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Development Review Committee Memorandum

Date: February 22, 2023
To: Cranford Development Review Committee
From: Greer Patras, AICP, PP, Township Planner
Applicant: Carwen Management LLC
SUBJECT: ZBA-22-009
113 North Avenue West (Block 183, Lot 6)
Preliminary + Final Major Site Plan with Use + Bulk Variances

The Township's DRC, established by §255-10 of the Township Code, serves to review all applications for development or requests for review presented to the Planning Board or Board of Adjustment. The DRC consists of applicable Township professionals who review applications for compliance with the technical standards set forth in Article IV – Development Requirements and Standards and other provisions of the Township's Land Development Ordinance. The DRC may make non-binding recommendations on the design and technical elements of any application however it is not the scope of the DRC to argue for or against the merits of any application to be heard by the Planning Board or Board of Adjustment. This memo serves to provide an overview of the project proposal and the items discussed at the DRC meeting.

I. APPLICATION INFORMATION

A. Application Submission Date: June 22, 2022, revised September 16, 2022.

B. DRC Meeting Date: February 15, 2023

C. Attending Town Representatives:

1. Bryan Flynn – Tax Assessor
2. Kathleen Nemeth – Zoning Officer
3. Frank Genova – Construction Code Official
4. Ty Apgar – Engineering Consultant, Colliers Engineering
5. Matthew Nazzaro & Russel Luedecker– Cranford Police Department
6. Chief Matthew Lubin & Wesley Ditzel – Cranford Fire Department
7. Kathy Lenahan – Board Administrator
8. Greer Patras & Justin Cutroneo – Township Planning Team

D. Attending Applicant's Representatives:

1. Daniel Ghanime – Applicant
2. Anthony Gallerano – Applicant Engineer
3. Gregory Waga – Applicant Architect
4. Gary Goodman – Applicant Attorney

E. Documents Submitted:

1. Township of Cranford - Development Application Package received June 22, 2022, and revised September 16, 2022.
2. A six-sheet Architectural Plan set prepared by WAGA Enterprises dated June 24, 2021, revised through June 7, 2022
3. A five-sheet Preliminary and Final Site Plan prepared by WAGA Enterprises dated May 10, 2022, revised through November 7, 2022
4. A thirty-page report titled Storm Water Calculations prepared by Victor Vinegra of Harbor Consultants dated June 2, 2022.
5. Planning Board Resolution of Approval for Application #PB-20-001, memorialized on July 15, 2020.

II. SITE INFORMATION:

1. Block 183, Lot 6: 9,250 SF (0.21 acres)
2. Zone: Downtown Business (D-B)
3. The Site contains a 1.5-story frame dwelling, covered porch, front paved walkway, front yard business sign, and a parking area and garage in the rear.
4. The Site is located along North Avenue West (State Route 28) and is adjacent to residential, retail, and office uses. The NJ Transit rail line is located directly along the rear of the Site, and the Cranford Train Station is located 0.2 miles from the Site.
5. The Applicant received conditional use approval from the Planning Board on May 6, 2020 to use the first floor as administrative offices for an HVAC company.

III. PROPOSAL:**A. Proposed Site Improvements:**

1. Remove garage, concrete walkways, and porch with steps.
2. Construction of a 2 story addition to the existing building. The building is proposed to be 3 stories and contain offices on first floor, and 4 apartments, 2 on each upper floor. The floors are broken down as such:
 - First Floor:
 - Office space containing individual offices, breakroom, conference room, storage room, locker room, mail room, reception room
 - Covered porch
 - Second +Third Floor:
 - 2 two-bedroom units with outdoor terraces
 - Stairwell
3. Paved parking area containing 11 parking spaces, 2 of which are for EV parking and 1 of which is ADA accessible
4. Additional site improvements include a refuse area, bike rack, signage, grading, drainage, landscaping, and lighting.

B. Use Variance Discussion:

1. **Conditional Use Variance (§255-39B(18)):**

Maximum Permitted Office Area: 1,000 SF

Proposed: 2,287 SF

The standard for D(3) variances under N.J.S.A. 40:55(d)-70(d)(3):

The applicant will require variance relief from the conditional use standards contained in the Land Development Ordinance. The Zoning Board may grant relief from conditional use standards pursuant to N.J.S.A. 40:55D-70(d)(3). The board is guided in its evaluation of conditional use variances, otherwise known as "d(3)" variance, by the seminal New Jersey Supreme Court Decision, Coventry Square v. Westwood Zoning Bd. of Adjustment, 138 N.J. 285 (1994). In Coventry, the Court set forth a distinction between a use variance, which allows an applicant to engage in a prohibited use, from that of a conditional use variance, in which non-compliance with the conditions of a use, but not the use itself, violates the ordinance. The Coventry Court held that since a conditional use is not a prohibited use, it did not need to meet the more stringent special reasons standards summarized in Medici v. BPR Co., 107 N.J. 1, 9-18 (1987), but rather the following:

Positive Criteria

- Proof of special reasons that the site proposed in context of applicant's site plan, continues to be an appropriate site for the conditional use notwithstanding the deviations from one or more conditions imposed by the ordinance.
- Applicant must show that the site will accommodate the problems associated with the use even though the proposal does not comply with the conditions the ordinance established to address those problems.

Negative Criteria

- Variance can be granted without substantial detriment to the public good, with focus on the effect on surrounding properties of the grant of the variance for the specific deviations.
- Variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance and that the grant of the variance for the specific project at the designated site is reconcilable with the municipality's legislative intent.

2. **Density Variance (§255-39B(22)):**

Maximum Permitted: 10 units per acre = 2 units on this site

Proposed: 18 units per acre = 4 units on this site

The standard for D(5) variances under N.J.S.A. 40:55(d)-70(d)(5):

The Board has the power to grant a D(5) variance to permit an increase in the permitted density. New Jersey courts have held that a relaxed standard of proof should be applied to D(5) variances under Grubbs v. Slothower, 389 N.J. Super. 377 (N.J. App Div. 2007). Specifically, the Applicant is not required to demonstrate that the property is "particularly suitable to more intensive development" in order to prove "special reasons" under the Municipal Land Use Law. Rather, in considering such applications, the Board should focus its attention on whether the applicant's proofs

demonstrate "that the site will accommodate the problems associated with a proposed use with [a greater density] than permitted by the ordinance." Since special reasons supporting a particular variance request "must be tailored" to the purpose served by the restriction in the ordinance, the Board should consider the purpose of restricting density in a particular zone. Density restrictions, in the residential context serve to limit the intensity of the use of the land to be developed. As such, the Board should consider whether the Applicant has demonstrated whether, despite the proposed increase in density above the zone's restrictions, and, thus, the increased intensity in the use of the site, the project nonetheless served one or more of the purposes of zoning and was consistent with the overall goals of the MLUL.

Under the "negative criteria," the Board's focus should be to determine whether conditions can be imposed in its approval to ensure that the proposed deviations from the density requirements do not cause substantial detriment to the public good and substantial impairment of the intent and purpose of the zone plan and zoning ordinance.

C. Bulk Variance Discussion:

1. Impervious Coverage (§255-34 Schedule 1):
 - Maximum Permitted: 80%
 - Proposed: 83.6%
2. Parking Spaces (§255-44A):
 - Minimum Required: 13 spaces
 - Proposed: 11 spaces
3. Freestanding Sign Setback (§255-38G(4)(g)[5]):
 - Minimum Required: 10'
 - Proposed: 0.5'
4. Building Setback for Monument Sign (§255-38G(4)(g)[5]):
 - Minimum Required: 15'
 - Proposed: 5.7'

D. Design Waiver Discussion:

1. Parking Space Dimension (§255-26G(3)(a)1] & [3]):
 - Minimum Required: 10' x 18'
 - Proposed: 9' x 19'
2. Loading and Unloading Space (§255-26G(11)(a)):
 - Required: 1 space
 - Proposed: 0 spaces

Additional variances and design waivers may be identified during professional reviews.

E. The Standard for "C" variance relief under N.J.S.A 40:55D-70:

The Applicant must prove and the Board must find that the necessary criteria for “c(1)” and/or “c(2)” variances, identified by the Municipal Land Use Law, have been satisfied. The criteria are as follows:

For a c(1) variance, the Applicant must prove hardship:

- By reason of exceptional narrowness, shallowness or shape of a specific piece of property, or
- By reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or
- By reason of an extraordinary situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act (40:55D-62 et seq.) would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such a property, grant, upon an application or an appeal relating to such a property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship
- AND that such relief from the zoning ordinance will not be substantially detrimental to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

For a c(2) variance, the Applicant must prove:

- that the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirement 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 (negative criteria).

IV. DRC MEETING COMMENTS + NOTES:

A. The Applicant provided the following comments:

1. The Applicant is proposing a 2-story addition over the existing HVAC office ground floor use.
2. The Applicant is proposing to remove a portion of the building closest to the driveway to allow for more driveway width.
3. The Applicant discussed that there will be no overnight parking of any work vans and that 3-4 parking spaces will be used for office vehicles and 8 parking spaces will be used for the residential use.
4. The Architect discussed the existing and proposed floor plans and that the building will be fully sprinklered. The proposal will abide by the new Building Codes that will be regulated soon and the building bump out closest to the western side yard may be removed.
5. The HVAC units will be a split system and not visible to the public, and the existing ground-mounted HVAC unit is proposed to be removed.
6. The existing sign is just proposed to be relocated.

B. The DRC Committee provided the following comments and recommendations:

1. Architecture:

- a. A pitched roof instead of a flat roof is recommended which would be consistent with the surrounding area's architecture.
- b. The Applicant should comply with all building design standards per Ordinance Section 255-26.H & I which regulate building materials, articulation, fenestration, etc. Shutters or other window features are recommended for consistency with the surrounding area.
- c. We recommend the building and sign not be located closer to the street than the other buildings and signs along the street. As proposed, there is a large rear yard setback where the building could be potentially shifted into.
- d. The Applicant should consider providing colored renderings of the elevation plans to better present the proposed building to the Board.
- e. Labeling of all proposed colors and materials should be provided on the architecture plan.
- f. There are inconsistent stair locations between the basement plan and first floor plan which should be corrected.
- g. A roof plan/utility plan should be provided showing where all proposed utilities will be located and how they will be screened.

2. Site Plan:

- a. The proposed sign height and size must be identified in the bulk chart and consistent with the construction detail to confirm compliance with the Ordinance requirements.
- b. The number of bicycle parking spaces should be confirmed on the site plan and bulk chart. 1 for each unit is required per Ordinance.
- c. The Applicant should provide construction details of the proposed refuse area and provide setback dimensions from the side and rear property lines.
- d. The Applicant should provide tree protection fencing for all existing trees on the Site and confirm that there will be no disturbance to any trees along the NJ Transit rail line.
- e. Lighting should be provided at all points of building ingress/egress as it relates to safety and ordinance compliance. Construction details of all proposed lighting fixtures should be provided.

3. Impervious Coverage:

- a. The impervious coverage appears to be greater than 83.6%. A breakdown of the coverage should be provided on the plans.
- b. Per Stormwater Management Code, this application is considered a major development and the plans should reflect that.
- c. State will not permit overflow and connection on North Avenue West, and the Applicant should look into this further.

4. Parking:

- a. The Applicant should prepare a loading strategy for deliveries, move-in/move-out, etc.
- b. Applicant should prepare testimony to explain if parking can be shared or why less parking than required is justified here. Parking should not be overflowing on the street. The Applicant should explore shared parking for these two uses per Ordinance Section 255-44.C.
- c. The Applicant should confirm compliance with all applicable parking design standards such as landscaping, screening, lighting, etc. of Ordinance Section 255-26.G. Any screening to buffer headlight glare should be considered.
- d. Details of the EV charging station and other EV parking design details should be provided on the plan in accordance with the State Statute. The shutoff location for the charging stations should be noted on the plans per Fire Code.
- e. The existing driveway width should be provided on the existing conditions plan.

5. General Comments:

- a. Clarifications for compliance with the Fire and Construction Codes were requested such as the building setback for fire rating, first floor alarms, and interior roof access. Notes of such should be provided on the plans.
- b. The plans reflect an addition to the existing building, but the application packet states that the existing building will be removed and replaced with new construction. This must be clarified.
- c. The Applicant will be subject to developer fees per Section 255-6 of the Ordinance.
- d. The Applicant will revise the plans and resubmit to the Zoning Office. Upon submission, the Applicant will notify the Board Administrator if they want to participate in another round of DRC or be scheduled for a Zoning Board hearing. The Board Administrator will then send the revised submission to the departments for review.