



TOWNSHIP OF WEST ORANGE

66 MAIN STREET, WEST ORANGE, N.J. 07052

Department of Planning and Development

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TO: Zoning Board Members

FROM: Paul Grygiel, AICP, PP, Planning Director

DATE: November 24, 2021 – *revised January 28, 2022 and August 8, 2022*

RE: **ZB-21-01 – M. Vega Investments LLC**
Block: 134.02; Lots: 75.03, 79, 81; Zone: B-1
66 Franklin Avenue
Seeking “c” and “d” variances for modifications to property with mix of uses

The applicant has made some additional modifications to the proposed plans. This memorandum supplements my updated review memorandum dated January 28, 2022. New information is denoted in **bold**, deletions are shown in ~~strike through~~.

INTRODUCTION

The applicant is requesting approvals to renovate and expand an existing building and construct other improvements on a property currently used as a contractor’s storage yard. A number of changes are proposed to the existing site conditions. A “d” variance is required for the use of the property for outdoor commercial vehicle parking. A number of “c” variances are also required.

LAND USE/CIRCULATION

The subject property consists of three tax lots with a combined area of 10,000 square feet (0.23 acres). The site has 100 feet of frontage on Franklin Avenue and is 100 feet deep. The subject property is developed with a one-story concrete block building. It is not clear if the building is currently occupied. The exterior of the property is currently used as a contractor’s storage yard. Site photographs taken on January 19, 2021 are included at the end of this memorandum.



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The property is located on the east side of Franklin Avenue near its intersection with Elm Street. A mix of land uses are located in the surrounding area, including residential, commercial and educational. The rear yards of residential properties abut the subject property to the south and east, commercial uses are located to the north, residential uses are on the west side of Franklin Avenue and a preschool and a tavern are among the uses one block south of the subject property.

There is a sidewalk along the site's frontage. It is generally in good condition. Franklin Avenue is a two-lane street with two-way traffic, and parking on both sides of the street. Elm Street intersects with Franklin Avenue at the northern end of the property.

SUBMISSIONS

<u>ITEM</u>	<u>SIGNED BY</u>	<u>DATE/REVISION</u>
Site Plan (12 sheets)	Joshua H. Kline, PE and Afton Savitz, PE	8/4/22
Architectural Plans (5 sheets)	Nicolas Salerno, RA	7/28/22
Boundary & Topographic Survey	Thomas F. Miller, PLS	6/28/21
Planning Report	John McDonough, LA, PP, AICP	12/22/20
Traffic & Parking Assessment Report	Matthew J. Seckler, PE, PP, PTOE	12/3/21
Stormwater Management Statement	Joshua H. Kline, PE	1/7/22

VARIANCES REQUIRED

<i>"d(1)" Variance</i>		
SECTION/REQUIREMENT	PERMITTED /REQUIRED	PROPOSED
25-7.1 Permitted Use	Various commercial and mixed uses	Commercial with residential on upper floors (permitted), commercial vehicle parking (not permitted)

<i>"c" Variances</i>			
SECTION/REQUIREMENT	PERMITTED /REQUIRED	EXISTING	PROPOSED
25-7.1 Minimum front yard	30 ft.	7.9 ft.	5.2 ft.
25-7.1 Maximum lot coverage	75%	85%	81%
25-7.1 Maximum number of stories	2 1/2	1	3



25-8.4 c Six-foot high fence location	Side and rear yards	None	Front, side and rear yards
25-11.3 b Minimum buffer strip width	20 ft.	None	5.1 ft.
25-12.1 b Minimum curb setback from any fence, screening or structure	5 ft.	None	0 ft.
25-12.1 h.6. Minimum driveway width – two-way traffic	24 ft.	Not provided	20 ft.
25-14.3 Minimum parking area illumination level	2.0 footcandles	Not provided	1.5 footcandles
25-15.3 c.1.(b)(1) Maximum sign area	33 sq. ft. (1.5 sq. ft./1 ft. of building width)	None	39 sq. ft.
25-15.3 c.1. (b)(1) Maximum sign height	2 ft.	None	3 ft.

PROPOSED DEVELOPMENT

The applicant is seeking preliminary and final major site plan approval and variances for modifications to expand an existing building and modify the uses on the subject property. Specifically, the proposal involves adding ~~two~~ **1 ½** stories to an existing commercial building on the northern quarter of the site to add a residential use on the second and third floors. The first floor of the building will be utilized for office and storage space and an existing basement will remain. A single three-bedroom apartment will be located on the second ~~and third~~ floors. **An attic level is proposed, which will only be accessible by pulldown stairs.** An existing shed in the southeast corner of the property is proposed to remain.

The existing parking area which covers much of the southern three-quarters of the site is proposed to be modified and utilized for commercial vehicle parking, as well as parking for building occupants. A total of 11 parking spaces are proposed: five 10 foot by 20 foot spaces near the rear property line and five 9 foot by 18 foot spaces and one ADA space near the south side property line. Two of the spaces are proposed to be designated with signage for residents only. **The ADA space and one next to it are proposed to electric vehicle “make-ready” spaces as required by State and local laws.** A six-foot high chain link fence with privacy slats is proposed around the perimeter of the parking lot, with a sliding electronic gate at the site driveway. A trash enclosure is proposed 1.3 feet from the southern property line and 6.4 feet from the eastern property line abutting the existing shed to the south.

Proposed landscaping includes two Red Maple trees between the parking lot and the southern property line, one Little Leaf Linden tree and a grouping of five Inkberry Holly evergreen shrubs



along the front property line to the south of the driveway, an area of Little Bluestem ground cover to the south of the shrubs and 21 Common Juniper shrubs with a planting height of four feet along the length of the rear property line. New site lighting is proposed: two 18-foot tall light poles adjacent to the parking lot, two building lights mounted at 10 feet on the south building wall, and one building light mounted at eight feet on the west building wall.

DISCUSSION/RECOMMENDATIONS

Variance Proofs

In B-1 and B-2 Districts, mixed-use developments are permitted as a conditional use in accordance with the requirements of Section 25-24.2b2(m). The proposal complies with all of these requirements. Commercial vehicle parking is not a permitted use, however.

The applicant has requested a “d(1)” use variance to permit commercial vehicle parking on the subject property. The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70d(1) enables a board of adjustment to grant a variance for a use or principal structure not permitted in the zoning district. A “d” variance may be granted only “in particular cases for special reasons.”

In addition, the MLUL at N.J.S.A 40:55D-70c permits a board of adjustment to grant variances from the bulk regulations of a zoning ordinance and other zoning deviations that do not require 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 outweigh any detriments. The benefits derived from granting a “c(2)” variance must include benefits to the community as a whole, not just the applicant or property owner.

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 municipality. The applicant’s planner should provide testimony as to how the above variance proofs are addressed. It is noted the applicant submitted a planning report with the original application, but it has not been updated to address the currently requested relief.

Site Plan and Architectural Issues

The Township of West Orange Site Plan Review Advisory Board (SPRAB) held a virtual meeting on February 9, 2020. At this meeting, the SPRAB reviewed the above application with the applicant and its attorney, engineer, architect and planner. It was noted at that meeting and in the SPRAB meeting summary memorandum dated February 9, 2021 that the originally submitted plans only included a rudimentary site plan as part of the architectural plans. The applicant has



complied with the request to provide a more detailed site plan providing information on grading, drainage, lighting, landscaping and other site improvements. Nearly all of the issues raised in the SPRAB memorandum have been addressed. The only outstanding site plan issue is a request to provide additional information regarding the vehicles proposed to be parked on the site and the parking spaces, including which spaces are intended for commercial vehicles. As noted, two of the parking spaces will be designated as resident-only spaces. Testimony should be provided confirming the usage of the other spaces.

With regard to the architectural plans, two issues raised in the SPRAB memorandum have not been directly addressed:

- The architect was asked to confirm whether the plans provide a second means of egress from the second and third floors as required by code.
- Questions were raised about the attic and its use, as a floor plan of it was not provided. The architect stated it is only intended for storage. **The attic floor plan has been provided. In addition, the design of the building has been modified to change the roof from gambrel to gable style, to remove proposed dormers with windows and to make the attic only accessible using pull-down stairs.**

The applicant's architect should confirm the above through testimony.

It is recognized the upgrades to the building, reduction in impervious surface and additional landscaping represent improvements over existing conditions. However, the landscape plan **originally** proposed landscaping only along the front and side property lines. ~~The applicant should discuss whether it would be possible to provide additional evergreens along the rear property line which would provide buffering taller than the proposed fence.~~ The site plan has been modified to provide a row of 21 evergreen shrubs along the rear property line and one additional deciduous tree along the front lot line adjacent to the site driveway.





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