



COMMUNITY PLANNING
LAND DEVELOPMENT AND DESIGN
LANDSCAPE ARCHITECTURE

B U R G I S
A S S O C I A T E S , I N C .

PRINCIPALS:

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December 13, 2024

Re: Professional Planning Services Variance(s) Request
42 Eagle Ridge Way Block 106 Lot 24.01
West Orange, New Jersey
BA# 4290.XX

Waystone Realty LLC ("applicant") is seeking 'd' variance relief for noncompliance with Section 25-9.2 which regulates the housing of animals and a waiver from Section 10-12 regarding the keeping of animals and birds. The applicant is proposing the construction of a residential house that is to contain both a horse and a dwelling. Specifically, the proposal calls for the site's development with a single-family home with a hippotherapy component for the occupant serviced by a stable, indoor riding arena, outdoor arena, and paddocks.

The Municipal Land Use Law (MLUL) provides for a 'd' variance, with respect to the Positive Criteria of the statute one must identify 'Special; Reasons' that exist to support the application, and these reasons can revolve around either (a) the site is particularly suited for the use, or (b) the use is an inherently beneficial use. The furtherance of purposes of the MLUL can also serve as 'Special reasons' in support of a use variance.

The MLUL also provides, with respect to the Negative Criteria of the statute that one must show that the grant of the variance will not result in a substantial detriment to the public good nor substantial impairment to the intent and purpose of the master plan and zone plan of the community.

With respect to Positive Criteria, there are a number of special reasons in support of this application. For example, the proposed redevelopment of the site in question serves to construct a new home with an attractive building and associated features that enhance the overall character of the site's development. The project also serves to improve the property with a stormwater management plan that improves on-site drainage and complies with the requirements of a Major Development. Additionally such Purposes of the Act that are affirmed by this application include (a) to encourage municipal action to guide appropriate use and development in a manner that promotes health, safety, and general welfare (this is accomplished through the provision of a facility serving a special needs person); (b) to provide adequate light, air, and open space (accomplished by virtue of the fact the site design complies with all yard, coverage and height restrictions of the zoning ordinance); and, (c) to promote a desirable visual environment through creative development techniques (affirmed by the unique design, landscaping and enhanced character of the site in contrast to existing conditions). Within the context of Special Reasons, it is also notable that the proposal affirmatively addresses public benefits that relate to stormwater management control and the aforementioned visual and aesthetic enhancements to the site's physical condition.

With respect to the second prong of the criteria (Negative Criteria), there is no substantial detriment to the public good, as this project adheres to the code's permitted use, permitted accessory use and intensity restrictions as prescribed by the zoning ordinance, complying with all setbacks, coverage, height, area, and density limitations. Furthermore, there is no substantial impairment to the intent of the master plan of the community, as it affirms a number of the Plan's goals and objectives. For example, one of the concerns raised in the master plan regards construction of new or expanded houses that are out-of-scale and/or out-of-character with their neighborhood, and as noted above the proposal is consistent with the intensity and bulk regulations of the ordinance.

In addition to the above variance issue, the application requires a waiver or variance to keep animals (in this case horses) in a building that will also be occupied by humans. The MLUL provides that for waiver relief a board may grant such relief as may be reasonable "if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question. If the Board determines that this unique situation requires a variance, such request is addressed as stated above, as the Positive and Negative Criteria will be similarly met in the same manner.

In this particular case, the impracticability relates to the nature of the intended use and positive benefits of aligning the barn and house as a single entity. This is due to the fact that the occupant of the dwelling is classified on the spectrum and who is the direct beneficiary of the hippotherapy component of this application. The benefits of having a close bonding relationship between the two design features, as well as the proximity of family members who live on the adjoining lot and nearby, expand the positive benefits in advancing the occupant's independent living. This additionally complements a State interest that seeks to assist in the advancement of individuals classified on the spectrum who have met and exceeded the goals for an Adult ISP, particularly in instances such as this where the overarching goals of a local master plan and zoning regulatory provisions are not impacted by any substantial detrimental nor impactful issues to a neighborhood.

All of the above shall be explored in greater detail during testimony on this application.

Very truly yours,



Joseph H. Burgis, P.P., AICP

Dated: December 13, 2024