

Resolution
Township of West Orange
Planning Board
In the Matter of the Alpert Group, LLC
8-10 and 18 Central Avenue; Block 9, Lots 32 and 36; Central Avenue Redevelopment Area Zone
Application #PB-20-03
Decided on April 7, 2021
Memorialized on May 5, 2021
Bulk Variances and Preliminary and Final Major Site Plan Approval

WHEREAS, the Alpert Group, LLC (hereinafter the "Applicant") has made an application for preliminary and final major site plan approval and redevelopment plan deviations to construct a mixed-use development including 94 residential units, approximately 1,223 square feet of amenity space, and 3,533 square feet of commercial space on the first floor, as well as parking and other related infrastructure at 8-10 and 18 Central Avenue, also known as Block 9, Lots 32 and 36, in the Central Avenue Redevelopment Area Zone; and

WHEREAS, a public hearing was conducted on April 7, 2021; and

WHEREAS, the Applicant was represented by William C. Sullivan, Jr., Esq.; and

WHEREAS, the Applicant provided testimony by Mary Johannesen, a professional architect whose credentials were accepted by the Board, Sean Savage, a professional engineer whose credentials were accepted by the Board, Joseph Alpert, the President of the Alpert Group, LLC and Charles Heydt, a professional planner whose credentials were accepted by the Board; and

WHEREAS, the Applicant submitted the following documents to the Board in the form of the application package:

Item	Signed By	Date/Revision
Boundary and Topographic Survey	Frank J. Barlowski, P.L.S.	5/21/20
Site Plan (15 sheets)	Sean M. Savage, P.E.	3/1/21
Architectural Plans (5 sheets)	Stephen L. Schoch, A.I.A.	2/23/21
Stormwater Management Report	Sean M. Savage, P.E.	3/1/21
Limited Environmental Impact Statement	Sean M. Savage, P.E.	2/4/21

WHEREAS, the Applicant presented and introduced the following exhibits at the public hearing, in addition to the documents presented to the Board in the form of the application package:

- A-1 Geometry Plan dated March 1, 2021 (Sheet 3 of 15 of Site Plan Set);
- A-2 Truck Turning Template Plan dated April 6, 2021;

- A-3 Grading Plan dated March 1, 2021, (Sheet 4 of 15 of Site Plan Set);
- A-4 Landscaping Plan dated March 1, 2021, (Sheet 8 of 15 of Site Plan Set);
- A-5 Lighting Plan dated March 1, 2021 (Sheet 9 of 15 of Site Plan Set);
- A-6 to A-10 Architectural Plans, Sheets A1 to A5 dated February 23, 2021;
- A-11 Architectural Plan, Sheet A6, Perspective Rendering dated December 16, 2020;
- A-12 Architectural Plan, Sheet A7, Aerial Rendering dated December 16, 2020.

WHEREAS, representatives of the public had an opportunity to ask questions of the witnesses and had an opportunity to offer statements in regard to the application; and

WHEREAS, the Board reviewed and considered the application, testimony and documents submitted therewith; and

WHEREAS, the Board also considered the input of its professionals at the hearings and in written reports; and

WHEREAS, the Board also considered the input of the Site Plan Advisory Review Board which held a virtual meeting with the Applicant on February 9, 2021.

NOW THEREFORE, the Board makes the following findings of fact, based upon the evidence presented at its public hearing, at which a record was made.

1. The site in question is comprised of two lots with a combined area of 1.93 acres. Lot 32 is developed with a vacant two-story building and other improvements. Lot 36 is vacant. The applicant proposes to construct a mixed-use development with frontage on Central Avenue and Mitchell Street.
2. The application requires preliminary and final major site plan approval.
3. The application requires the following deviations from the requirements of the Central Avenue Redevelopment Plan from this Board:

Bulk Standard	Required	Proposed
Max. building height	55 feet	60.48 feet
Min. residential unit size	750 sq. ft.	686 sq. ft.
Min. non-buildable area	20%	14.3%
Min. landscape buffer along side or rear property line adjacent to residential use	5 ft.	4 ft. along Lots 11.01, 11.02, 11.03, 11.04, 17, 23, 25, 26 and 27

4. The applicant is proposing to construct a five-story mixed-use building with 94 dwelling units. The ground floor is proposed to include 3,533 square feet of commercial space, as well as office, utility, amenity and lobby space for the residential use; and 10 dwelling units. Eighty-four dwelling units (21 units per floor) are proposed on the upper four stories of the building. The breakdown of unit types is 49 one-bedroom units and 45 two-bedroom units.

5. The building's design is similar to the adjacent developments constructed by related entities of the applicant to the east in West Orange and Orange. Brick veneer and decorative masonry will be provided on the ground floor façade on Central Avenue and in some other locations on the building, with the decorative masonry extending around up onto the second story façade around the building's front entrance. Fiber cement panels and faux wood aluminum panels are proposed on most of the other façade areas on the building, along with what would appear to be vertical corrugated metal.

6. A total of 133 parking spaces are proposed, inclusive of 31 compact spaces and five handicap spaces. Vehicular access will be provided by one two-way driveway on Central Avenue and one two-way driveway on Mitchell Street. Pedestrian entrances to the commercial spaces and the residential lobby are proposed on Central Avenue, as is a sidewalk next to the Central Avenue driveway. A bicycle rack is provided along this sidewalk. A sidewalk is proposed adjacent to the eastern property line on the southern portion of the site to provide access to Mitchell Street.

7. The Applicant has added an electric vehicle charging station-ready parking space to the site plan.

8. Contamination on the site from prior uses is being remediated and the project requires New Jersey Department of Environmental Protection approvals due to its location partially in a flood hazard area. As the subject property was previously developed and is being redeveloped as a "brownfield" site, the applicant requested being able to submit a limited environmental impact statement (EIS).

9. Certain design features are described in the limited environmental impact statement (EIS), including elevating the residential component of the building at least one foot above the maximum flood hazard area design flood elevation (FHADFE), flood proofing the commercial and other portions of the building below the FHADFE and elevating a portion of the building to allow flood waters underneath.

10. The Applicant plans to enter into an agreement with the Township of West Orange in which the Township will be provided with twenty-two (22) parking spots on the Applicant's lot.

11. The Applicant has agreed to conform the "18 Central" vertical sign to the specifications of the Harvard Printing building to the east.

12. The number of parking spaces exceeds the minimum required in order to provide public parking for the Valley area, as well as for an affordable housing project being developed on Tompkins Street by a related entity to the Applicant.

13. Requests for the Applicant to provide a pedestrian connection from the sidewalk next to the parking area to the Mitchell Street sidewalk and outdoor bicycle parking were addressed.

14. New Jersey Transit's Highland Avenue railroad station is two blocks to the southeast along Mitchell Street. Bus stops are located on Scotland Road and Central Avenue approximately four blocks to the southeast. Central Avenue is an Essex County road (Route 508).

15. The subject property is in the Central Avenue Redevelopment Area. A redevelopment plan for this area was adopted in 2016. The proposal is consistent with the permitted uses and most bulk and design regulations in the redevelopment plan but requires approvals of deviations variances from certain bulk requirements in the Redevelopment Plan.

16. The proposed building will be five stories in height, 60.48 feet tall and has been designed to be in character with the adjacent building previously approved by the Board.

17. The building height to the top of the roof structure is 51.65 feet. However, roof insulation, roof slopes and parapets to improve drainage and desirable architectural features at the entrance encouraged by the Redevelopment Plan cause the overall height to be 60.48 feet.

18. Much of the property in question is located in the flood hazard area of the East Branch of the Rahway River.

19. Flood hazard area regulations impose strict requirements in terms of minimum elevations of the building, parking, and property ingress and egress. These requirements result in raising the building out of the ground, increasing the height.

20. The height of the building is not out of character with the adjacent building approved by the Board and there are sufficient setbacks to mitigate the impact of the additional height.

21. The Applicant is seeking relief for a one-foot landscape buffer deviation along Lot 11.01.

22. The Applicant has designed one-bedroom units to comfortably accommodate an eat-in kitchen, living area, bedroom, bathroom, closet storage and a washer/dryer. By sizing the units as proposed, the project is able to keep the building footprint small enough to accommodate the community parking, as well as include the first-floor commercial retail.

23. The project represents the first time that commercial space is being included in the Central Avenue Redevelopment Area.

24. The applicant stated that trash will be picked up by a private hauler.

25. The public was afforded an opportunity to ask questions of witnesses and offer testimony on the application.

NOW, THEREFORE, based upon the foregoing findings of fact, the Board reaches the following conclusions of law.

1. This application requires the following variances, as well as preliminary and final major site plan approval:

Bulk Standard	Required	Proposed
Max. building height	55 feet	60.48 feet
Min. residential unit size	750 sq. ft.	686 sq. ft.
Min. non-buildable area	20%	14.3%
Min. landscape buffer alongside or rear property line adjacent to residential use	5 ft.	4 ft. along Lot 11.01, 11.02, 11.03, 11.04, 17, 23, 25, 26 and 27

2. The Municipal Land Use Law, at N.J.S.A. 40:55D-70(c) provides Boards with the power to grant variances from bulk and other Ordinance requirements when the Applicant satisfies certain specific proofs which are enunciated in the statute.
3. Under the (c)(2) criteria, the Applicant must demonstrate that in a particular instance relating to a specific piece of property, the purposes of the Act would be advanced by allowing a deviation from the Zoning Ordinance requirements and that the benefits of any deviation will substantially outweigh any detriment.
4. These tests specifically enumerated above constitute the affirmative proofs necessary in order to obtain "bulk" variance relief, under Section (c)(2).
5. Also, an applicant for these variances must show that the proposed relief sought will not cause a substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The burden of proof is upon the Applicant to establish that these criteria have been met.
6. The variance for the building height is justified because the Applicant credibly testified that the building height to the roof surface is only 56 feet 7 inches, or only 1 foot 7 inches higher than permitted. However, roof slopes and parapets to improve drainage and desirable architectural features at the entrance encouraged by Redevelopment Plan cause the overall height to be 60.48 feet. Much of the property in question is located in the flood hazard area of the East Branch of the Rahway River. Flood hazard area regulations impose strict requirements in terms of minimum elevations of the building. These requirements result in raising the building out of the ground, increasing the height. The benefits of providing the increased height, including compliance with the flood hazard area regulatory requirements and providing a quality mixed-use project outweigh the detriments from providing the additional height proposed. Granting this relief will not be substantially detrimental to the public good and will not substantially impair the intent or purpose of the Redevelopment Plan or Zoning Ordinance. The height of the building is not out of character with the adjacent building approved by this Board and there are sufficient setbacks to mitigate the impact of the additional height.
7. With respect to the variance for non-buildable area, the Applicant is providing over 14% of the property as non-buildable area, although the Plan calls for a minimum of 20%. This

relief can be justified under the (C)(2) criteria because the benefits of providing additional public parking for members of the community, as well as benefits of redeveloping this contaminated site and introducing proper stormwater managements, outweigh the detriments of less than required non-buildable area.

8. With respect to the minimum landscape buffer variance, relief is only related to a buffer adjacent to residential uses. The relief sought is de minimis in that the Applicant is only seeking relief for a one foot or six inches deviation along several adjacent residential lots when measuring the setback to the lot line from the back of the curb. The Board finds that this relief can be granted without substantial detriment to the public good and without substantial impairment of the intent or purpose of the Zoning Ordinance.
9. Relative to the minimum unit size variance, it is justified because the bedroom units have been carefully designed to comfortably accommodate an eat-in kitchen, living area, bedroom, bathroom, closet storage and a washer/dryer. By sizing the units as proposed, the project can keep the building footprint small enough to accommodate the community parking, as well as including the first-floor commercial retail, the first-time commercial space is being included in the Central Avenue redevelopment and further enhancing the progress being made in the area. Accordingly, the Board finds that this relief can be granted without substantial detriment to the public good and without substantial impairment of the intent or purpose of the Zoning Ordinance.

NOW THEREFORE be it resolved by the Planning Board of the Township of West Orange that the application of the Alpert Group, LLC for property located at 8-10 and 18 Central Avenue, is determined as follows:

1. The Board grants the following bulk variance relief pursuant to N.J.S.A. 40:55D-(c)(2):

Bulk Standard	Required	Proposed
Max. building height	55 feet	60.48 feet
Min. residential unit size	750 sq. ft.	686 sq. ft.
Min. non-buildable area	20%	14.3%
Min. landscape buffer alongside or rear property line adjacent to residential use	5 ft.	4 ft. along Lot 11.0, 11.02, 11.03, 11.04, 17, 23, 25, 26 and 27

2. Preliminary and final site plan approval is granted pursuant to N.J.S.A. 40:55D-46 and 50.

AND IT IS FURTHER RESOLVED that the above approval is subject to the following terms and 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, if appropriate.

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. Applicant shall list all conditions of approval onto final site plan submission.

8. Applicant shall enter into a lease/easement agreement with the Township concerning the public parking arrangement.

9. Applicant shall submit the required Sustainability Checklist.

10. Applicant shall consult with the Township, the Township's Office of Emergency Management and the Department of Environmental Protection on all necessary approvals.

11. Applicant shall conform the "18 Central" vertical sign to the specifications of the Harvard Printing buildings to the east.

12. Applicant shall construct the building so that roof access is provided for via one stairwell.

13. The Applicant has agreed to comply with the comments in the review letters from the Board Professionals.

The undersigned secretary certifies the decisions set forth herein was made by this Board on April 7, 2021 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on May 5, 2021.

Diana Lyn Chandler
Diana L. Chandler, Acting Board Secretary

Vote on Action Taken by the Board on April 7, 2021

BOARD MEMBER	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Bagoff (Ch.)	x		x			
Guarino			x			
Johnson			x			
Trenk			x			
Smeraldo		x	x			
Klein						x
McCartney			x			
McNair			x			
Wilkes (V.Ch)			x			

Vote on Memorialization on May 5, 2021:

BOARD MEMBER	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Bagoff (Ch.)	x					
Guarino			y			
Johnson						x
Trenk						x
Smeraldo						
Klein					x	
McCartney		x	y			
McNair			y			
Wilkes (V.Ch)			y			

