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November 4, 2024

Via UPS Overnight

Diana Chandler-Zimmermann
Zoning Board Secretary
Township of West Orange
66 Main Street
West Orange, New Jersey 07052

Re: Notice of Request for Interpretation of Zoning Ordinance Pursuant to N.J.S.A. 40:55D-70(a) and N.J.S.A. 40:55D-72 (As Applicable)
Applicant: Northfield Avenue Realty Associates, LLC
81 Northfield Avenue, Block 71.01, Lot 43
OB-1 Zone

Dear Ms. Chandler-Zimmermann:

This firm represents Northfield Avenue Realty Associates, LLC (“NAR”), owner of the real property located at 81 Northfield Ave, West Orange, New Jersey (designated as Block: 71.01, Lot: 43 on the Official Tax Map of the Township) in connection with the above-referenced application seeking interpretation by the West Orange Zoning Board of Adjustment (the “Board”) with respect to the Township’s zoning ordinance (the “Application”) as described in greater detail in the materials submitted herewith.

Enclosed herewith please find a check in the sum of \$200 to cover the required application fee, along with an original and four copies each of the following documents in support of the Application:

- 1) Zoning Application and checklist (with rider disclosing ownership of corporate applicant attached thereto);
- 2) Letter brief in support of request for interpretation;
- 3) Site diagram/drawing;
- 4) Applicant’s Form W-9;
- 5) Communication from Township Tax Collector confirming payment of property taxes

Diana Chandler-Zimmermann
Zoning Board Secretary
November 4, 2024

to date; and

- 6) Copy of correspondence and check to Township Tax Assessor requesting certified list of property owners within 200 feet of the subject property (a copy of said list will be provided upon receipt).

With respect to any other items referenced in any portion of the Board's application materials, a waiver for same is respectfully requested given that the instant application simply seeks an interpretation of the Township zoning ordinance and is not a site plan or similar application and thus not necessary in allowing the Board

As per the Board's application instructions, an electronic copy of the Application is also being submitted by email as well. If an escrow is needed to be established for this file, please let us know the amount required and we will make arrangements to submit same immediately.

Should you have any questions or should any additional information or materials be required to process this application, please do not hesitate to contact the undersigned at 201-319-5740 or by email at js@lawwmn.com. Thank you for your attention to this matter.

Very truly yours,

WATERS, McPHERSON, McNEILL, P.C.

BY: 
James M. Spanarkel

Enclosures

DATE:10/16/2024 CK#:697 TOTAL:\$200.00***** BANK:NORTHFIELD--MANASQUAN(300mana)
PAYEE:TOWNSHIP OF WEST ORANGE(wotwp)

Property Address - Code	Invoice - Date	Description	Amount
Northfield Avenue Realty Associat	10/16/24 - 10/16/2024		200.00
			200.00

FOR SECURITY PURPOSES, THE FACE OF THIS DOCUMENT CONTAINS A TWO-TONED COLORED BACKGROUND AND MICROPRINTING IN THE BORDER

Northfield Avenue Associates, LLC
399 Monmouth Street
East Windsor, NJ 08520

Manasquan Savings Bank
2221 Landmark Place
Wall Township, NJ 08736

697

VOID AFTER 180 DAYS

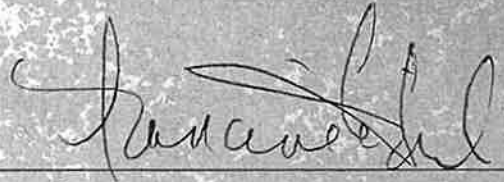
PAY ***** TWO HUNDRED AND 00/100 DOLLARS

TO THE
ORDER OF

10/16/2024

\$200.00*****

TOWNSHIP OF WEST ORANGE
66 MAIN STREET
WEST ORANGE, NJ 07052



SECURITY FEATURES INCLUDED. DETAILS ON BACK

000697 221272167 12 97023996

**CHECK LIST OF REQUIRED ITEMS
"C" AND "D" APPLICATIONS
INTERPRETATIONS AND APPEALS**

APPLICATIONS FOR MAJOR/MINOR SITE PLAN OR SUBDIVISION MUST REFER TO THE SITE PLANS/SUBDIVISION CHECKLIST – 5 Paper copies and 1 Digital emailed to the Board Secretaries

All items below are required: please complete and submit to Board Secretary:

- | | |
|-----------|--|
| Included | <ul style="list-style-type: none"> • Completed Application Form – Original and 4 Paper and one Digital including: <ul style="list-style-type: none"> ▪ The written proposal ▪ List of variances being requested ▪ Property information ▪ Applicant and owner information ▪ Statement or legal brief which clarifies why the variance should be granted and specific reasons or hardship that pertains to the proposal, or ▪ in the case of an appeal or interpretation, a statement or legal brief that clarifies the position of the applicant |
| Waiver | <ul style="list-style-type: none"> • Survey – original signed and sealed by New Jersey licensed Land Surveyor – (original and 4 copies and one digital) |
| Waiver | <ul style="list-style-type: none"> • Site Plan, all dimensions, including setbacks, must be shown and prepared by New Jersey licensed Professional except for an owner-occupied, single-family home, in which case the property owner may prepare the site plan (original and 4 copies and one digital) |
| Waiver | <ul style="list-style-type: none"> • Floor plans, all dimensions must be shown prepared by New Jersey licensed Architect except for an owner-occupied, single-family home, in which case the property owner may prepare the floor plan (original and 4 copies and one digital) |
| Requested | <ul style="list-style-type: none"> • List of property owners within 200' certified by the Municipal Tax Assessor (original and 4 copies and one digital) |
| Requested | <ul style="list-style-type: none"> • Proof that taxes have been paid, certified by the Municipal Tax Collector (original and 4 copies and one digital) |
| Waiver | <ul style="list-style-type: none"> • A 200' radius map, (original and 4 copies and one digital) |
| Included | <ul style="list-style-type: none"> • Application fee (non-refundable) |
| Waiver | <ul style="list-style-type: none"> • Elevations of three sides, in case of an existing structure with no proposed structural changes, photographs may be used (original and 4 copies and one digital) |
| Waiver | <ul style="list-style-type: none"> • Height dimensions to be include on all elevations (original and 4 copies and one digital) |
| Waiver | <ul style="list-style-type: none"> • All plans and documents for West Orange COAH requirements |
| N/A | <ul style="list-style-type: none"> • For all Major Subdivision applications, major site plan applications and all applications applying for a "D" variance, a Planner's report prepared by a New Jersey licensed Planner must be submitted (original and 4 copies and one digital) |
| N/A | <ul style="list-style-type: none"> • For all Major Subdivision applications, and major site plan applications, a Traffic Study prepared by a New Jersey licensed Engineer must be submitted (original and 4 copies and one digital) |
| N/A | <ul style="list-style-type: none"> • All Site Plan applications must submit a tree removal application and a tree replacement plan and provide a report according to Chapter 31 of the West Orange general ordinances (original and 4 copies and one digital) |

Your application will not be deemed complete unless all of these items are included. It is absolutely necessary that all dimensions and elevations be shown on the site plan and floor plan.

Please note: other materials may be requested by the Planning Director or Board Members

**TOWNSHIP OF WEST ORANGE
APPLICATION FORM FOR THE
PLANNING BOARD OR ZONING BOARD OF ADJUSTMENT**

A. APPLICANT INFORMATION

Full Legal Name: Northfield Avenue Realty Associates, LLC
(Last) (First)
Mailing Address: 399 Monmouth Street, East Windsor, New Jersey 08520
(Street) (City) (State) (Zip)
Telephone Number: (609) 944-4050 Email: rzagha@tfeproperties.com

Is the Applicant an: ☐ Individual, ☐ Corporation, ☐ Partnership, ☒ Other limited liability company

If the Applicant is a corporation or partnership, a list of the names and addresses of persons having a 10% interest or more in the corporation or partnership must be attached.

Relationship of the applicant to the property: ☒ Owner, ☐ Tenant or Lessee, ☐ Purchaser under contract
(with consent of owner, ☐ Other (please specify) _____)

If the applicant is not the owner of the property in question, the applicant must submit an affidavit with the owner(s) authorization to proceed with this process.

B. PROPERTY OWNER INFORMATION

☒ Check here if same as applicant. If the owner is not the applicant, please complete the following:

Owner's Name: _____
Address: _____
Telephone Number: () _____ Email: _____

C. PROPERTY INFORMATION

Street Address: 81 Northfield Ave, West Orange, New Jersey
Block Number(s): 71.01 ; Lot Number(s): 43
Tax Plate: _____ ; Zone of Property: OB-1
The location of the property is approximately 100 feet from the intersection of Northfield Ave
Hutton Ave and _____ (closest intersection.)

Has there been any previous Zoning Board of Adjustment or Planning Board hearings involving this property?
☐ Yes, Date(s): _____ ; ☒ No

If yes, please attach copies of the written decisions adopted by the Board to each application.

Please attach a list of all contiguous or adjacent property owned by the applicant or owner. ☒ None

Is this property listed in "The Historic Sites Survey" prepared by Robert Guter 7/9/1992 ☐ Yes ☒ No

D. TYPE OF APPLICATION

Indicate the type of application being submitted, check all boxes that apply. Note that more than one variance may be necessary, please indicate the number of each type needed:

- 1) ☒ Interpretation of ordinance or map.
- 2) ☐ Appeal of action of Zoning Officer.
- 3) ☐ Variance "C1" Reason: ☐ shape of property; ☐ physical features; ☐ exceptional situation.
- 4) ☐ Variance "C2".
- 5) ☐ Variance "D".
- 6) ☐ Subdivision without variances: ☐ major; ☐ minor; ☐ preliminary; ☐ final; ☐ preliminary and final.
- 7) ☐ Subdivision with variances: ☐ major; ☐ minor; ☐ preliminary; ☐ final; ☐ preliminary and final.
- 8) ☐ Site Plan: ☐ preliminary; ☐ final; ☐ preliminary and final; ☐ with variances; ☐ without variances.
- 9) ☐ Amended Site Plan.
- 10) ☐ Conditional Use.
- 11) ☐ Conceptual.
- 12) ☐ Home Professional Office.
- 13) ☐ Home Occupation.
- 14) ☐ Soil Removal Permit.

Please list the specific Sections of the Ordinance for which a variance is sought. If additional space is required, please attach a list.

Section: N/A ; Proposed: - ; Description:
 Section: ; Proposed: ; Description:
 Section: ; Proposed: ; Description:
 Section: ; Proposed: ; Description:

E. DESCRIPTION OF PROPERTY

Existing Use of the Property

Briefly describe the major elements of your proposal: (a more detailed description is required in Section G.)
Office building with accompanying parking lot

The property is _____ (square feet); 1.988 (acres)

Impervious Surface Coverage: Present: N/A; Proposed:

Building Coverage: Present: N/A; Proposed: _____

Is the property located:

- ☐ Yes ☒ No
 Adjacent to an existing or proposed county road? ☐ Yes ☒ No
 Adjacent to other county land? ☐ Yes ☒ No
 Adjacent to a state highway? ☐ Yes ☒ No

F. EXPERTS

The following information is respectfully requested to enable the Board to facilitate the processing of this application:

APPLICANT'S ATTORNEY: James M. Spanarkel, Esq.

Telephone Number: (201) 863-4400 Email: js@lawwmm.com

Address: Waters, McPherson, McNeill, P.C., 300 Lighting Way, 7th Fl, Secaucus, NJ 07096

APPLICANT'S ENGINEER: _____

Telephone Number: () _____ Email: _____

Address: _____

APPLICANT'S ARCHITECT: _____

Telephone Number: () _____ Email: _____

Address: _____

APPLICANT'S PLANNER: _____

Telephone Number: () _____ Email: _____

Address: _____

OTHER EXPERT(S): _____

Telephone Number: () _____ Email: _____

Address: _____

If necessary, please list any additional experts below, including address, telephone number and email address.

G. REQUIREMENTS FOR VARIANCES

- 4A) Please attach a written statement labeled "PROPOSAL", describe the major elements of your proposal, and describe in detail the physical and use changes proposed.
- 4B) Please attach a written statement labeled "REASONS FOR RELIEF", which fully answers 4C-1, 4C-2 or 4D (Special Reasons) AND part 4E (Negative Criteria).
- 4C-1) (For C1 variances only) The strict application of the provisions of the Zoning Ordinance would result in the peculiar and exceptional practical difficulties or exceptional undue hardship under *N.J.S.A. 40:55D-70c(1)*. List in detail wherein this case conforms to this requirement, including, if applicable, reference to the exceptional narrowness, shallowness, or shape of the property, or the exceptional topographical conditions affecting the property which applicant contends warrants the granting of the variance.
- 4C-2) (For C2 variances only) State how the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment according to *N.J.S.A. 40:55D-70c(2)*. Please list all benefits of the deviation to the Township and any adverse effects. State how the benefits of the deviation would substantially outweigh any detriment to the Township.
- 4D) (For D variances only) State the special reasons under *N.J.S.A. 40:55D-70d* affecting this property.
- 4E) The granting of this variance will not be substantially detrimental to the public good and will not substantially impair the intent of the zone plan and zoning ordinance. List in detail the reasons, among others, why the variance can be granted without being materially detrimental to the welfare of the community or injurious to the property or improvements of others in the neighborhood and zone.

H. PLAT SUBMISSION

- 4F) Please list all maps and other exhibits accompanying this application. Attach an additional sheet if necessary.

ITEM	SIGNED BY	DATE/REVISION
Survey	William Held Assocs.	October , 8, 1999

I. NOTICE

Applicant is responsible to publish and serve notice of this application in accordance with Zoning Board of Adjustment/Planning Board requirements; however, notice may not be served until this application is certified as complete and the administrative officer has assigned the applicant a public hearing date.

J. VERIFICATION AND AUTHORIZATION

SIGNATURE IS REQUIRED FOR ALL OF THE FOLLOWING:

APPLICANT'S VERIFICATION

I hereby certify that the above statements made by me and the information contained in the papers submitted in connection with this application are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Applicant's Signature: _____

Date: 10/21/24

CONTINUANCE

Should the Planning Board/Zoning Board of Adjustment have a full and heavy agenda, or discussion and meeting regarding this application requiring carrying the matter past the statue time limit, the applicant grants permission for such an extension.

Applicant's Signature: _____

Date: 10/21/24

OWNER'S AUTHORIZATION - MUST BE SIGNED

I hereby certify that I reside at 399 Monmouth Street, East Windsor, New Jersey 08520
in the County of Mercer and the State of New Jersey;
and that I am the owner of all that certain lot, piece or parcel of land known as Block(s) 71.01
Lot(s) 43 on the Tax Map of West Orange which property is the subject of the above
application, and that said application is hereby authorized by me. Furthermore, I authorize inspection of the site
which is the subject of this application.

Owner's Signature: _____

Date: 10/21/24

By: Francine Tajfel

Title: Member, Northfield Avenue Realty Associates, LLC

THIS APPLICATION DOES NOT RELIEVE THE APPLICANT FROM COMPLYING WITH OTHER TOWNSHIP ORDINANCES SUCH AS THE TREE REMOVAL ORDINANCE AND OBTAINING THE NECESSARY APPROVALS AND PERMITS UNDER SUCH ORDINANCES.

RIDER TO APPLICATION SEEKING INTERPRETATION OF ZONING ORDINANCE

PROPERTY: 81 Northfield Ave, West Orange, NJ
APPLICANT: Northfield Avenue Realty Associates, LLC ("Applicant")
RE: DISCLOSURE OF OWNERSHIP OF APPLICANT PURSUAN TO P.L.
1977, CHAPER 36

Listed below are the names and addresses of all owners of 10% or more of the stock/interests in the Applicant with respect to the above-referenced site plan and variance applications:

Name:

Percentage Interest:

Francine Tajfel
399 Monmouth Street
East Windsor, New Jersey 08520

100%

WATERS, MCPHERSON, MCNEILL

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November 4, 2024

Via UPS Overnight

Diana Chandler-Zimmermann

Zoning Board Secretary

Township of West Orange

66 Main Street

West Orange, New Jersey 07052

Re: Notice of Request for Interpretation of Zoning Ordinance Pursuant to N.J.S.A. 40:55D-70(a) and N.J.S.A. 40:55D-72 (As Applicable)

Applicant: Northfield Avenue Realty Associates, LLC

81 Northfield Avenue, Block 71.01, Lot 43

OB-1 Zone

Dear Ms. Chandler-Zimmermann:

This firm represents Northfield Avenue Realty Associates, LLC (“NAR”), owner of the real property located at 81 Northfield Ave, West Orange, New Jersey (designated as Block: 71.01, Lot: 43 on the Official Tax Map of the Township). This letter brief is submitted in support of the above-referenced request for interpretation of the Township of West Orange’s zoning ordinance, as described in greater detail below.

Pursuant to N.J.S.A. 40:55D-70(a) and N.J.S.A. 40:55D-72 (to the extent applicable), NAR hereby respectfully requests that the Zoning Board of Adjustment (the “Board”) of the Township of West Orange (the “Township”) provide an interpretation of the Township’s Zoning Ordinance (the “Ordinance”) with respect to the scope of the definition of “Required accessory parking” as such term is set forth in *25 Attachment 2 – “Township of West Orange, Table of District Regulations, Part A: Permitted Uses Table of District Regulations (Subsection 25.7.1 of the Ordinance)*, and as such term relates to the “OB-1” zoning district set forth and described in the Ordinance.

Specifically NAR seeks an interpretation determining that the onsite parking of certain vehicles that directly relate to a permitted office tenant’s use of the property, including the parking of such vehicles temporarily overnight when not in use, constitutes a permitted accessory use of said site, as expressly provided for in the Ordinance. While this instant request is not formally an

appeal of a prior denial of the Township Zoning Official, facts relating to such a recent denial at the property in question are presented here so as to appropriately frame, in the proper context, the relatively straight forward issue for which the instant interpretation is sought.

Summary of Request for Interpretation

As noted above, while not technically an appeal of a specific decision of the Township Zoning Official, NAR's request for interpretation of the applicable provisions of the Ordinance is most efficiently presented by way of using an actual recent such decision to provide context and a very specific example for the instant request. When framed in this context, it is NAR's belief that the interpretation of the Ordinance presented here is readily apparent, and the only rational conclusion to be drawn, and frankly, that a request of the obvious nature presented here, should not even require an interpretation to clarify.

By way of direct background, NAR is the owner of the real property located at 81 Northfield Ave, West Orange, New Jersey (designated as Block: 71.01, Lot: 43 on the Official Tax Map of the Township) (the "Property" or the "Premises"). The Property is in the "OB-1" (office building) zoning district, as set forth in Section 25.3.1 of the Ordinance. The Property is approximately 1.99 acres in size and improved with an approximately 21,000 s/f, three-story, multi-tenant, office building, which is a permitted use in the OB-1 district, and 110 surface parking spaces for use of the building's office tenants. As per the Ordinance, permitted principal uses in the OB-1 zone include office buildings, and permitted accessory uses include **"required accessory parking."**

Elite Fleet Transportation Limited Liability Company ("Elite") is a current tenant at the Property, where its main offices are located. Elite, as part of its core business operations, provides accessible medical transportation services to clients with special medical needs, that otherwise lack mobility or vehicular access. These services are provided using several handicapped accessible vans owned by Elite, and driven by Elite employees, who pick up and drive Elite's clients to and from various locations throughout the day and evening. Elite employees typically pick up the vans at the Property for each shift, and when not in use, the vans are parked in the Property parking lot, in a secluded area away from the building itself, that is reserved specifically for the parking of these vehicles. All of Elite's other office and business functions are carried out at the Property in the office space Elite rents.

On August 16, 2024, Elite was advised by the Township Zoning Official's office, via email that its business was "not approved" as "the storage of vans and ambulances is not allowed." Upon further communications and discussion with Township representatives, it became apparent that the fact that these vans were parked at the Property overnight was a primary reason that the business was "not approved". Given this denial (and the accompanying demand by the Township that the vans be removed from the Property) and its impact upon Property and the present and future leasing thereof, NAR now submits the instant request for what seems to be a very logical and obvious interpretation of the Ordinance, to confirm and acknowledge that the parking of vehicles directly relating to the primary, permitted principal use of the Property by a tenant, including the parking of these vehicles onsite overnight, falls within the scope / definition of "required accessory

parking” as set forth in the Ordinance (which is a permitted use). The above-referenced background is included, as noted above, to provide additional context within which it is hoped the Board will consider this Application.

Zoning and Basis for Interpretation

A. Analysis of Township Zoning Ordinance and Intent Behind Same

The Property is in the OB-1 zone as set forth in the Ordinance, and is located along a main road in the Township, with many other office and commercial sites/properties nearby. To the extent that there is nearby residential use, such use is primarily multi-family housing in the form of garden apartment buildings, with their attendant parking lots. Pursuant to Section 25-7.1 of the Ordinance (and the tables included therewith – the “Use Tables”), permitted principal uses in the OB-1 zone are the same as those uses permitted in the “R-1” zone, along with “office buildings”. The Use Table further provides that “required accessory parking” is a permitted accessory use.

Thus, the critical question at hand is whether parking of vehicles overnight at the Property by an otherwise permitted office tenant falls within the realm of a permitted accessory use at the Property.

Section 25-4 of the Zoning Ordinance (entitled “Definitions”) provides that an “Accessory Use”, as a “use naturally and normally incident and subordinate to the principal use of the premises or lot” (Ord. Section 25-4b). The same subsection of the ordinance further carves out four specific uses as “not accessory uses and are prohibited”, which include:

1. The dismantling, assembly or repair of a vehicle other than one belonging to a member of the resident household in any Residential Zoning District and any Nonresidential Zoning District where such use is not permitted.
2. The outdoor storage of motor vehicle parts or accessories in any Residential Zone.
3. An airport, aircraft landing strip, or heliport in any Zoning District.
4. Outdoor bins for the collection of used clothing, shoes, household items or other goods

Id. At no point does the Ordinance state that the overnight parking of vehicles that directly relate to the permitted use of a given parcel, is prohibited or not a valid “accessory use”. Nor does the Ordinance at any time prohibit overnight parking of vehicles in private parking lots.

Furthermore, as per the above-quoted excerpt from the Ordinance, it should be noted that the governing body is of course free to exercise its legislative power to specifically carve out and define certain situations and uses as being unpermitted as a rule, and in this case actually opted to do so with respect to the four specifically cited conditions. Had the governing body wanted to prohibit overnight parking of certain vehicles at certain sites, it could easily have done so in the

aforementioned provision. It is even more significant that in globally carving out the aforementioned four specifically “unpermitted” accessory uses, two of those 4 uses deal specifically with situations involving motor vehicles in some fashion, thus conclusively evidencing that the legislative body of the Township, specifically took into account and considered the impact of potential accessory uses relating to motor vehicles when drafting this particular subsection of the Ordinance, and still declined to impose any such prohibition on overnight parking. Nor do any of the carved out “unpermitted” accessory uses in any way speak to parking vehicles at any time (including overnight).

Thus, given the plain language of the Ordinance, the obvious initial presumption ought be that so long as the parking proposed is reasonably related to the primary use of a given building as an office, and regardless of whether such parking is during daytime or nighttime hours, such contemplated parking is a permitted accessory use under the Ordinance. This is even more obvious and apparent in the situation here, where the Ordinance specifically carves out “required accessory parking” as a permitted accessory use in the applicable OB-1 zone—meaning such required accessory parking is permitted as a right, and is not conditional.

Here, and as acknowledged by the Township Zoning Department, there is no doubt that the use of the building as an office building is a permitted use in the OB-1 Zone. Section 25-4a2 of the Ordinance specifically provides that “[A]ny word or term not defined in this chapter or the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-3-40:55D-7, shall be used with a meaning of standard usage for the context in which the word is used.” Although the term office or office building, is not specifically defined in the Ordinance or the New Jersey Municipal Land Use Law (the “MLUL”), the term is in and of itself, self-explanatory as a general matter. Nonetheless, it is worth noting that Merriam-Webster dictionary defines “office” (among its other unrelated uses) as “a place where a particular kind of business is transacted, or a service is supplied”. Thus, unless the Ordinance or other applicable land use regulations expressly prohibits the conduct of a specific kind of business in the OB-1 zone, it should follow that all general office uses, are permitted as of right in said zone. To NAR’s knowledge, there does not appear to be any prohibition of any kind relating to Elite’s line of business being not permitted in the OB-1 zone.

Similarly, with respect to the OB-1 zone, the Ordinance, again in the Use Table, also specifically provides for a number of permitted conditional uses in this zone (referencing again the “R1” zone), and even more tellingly, also sets forth seven (7) additional uses that are expressly stated as not permitted in the OB-1 zone. Once again, none of these expressly prohibited uses speak in any way to restricting an otherwise permitted tenant from using onsite parking at a given site. Nor does the Ordinance in any way speak to a prohibition on overnight parking by tenants/occupants at a private, on-site parking lot. Again, had the governing body sought to prohibit overnight parking by tenants of office buildings, it could easily have done so here (as in other places in the Ordinance).

Thus, given the plain meanings of the applicable terms, and a complete lack of intent anywhere in the Ordinance to specifically prohibit Elite’s parking of its vehicles at the Property, it should be unquestionable that the off-street parking, at any hour, in a private commercial office parking lot (with the landlord’s blessing nonetheless) of a small number of vans which are directly

related to the primary and permitted office use of the site, is “naturally and normally incident and subordinate to the principal use” of such a site and thus falls under the definition of “required accessory parking” and thus is a permitted accessory use at such a location.

In denying the Elite application, the Township specifically cited the “storage” of vehicles at the Property as not being permitted (and apparently the overnight element of the parking in such instance is a primary contributing factor as to why such parking is being considered “storage” in this instance), and thus, the reason for the denial Elite’s permit request. It is respectfully submitted that this interpretation does not at all follow the intent of the Ordinance.

As previously noted, terms that are not defined in the Ordinance or the MLUL must be given their generally accepted meaning in interpreting the zoning ordinance. Given that “storage” is not defined in either regulation, the plain meaning of the term must again be considered here. Merriam-Webster’s dictionary defines storage, in relevant part as, “To place or leave in a location (such as a warehouse, library, or computer memory) for preservation or later use or disposal”. This is not a definition applicable to the use contemplated by Elite’s parking of a small number of vehicles at the Property when not in use. The vehicles in question here are used regularly, and at all hours of the day (including evening and nighttime hours at times), on a daily basis, to provide a critical and inherently beneficial service to individuals who are unable to otherwise secure transportation. These services are coordinated directly from the office facility located at the Site. This is not a case of vehicles being “stored” or abandoned for long periods of time with little or no use of the vehicles occurring. Put simply, all vehicles must be parked somewhere when not in use (otherwise parking of any vehicle anywhere overnight would be considered “storing” such a vehicle), and given that these vehicles are used directly in support of the office business being conducted by Elite at the site, it follows that the parking of these vehicles at the site, where they can be accessed at a moment’s notice, is only logical.

With respect to the physical location on the site where the vehicles are being parked, it should also be noted that the parking of these vehicles is set up in a way so as to minimize any impacts thereof as much as possible. The parking spaces assigned to Elite are marked in green on the site map included with this submission. The allocated parking spaces, which are specifically reserved for Elite for parking of the vehicles in question, are all located together in a relatively isolated corner of the parking lot, so as to not otherwise occupy what most would consider to be “prime” parking spaces and do not create any issues with respect to parking elsewhere on the site. The site is improved with a significant number of parking spaces (in excess of what the Ordinance requires in terms of parking spaces for the Property), and thus, the spaces being dedicated to the parking of the vans in question here are not needed to ensure parking flow and access for the rest of the site and its tenants.

Moreover, the Ordinance, like all other zoning ordinances throughout the State of New Jersey, requires that ample parking be available and provided in connection with virtually any proposed use or a property, regardless of what zone it may be located in. One of the main reasons that municipal zoning ordinances include parking requirements is to ensure that a particular use of a site does not create offsite parking issues in the surrounding area. Here the accessory parking contemplated is strictly confined to an area of the site in question so that such parking is provided

in an organized and efficient manner, with little to no impact on any other site or individual, in furtherance of the objectives of the MLUL and the Ordinance. Finally, in terms of the character of the neighborhood and surrounding areas, while not directly relevant to the inquiry here as such parking should be permitted as of right under the Ordinance, it is worth noting there is little to no impact in terms of visual effect, as a majority of the surrounding properties constitute commercial sites, and what limited residential uses are nearby tend to fall in the variety of garden apartment complexes with attendant parking lots (and such lots are filled with cars and vehicles of all types, including a number of commercial vehicles and vans, presumably belonging to residents, that are almost certainly parked by occupants/residents of such apartments, including on an overnight basis).

In addition, with respect to the interpretation of the Ordinance posited by the Township in denying Elite's use it appears that part of the hesitancy of the Zoning department to approve the parking in question here is the fact that building on the Property is an office building that accommodates multiple tenants. It thus logically follows that in the case of a multi-tenant office building, that such building will in fact be occupied by multiple tenants, many, if not all, of whom are likely to be engaged in different lines of business. In case of Elite, there is no doubt that Elite is permitted to occupy the building as its main business offices and to conduct business from the Property. Thus, it is respectfully submitted that the proper analysis of the Ordinance with respect to the Property and Elite's use thereof for example, including the analysis of whether the parking in question here is a permitted accessory parking use, must be confined to and considered, in the context only of that particular tenant and the fact that other permitted users of a site exist should not impact such inquiry. Said another way, and by way of a hypothetical yet illustrative example, if for example, a plumbing company opted to rent office space in the same OB-1 zone as the Property for use as its main business office, but happened to instead lease space in a building only suitable for one tenant, as opposed to a multi-tenant space, it is highly unlikely that anyone would argue that parking of a plumbing truck overnight at such a location was not a permitted, required accessory parking use.

B. External Support for Interpretation of the Ordinance

In addition to the support provided above for the interpretation of the Ordinance so as to permit parking of vehicles in the manner proposed by Elite at the Property, New Jersey case law provides further support for the interpretation advanced herein.

For example, in State v. P.T. & L. Construction Co., in a wildly different, but appropriately illustrative example, the New Jersey Supreme Court ultimately determined that a helipad was a valid accessory use to an applicant's use of the subject premises as headquarters/primary offices for a construction company, as use of helicopter by company personnel to travel from job sites from the office was part of the company's essentially routine operations, and thus sufficiently related to the primary use of the premises. 77 N.J. 20 (1978). The Court generally noted that two determinations must be made in determining whether a use is customarily incident to the permitted use of a property (which is directly relevant here as the Ordinance provides that parking in the OB-1 zone that is required accessory parking is permitted as of right): 1) "whether the use is incidental to the main use: does the use bear a close resemblance and obvious relation to the main use to

which the premises are put...”; and 2) “...whether a use is found to be incident to the permitted use is also a customary use”. Generally speaking, “a use which is so necessary or commonly to be expected that it cannot be supposed that the ordinance was intended to prevent it will be found to be a customary use. The fact that a use is not customarily indulged in, however, is not conclusive, and even if the use in question is found in a small percentage of similar main uses, the use may still be found to be customary”. Id.

Furthermore, the Supreme Court also clarified that even though at times courts have referenced necessity in connection with an accessory use, necessity is not a strict requirement to the fulfillment of a permitted use. Id. at 28, citing United Advertising Cor. V. Metuchen, 42 N.J. at 7 (1964); Wright v. Vogt, 7 N.J. 1 (1951), Newark v. Daly, 85 N.J. Super. 555 (App. Div. 1964). Thus, if an example as seemingly outlandish as a helipad for a construction company’s office building can be considered permitted accessory use, it would seem to beyond all doubt that parking a small number of vehicles directly and regularly used by a company leasing and operating office space in a given location both during the day and at night, must therefore be a permitted and sufficiently related accessory use. This is even further underscored when the parking component of such accessory use is already permitted and provided for by the zoning ordinance in question as is the case here. Thus, the analysis at hand is simply whether the “nature” of the parking being contemplated is sufficiently related to the primary office use of the building / property in question, which, when analyzed under the framework set forth by the Supreme Court in State v. P.T. & L., seems unquestionable.

Similarly, the Appellate Division provided further supportive guidance into determining when a zoning ordinance should be interpreted as permitting something as an accessory use in Charlie Brown of Chatham, Inc. 202 N.J. Super. 312 (App. Div. 1985), finding that “zoning ordinances which permit ‘customarily incidental’ accessory uses to the main activity permit, by implication, any uses that logic and reason dictate are necessary or expected in conjunction with the principle use of the property.” Id. at 323, citing 6 Powell, Law of Real Property, (1979), para. 869[2][4]. The Court further noted that “an incidental use is one that relates to a business, trade, profession or occupation in general and not specifically to the use which is peculiar to the applicant. Again, in the example presented here, there is no question that the proposed accessory parking is directly related to a business operated as of right at the site in question, and thus is clearly permitted under the ordinance.

Furthermore, as noted in Shim v. Washington Tp. Planning Bd., 298 N.J. Super 395 (App. Div. 1997) the very nature of an accessory use is that same is implied as permitted under the language of a given zoning ordinance and that it “need not derive from the express terms of the ordinance.” Id. at 401. Parking of vehicles relating to a business that maintains office space is clearly related to that business’ use of a piece of property. By its very nature, determining whether something constitutes an accessory use is a matter of implication and logic as it would be impossible for a legislative body to accurately memorialize in the body of a given zoning ordinance every possible scenario where a supplemental or accessory use is related to a primary use. Rather, as stated by the court in Shim and the other cases cited herein, accessory uses must be interpreted broadly so as to encompass uses reasonably related to the primary use of a piece of property use contemplated hereunder.

Conclusion

NAR therefore respectfully asks the Zoning Board of Adjustment to find and conclude that the parking of a small number of vehicles, including parking such vehicles overnight, by a business that maintains permitted office space at a site in the OB-1 Zone, and which vehicles are directly used in said business' day to day operations, constitutes permitted required accessory parking as permitted under the Ordinance.. The use is not in conflict with and in line with to other nearby uses. There is nothing in the Ordinance that would require or would justify prohibition of the aforementioned parking use. Relevant case law further supports interpretation of the Ordinance in favor of such proposed use.

Very truly yours,

WATERS, MCPHERSON, MCNEILL, P.C.

By: 
James M. Spanarkel

Enclosures

Cc: Applicant (*via e-mail w/encl.*)
Zoning Official (*via U.S. mail w/encl.*)
Board Attorney (*via U.S. mail w/encl.*)

Good afternoon

We represent Northfield Avenue Realty Associates, LLC, owner of the real property located at 81 Northfield Ave, West Orange, New Jersey (Block 71.01, Lot 43). Please accept this email as requesting certified confirmation from the Tax Collector's Office that all currently due and owing property taxes with respect to this property have been paid in full.

Should you have any questions please let us know.

Thank you,

Jim

James M. Spanarkel, Esq.
Waters, McPherson, McNeill, P.C.
300 Lighting Way, 7th Floor
Secaucus, NJ 07096
Phone: 201-319-5740
Fax: 201-863-2866
js@lawwmm.com

- CONFIDENTIALITY NOTE -

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WATERS, MCPHERSON, MCNEILL

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

300 LIGHTING WAY

P.O. Box 1560

SECAUCUS, NEW JERSEY 07096

JAMES M. SPANARKEL

MEMBER OF N.J. & N.Y. BARS

OFFICE DIRECT DIAL: 201-319-5740

E-MAIL: jspanarkel@lawwmm.com

October 31, 2024

Via Overnight Mail

Jacob Nieman

Tax Assessor

Township of West Orange

66 Main Street, Room 210

West Orange, New Jersey 07052

**RE: 81 Northfield Ave, West Orange, New Jersey
Block: 71.01, Lot 43**

Dear Mr. Nieman:

We request that you provide a certified list of property owners located within a two hundred foot radius of property located at 81 Northfield Ave, West Orange, New Jersey (Block: 71.01, Lot 43 on the Official Tax Map of the Township)

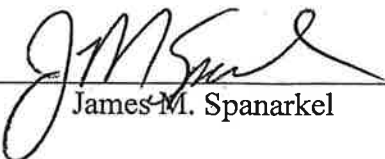
We have enclosed a return envelope for your convenience as well as our check in the amount of \$10.00 in payment of your fee. If possible to also please email a copy of the list that would be greatly appreciated.

Thank you for your assistance. Please call me at (201) 319-5740 or e-mail me at js@lawwmm.com should you have any questions or require additional information.

Very truly yours,

WATERS, McPHERSON, McNEILL, P.C.

BY: _____


James M. Spanarkel

Check Date: 10/31/2024 Payee: Township of West Orange

Vendor Number: 0004083 Check Number: 000022053

Voucher Date	Voucher No.	GL Accounts	Voucher Description	Voucher Amount
10/31/2024	10312024	01220-0000	Fee for Property Owner list	*****10.00

Waters, McPherson, McNeill, P.C.

Attorney Business Account

300 Lighting Way

Secaucus, NJ 07096

(201) 863-4400

JPMorgan Chase Bank, N.A.
New York, NY

022053

1-2/210
837170299

Pay: Ten and 00/100 Dollars

Pay To the Order of Township of West Orange
66 Main Street
West Orange, NJ 90522-001

Date
10/31/2024

Amount
*****10.00

Authorized Signature

Authorized Signature

Void After 120 Days

022053 021000021 837170299

Request for Taxpayer Identification Number and Certification

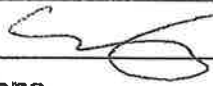
Give Form to the
requester. Do not
send to the IRS.

Print or type
See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. Northfield Avenue Realty Associates, LLC	
2 Business name/disregarded entity name, if different from above Francine E Tajfel	
3 Check appropriate box for federal tax classification; check only one of the following seven boxes: ☒ Individual/sole proprietor or single-member LLC ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. ☐ Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
5 Address (number, street, and apt. or suite no.) 399 Monmouth Street	Requester's name and address (optional)
6 City, state, and ZIP code East Windsor, NJ 08520	
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN) Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3. Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.	Social security number [][] - [][] - [][][][] or Employer identification number [2] [7] - [4] [8] [7] [9] [5] [9] [2]
---	---

Part II Certification Under penalties of perjury, I certify that: 1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and 3. I am a U.S. citizen or other U.S. person (defined below); and 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct. Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.
--

Sign Here	Signature of U.S. person ▶ 	Date ▶ 2/1/16
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.