

RESOLUTION OF APPROVAL
PLANNING BOARD OF THE TOWNSHIP OF WEST ORANGE

Decided: May 1, 2019
Memorialized: June 5, 2019

44 Washington Street WO, LLC
Amended Preliminary and Final Site Plan Approval
With “c” Variance
44 Washington Avenue
Block 118, Lot 40
PB-19-01

WHEREAS 44 Washington Street WO, LLC (the “Applicant”) having an address at 109 Ashland Avenue, West Orange, NJ 07052 having made application for Preliminary and Final Site Plan Approval with “c” variances for premises located at 44 Washington Avenue, West Orange, NJ also known as Block 118, Lot 40 on the tax map of the Township of West Orange (the “Premises”); and

WHEREAS the application having been heard on June 6, 2018 and the application having been approved by Resolution adopted on July 11, 2018; and

WHEREAS the Applicant now having made application to amend the Preliminary and Final Site Plan approval previously granted; and

WHEREAS the Board having conducted a public hearing on the application for amended site plan approval on May 1, 2019; and

WHEREAS the Applicant having appeared by Lawrence S. Cutalo, Esq. and by witness Nick Tsapatsaris, PE, RA, and the Board having received a review letter from Township Planner Paul Grygiel, AICP dated February 12 2019, and a review letter from Board Consulting Engineer John Hess, PE dated March 20, 2019, and having granted an opportunity for public comment; and having deliberated on the merits of the application;

IT IS HEREBY RESOLVED:

EVIDENCE SUBMITTED

In summary, the following evidence was received and/or introduced in connection with this application:

1. A West Orange Planning Board application, and the following:
 - i. Proposal and Reasons for Relief;
 - ii. Requested Variances and Waivers;
 - iii. 10% Ownership Disclosure Statement;
 - iv. List of Required Regulatory Approvals;

- v. Certification of Owner's Authorization;
 - vi. Site Plan Checklist;
 - vii. Sustainability Checklist Form;
 - viii. Copy of Planning Board Resolution adopted on July 11, 2018;
 - ix. Copy of Planning Board Resolution adopted on October 15, 2015;
 - x. Engineering Plan and Architectural Drawings prepared by Nick Tsapatsaris & Associates dated April 1, 2017 last revised December 20, 2018 (Sheets T-001, SP-101, SP-102, SP-201, SP-301, SP-401, SP-501, SP-502, SP-503., SP-504, PA-101, PA-201.
2. The following Exhibits were admitted into evidence:
- Ex. A-1 Site Lighting and Hardscape Plan (Sheet SP-401 last revised April 2, 2019
- Ex A-2 Proposed Preliminary First Floor Plan (Sheet PA-101) last revised April 16, 2019
- Ex. A-3 Proposed Preliminary Building Elevations (Sheet PA-201) last revised April 16, 2019
3. Lawrence Cutalo, Esq. introduced the application on behalf of the Applicant noting that the Applicant seeks to amend the previously granted approval to comply with environmental regulations concerning the Wigwam Brook.
 4. Applicant called Nick Tsapatsaris PE, RA who was sworn and qualified as an expert in engineering and architecture.
 5. Mr. Tsapatsaris testified that Applicant seeks to expand the existing 2,835+/- sf building, however; due to constraints having to do with proximity to the floodway zone for the Wigwam Brook the formerly approved addition must be re-shaped. Rather than a rectangular addition it will now be trapezoidal in shape, and rather than being 2,538 sf the revised addition will be 2,523 sf. The new addition would be adjacent to the outer boundary of the floodway zone.
 6. Applicant still seeks to use the premises for a self-serve laundromat.
 7. Mr. Tsapatsaris reviewed each of the sheets in the engineering and architectural plans prepared by his office and explained that the revised application would require one additional variance, namely, a rear yard setback variance (30' required 18.98' proposed).
 8. Mr. Tsapatsaris addressed the review letters from the Board Planner and Consulting Engineer. It was noted that many of the comments had already been incorporated in the revised plans and the remaining comments would be addressed in the future.
 9. Mr. Tsapatsaris testified that Applicant would install two trees in the parking lot which would eliminate one variance.

10. There was no public comment for or against the application.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. The Premises are located in the B-1 zone where commercial buildings are a permitted use.
12. Applicant proposes to renovate and expand an existing commercial building for use as a self-service laundromat.
13. The property is located at the corner of Washington Avenue and Liberty Street. It is occupied by a one story building having 2,835 sq. ft. A 2,523 sq. ft. addition is proposed to the rear of the existing building.
14. As with the prior approval Applicant would reconfigure circulation and parking, add a loading and trash enclosure, install two shade trees and lighting.
15. A new variance is needed for the revised application.:

SECTION	REQUIRED	EXISTING	PROPOSED
25-7.1 Minimum rear yard setback	30 ft.	84 ft.	18.98 ft.

16. The Board finds that the variances sought can be justified. The lot is trapezoidal in shape which is unique and constrains the buildable envelope causing hardship for development. In addition, the floodway of the adjacent Wigwam Brook further constrains the buildable envelope and to an extent no yet known at the time of the original site plan approval. The proposal can nevertheless locate on the site without substantial detriment to the neighboring properties or impairment of the zone plan and Ordinances. The proposal will allow the site to be restored to a productive use which is permitted in the zone and will be seen as an aesthetic improvement promoting a desirable visual environment. Thus the proposal furthers the purposes of zoning. It also promotes commercial business growth where the Master Plan intends it to locate.
17. The Board finds that the Applicant has carried the burden of proof needed for both the positive criteria and the negative criteria and therefore qualifies for the variances sought.

THE DECISION

WHEREAS, the Board, having reviewed the application for Amended Preliminary and Final Site Plan approval with “c” variance and having considered the impact of the proposed application on the Township’s master plan, zoning ordinance and the surrounding property owners, and having considered whether the proposal complies with and furthers the goals of the land use and zoning ordinances of the Township of West Orange and the Municipal Land Use

Law; and upon the imposition of specific conditions to be fulfilled, hereby, concludes that good cause has been shown to approve the application.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of West Orange that the application for Amended Preliminary and Final Site Plan approval with variances as set forth in the revised plans, reports, representations, testimony, stipulations and Exhibits offered by the Applicant is granted subject to the following conditions:

1. The Applicant shall comply with all applicable Township, County, State and Federal laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local, state and federal approvals and/or permits. Without limitation of the foregoing, prior to the signing of the approved site plans, and prior to the commencement of any land disturbance or construction, the Applicant shall submit to this Board, with a copy to the Board Engineer, proof that it has obtained all required governmental approvals.

2. If another governmental entity or agency grants a waiver or variance affecting the plans and/or exhibits submitted by the Applicant, this approval or the conditions attached to it, then the Applicant shall re-apply to this Board respecting the same and this Board shall have the right to view that issue as it relates to this approval and these conditions and modify and amend same.

3. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its successors or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.

4. All construction, use and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this resolution.

5. The Applicant shall pay all outstanding taxes, tax liens, application fees and technical review fees, as well as any inspection fees that may be required hereunder. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days of notification or this approval shall be deemed withdrawn.

6. All notes included in the approved plans, including notes required by this Resolution, shall be deemed conditions of approval having the same force and effect as conditions expressly set forth in this Resolution.

7. All conditions of approval shall be written on the plans.

8. Applicant to comply with the comments in the review letters from Board Consulting Engineer John Hess, PE, PP, CME dated March 20, 2019 and from Board Planner dated February 12, 2019. Compliance shall be subject to the review and approval of the Board professional.

9. Applicant to submit revised plans within 90 days of adoption of this Resolution.

10. Applicant to comply with all conditions stated in the Resolution of approval dated July 11, 2018.

Certified to be a true copy of a Resolution adopted by the West Orange Planning Board on June 5, 2019.



Robin Miller, Secretary

Vote on the Action Taken by the Board

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Bagoff		*	*			
Cardoza (Vice-Chair)						*
Keigher			*			
Klein			*			
McCartney			*			
Trenk			*			
Wegner						*
Wilkes			*			
Weston (Chair)	*		*			
Williams (1 st Alt.)			*			
Johnson (2 nd Alt)						

Vote on the Memorializing Resolution

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Bagoff			*			
Cardoza (Vice-Chair)						
Keigher						*
Klein						*
McCartney		*	*			
Trenk			*			
Wegner						
Wilkes						*
Weston (Chair)	*		*			
Williams (1 st Alt.)						*
Johnson (2 nd Alt)						