review of the architectural plans; review of the Cranford Zoning Ordinance and Zoning Map; review of the Cranford Master Plan, including reexamination reports and amendments; and review of relevant case law relating to the granting of variances.

The remainder of this report consists of five chapters. Chapter II discusses the existing conditions on the subject property and in the area surrounding it. Chapter III describes the proposed development activities on the subject property and their relationship to the Township’s Zoning Ordinance. Chapters IV and V outline the proofs required to be demonstrated for the granting of variances and address how the proposal relates to these requirements. Finally, Chapter VI sets forth the conclusions of the report.

II. DESCRIPTION OF PROPERTY AND SURROUNDING AREA

The subject property is located at 104 South Avenue East in the downtown section of the Township of Cranford, just east of Walnut Avenue. It is identified as Block 478, Lot 1.02 on the Township's official tax maps. The existing area of the property is approximately 2,700 square feet (0.06 acres). It has 35.55 feet of frontage on South Avenue East and lot depth of 75 feet. The site is located on the south side of South Avenue East between Walnut Avenue and High Street.

The subject property is currently developed with a one-story building that was formerly utilized by a retail business, Cranford Paint and Hardware, which closed in November 2013¹ and therefore has been vacant for over seven years. A photo of the property in 2015 is included below. The building on the subject property and an adjacent building on Block 478, Lot 1.01 are both under renovation, with extensive upgrades to the interior and exterior of the buildings. The subject property is entirely covered by the existing building.

The area surrounding the subject property is characterized by a mix of land uses, including commercial, office and residential uses, as well as publicly owned properties. The block on which the subject property is located is unique within downtown Cranford. In contrast to most other downtown blocks, this particular stretch of South Avenue East includes a surface parking lot directly east of the subject property, followed by a restaurant and existing ground floor office uses (doctor and chiropractor) to the east. It also faces the New Jersey Transit Cranford railroad station parking lot. Public transportation options within walking distance of the subject property include train service and two New Jersey Transit bus routes. Ample public parking is also available in the vicinity at on-street meters and off-street parking facilities.



Vacant storefront of subject property, Google street view image from August 2015

¹ https://www.nj.com/cranford/2013/10/hardware_store_in_downtown_cra.html

III. DESCRIPTION OF PROPOSED DEVELOPMENT AND ZONING COMPLIANCE

The applicant is seeking approval to utilize the existing renovated building as a dental office. The finished building will have appearance of retail storefront, and its façade is being renovated to match the neighboring building on the corner of South Avenue East and Walnut Avenue. No expansion is proposed to the size of the building. The applicant is proposing to utilize the building as a dental office.

The subject property is located in the D-C Downtown Core District. The D-C zone district permits a wide range of nonresidential uses, primarily retail and service commercial. Professional, business, and administrative offices are permitted conditional use in the D-C zone. However, the proposal does not comply with the following conditional use standards for this use set forth in § 255-39.B.18:

- Offices (not accessory to any other permitted use) shall only be permitted on the first floor in existing space measuring less than 1,000 square feet or in an existing office-style building that does not have storefront-type windows on the first floor – the space proposed to be occupied is greater than 1,000 square feet, and has storefront-type windows.
- First-floor offices shall be required to provide off-street parking – no onsite off-street parking exists or is proposed.

Therefore “d(3)” variances are required for these standards.

Additionally, one “c” variance also is required for the minimum number of parking spaces. The requirement is four spaces per dentist, plus one space for each 250 square feet of net floor area, which equates to a requirement of 18 spaces for the proposed use, while there are zero existing spaces on the site, and none are proposed.

Additional information regarding these variances is provided in Chapters IV and V.

IV. “D(3)” VARIANCE PROOFS

A. Statutory Requirements

The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70d(3) permits a board of adjustment to grant a variance to permit “deviation from a specification or standard ... pertaining solely to a conditional use.” A “d” variance may be granted only “in particular cases for special reasons.” Per relevant case law (the Coventry Square case), an applicant for a “d(3)” variance need not demonstrate particular site suitability, as would be required for a use that is not permitted. Instead, a showing must be made that **“the proposed site would accommodate any problems associated with the use even though the proposal does not comply with all conditions.”** (emphasis added)

A variance applicant also must address the “negative criteria,” and 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 Township.

B. Positive Criteria

The subject property can accommodate proposed dental office use within the existing building, despite not meeting all of the conditional use standards. The reasons for this conclusion can be grouped into two categories: 1) the existing building and site layout, and 2) the location and land use context.

With regard to the first reason, existing building and site layout, the building covers the entire subject property. It is an older building that provides a deeper space (75 feet) from the street than retailers in a downtown setting typically desire – as evidenced by the fact this building has been vacant for over seven years! The building is therefore not readily adaptable, nor desirable, for most retailers. But the deeper space is actually advantageous for office use. It allows the building to maintain a storefront appearance – or in this case, improve it – while putting space in rear of the building to use by the applicant for medical procedures without any visibility from the street.

As for the second reason, location and land use context, the Township has already determined this location and the broader D-C zone district to be generally appropriate for this type of use, as evidenced by the Zoning Ordinance permitting it as a conditional use. As noted, the building will have the appearance of a storefront. This type of use being located in a storefront is consistent with trends in downtown and retail areas to diversify the use mix – and has already been seen in Cranford. As noted, the block on which the subject property is located has various non-retail storefronts, including offices, and is broken up by a surface parking lot.

These factors were already valid considerations prior to the COVID-19 pandemic, and the past year has only highlighted the fragility of traditional downtowns and the need to diversify uses. Cranford

has in fact already been moving in that direction, as discussed below. I have seen evidence of this shift in other communities as well through my experience as a planner representing both municipalities and applicants through New Jersey and in New York State for nearly 25 years. For example, Westfield modified its Central Business District zoning regulations in 2017 to allow various office uses, including dental and medical, on the ground floor of buildings located on a property with a frontage on North Avenue or South Avenue. In West Orange, the Township's 2019 Master Plan Update discusses the changing nature of shopping, and its impact on physical retail stores, with recommendations to broaden permitted uses in commercial zones to uses beyond retail, restaurants and services implemented through zoning amendments adopted in 2020. Maplewood, New Milford and Waldwick are just a few other examples of suburban municipalities which have amended their commercial district zoning to allow for a broader mix of ground floor uses.

In summary, despite the requested deviations from certain conditional use standards, the subject property can still accommodate the proposed dental office use.

C. Negative Criteria

In addition, the negative criteria can be satisfactorily addressed.

With regard to the first aspect of the negative criteria, granting the requested "d(3)" variances would not result in a substantial detriment to the public good. The proposed use of building for a dental office would not have any significant impacts given existing conditions and the setting of this property. As an existing building being retrofitted for a new use, there would be no negative changes to the streetscape, to neighboring properties or the downtown area in general. On the contrary, there would be positive impacts from providing an active use in a storefront that has been vacant for over seven years, and which would be designed to look more like a retail space than an office use. The Township's own Downtown Economic and Business Development Office agrees in its February 22, 2021 report on this application, calling the proposal "a good project that will bring life and people to an important corner of our downtown that has been vacant for years."

A dental office use also will attract visitors to the downtown, particularly at times when it is typically not as busy (i.e. weekdays during the day), would provide a service for downtown workers and residents, and its employees would potentially be customers for nearby businesses. All of the applicant's employees will be parking in garages or elsewhere off-street, meaning no long-term on-street parking will be occupied by employees of the premises. In short, reoccupying large, long-vacant retail space with a complementary use actually would be a positive for the downtown and the Township overall.

In terms of the second aspect of the negative criteria, granting the requested "d(3)" variances would not substantially impair the intent and purpose of Cranford's zone plan and Zoning Ordinance. The subject property is appropriate overall for the proposed use. No deviations are being requested from the bulk requirements, as the site is already developed and any use reoccupying the building would have the same layout and lack of off-street parking. Given this property's stagnant condition, despite

its convenient and visible downtown location, flexibility is warranted from some existing zoning restrictions with the overall intent of promoting economic development in this section of Cranford. In light of these conditions, this specific proposal would address overall Master Plan objectives of supporting the viability of the downtown.

The 2019 Cranford Master Plan Reexamination includes a lot of discussion about downtown – and in particular, acknowledges its changing role. One notable section on page 13 addresses a vision set forth in the 2009 Master Plan, “3. Encourage commercial uses in the Downtown that make it a destination” and states the following: “The town recognizes the downtown area as a major asset. To ensure the downtown can continue to respond to changing demands and interests and remain an important destination, it is recommended that this language be revised to encourage a variety of uses that contribute to a vibrant downtown.” As such, it proposes changing this vision to read: “Encourage a variety of uses in the Downtown that make it a destination.”

On page 15, the 2019 Reexamination indicates that input from the community engagement process “stressed the need to promote high-quality and attractive design in the downtown that would further support new investment and redevelopment,” with a recommendation that the following new goal be included: “Incorporate design standards that visually guide development, while remaining responsive to new and emerging demands.”

Similarly, on page 56 a recommendation is proposed for the Township’s development regulations: “Reevaluate non-residential zoning to ensure that permitted and conditional uses are relevant and reflect current demands and business types.” The 2019 Reexamination includes the following language in its vision for the Township: “Promote economically vibrant Downtown with a balance of office, professional, retail and residential uses.” (page 60) Its top economic and non-residential goal is “Conserve and promote the economic vitality of the Downtown so that the core of Cranford remains healthy.” (page 61)

In my opinion, the proposal for the reuse of the subject property is in line with the various factors cited above – and even more so as the impacts of COVID cause additional damage to downtowns. The past year has made it more important than ever to diversify business districts, while maintaining desirable aesthetics. The proposal would support downtown by providing a complementary use in an attractive building, on a block with other non-retail storefronts, which would bring additional potential customers for other downtown businesses. The desire to provide ground floor retail throughout downtown is understandable, but it does not work as well on all sites. For these reasons, the requested deviations from certain conditional use standards can be justified.

V. "C" VARIANCE PROOFS

A. Statutory Requirements

The MLUL at N.J.S.A. 40:55D-70c sets forth the standards for variances from the bulk regulations of a zoning ordinance, or other zoning deviations not requiring a "d" variance. A "c(1)" variance is for cases of hardship due to factors such as shape or topography, or due to "an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon." A "c(2)" variance may be granted where the purposes of zoning are advanced and the benefits of deviating from the ordinance requirements substantially outweigh any detriments. The benefits derived from granting a "c(2)" variance must include benefits to the community as a whole, not just to the applicant or property owner.

A "c" variance applicant also must address the "negative criteria," and 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 Township.

The requested parking variance can be granted for the following reasons.

B. Positive Criteria

The requested variance for not providing any off-street parking can be granted in accordance with the "c(1)" hardship criteria, as the subject property has long been developed with an existing building with no parking, and with no room to provide any parking without removing part of the building. There would be no benefits to doing so, which would be the same case for any permitted use. The subject property is in a convenient downtown location with ample existing on- and off-street parking in the vicinity. There are also multiple options for public transportation for employees as well as patients. It is notable that potential vehicle trips and parking demand for the proposed use are spread out throughout the day due to the nature of the use. They are also scheduled throughout the day, as opposed to retail stores and other uses that have fluctuating and unpredictable demand.

In addition, having patients park in public spaces actually benefits the community, as it makes it more possible for them to patronize other businesses in downtown, as opposed to just driving to an isolated office building for an appointment. That factor has an ancillary benefit of reducing overall traffic through more efficient trips. There will also be no employees parking in on-street spaces. It is notable that in the Cranford Police Department Traffic Bureau's February 18, 2021 report, the authors note the applicant "has acted in good faith by already securing three 9 hour parking permits" and that if additional permits were obtained for the other employees, the Traffic Bureau would have no objection to the parking variance. Given these factors, the parking variance can also be granted in accordance with "c(2)" criteria, as the benefits of not providing onsite parking would substantially outweigh any detriments.

C. Negative Criteria

Granting the requested parking variance to continue an existing condition would not cause substantial detriment to the public good. The subject property was previously utilized for commercial purposes, without any on-site parking, and this condition would exist for any other use of the building. The proposal would improve the appearance of building, and provide for a complementary land use as previously discussed. As also noted, there are public transportation options in the vicinity.

Granting the requested parking variance to continue an existing condition also would not substantially impair the intent and purpose of the zone plan or Zoning Ordinance. Many buildings in downtown Cranford exist without on-site parking. This condition has been accounted for in the Township's planning efforts, and as noted, would exist for any use of this property. This existing condition proposed to remain relates to specific factors impacting this property, which warrant consideration of site-specific relief.

VI. CONCLUSION

This report was prepared on behalf of South Avenue Dental Group, LLC, which is seeking “d” and “c” variance approvals to permit the occupancy of a vacant building formerly utilized for retail as a dental office. For the reasons detailed in this report, the positive criteria would be addressed for the requested variances. In addition, the granting of the requested variances would not result in a substantial impairment of the public good and would not substantially impair the intent and the purpose of the zone plan and zoning ordinance of Cranford. Therefore, the requested variances can be granted in accordance with statutory requirements.