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April 4, 2025

Via Email and Hand Delivery

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

**Re: Township of West Orange Zoning Board of Adjustment
Application No.: ZB-24-16
Applicant: Northfield Avenue Realty Associates, LLC
81 Northfield Avenue, Block 71.01, Lot 43
Interpretation of Zoning**

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) with respect to the above-captioned application (the “Application”). We are in receipt of the Planning Review Letter dated January 14, 2025 from Nishuane Group, LLC (the “Planning Review Letter”) prepared in connection with the Application. This letter is respectfully submitted to further supplement the Application record in advance of the hearing currently scheduled before the West Orange Township (the “Township”) Zoning Board of Adjustment (the “Board”) on April 17, 2025 with respect to such matter (the “Hearing”), in an effort to clarify and focus the presentation to be given.

As noted in prior correspondence and in the Application itself, the ultimate question NAR seeks clarification on with respect to the Property, and by way of interpretation by the Board, is whether the Township’s Zoning Ordinance (the “Ordinance”) ultimately allows (or conversely does not prohibit) the parking of certain medical transportation vehicles in the onsite parking lot at the Property when not in use (including parking such vehicles overnight). The Property is, as previously noted, approximately 2 acres in size, located in the OB-1 zone and consists of a 2-story, approximately 21,000 square foot office building and 110 on-site (off-street) parking spaces. The Property is located on a main road and is surrounded by a variety of other uses, many of which are commercial or garden apartment condominiums (with significant onsite parking holding a variety

of vehicles). The parking use in question here directly relates to the permitted primary office use of the Property and the vehicles at issue belong to a tenant who's offices are located in the building at the Property.

For further context, the initial request that ultimately lead to the Application before the Board here, was the denial by the Township Zoning Official's office of the tenant's request for a certificate of occupancy (attached as Exhibit A hereto for ease of reference), citing that, under the zoning ordinance, the parking of the vehicles in question was "storage" of vehicles and thus not permitted. No specific section of the Ordinance is cited, and the applicant was directed that any relief or reconsideration of this determination would need to be made by the Board. Thus, as stated above, the ultimate question here, regardless of the particular language used to articulate it, is whether the parking at issue is permitted under the Ordinance (or posited another way—whether the parking at issue not prohibited under the Ordinance).

The Planning Review Letter confirms that the term "Required Accessory Parking", which term serves as a logical starting point for analysis of the question raised by the Application, is not defined in the Ordinance. Such "Required Accessory Parking" is a permitted accessory use in and of itself in the OB-1 Zone under the Ordinance. As also noted in the Planning Review Letter, "Parking Area", as defined in Section 25-4 of the Ordinance, means an "...open area other than a street, public way or access driveway, but including aisles that serve parking spaces, used for the parking of motor vehicles and available for use whether for a fee or privilege for clients, customers, suppliers, residents or employees." In addition, the Planning Review Letter further explains that the Ordinance (Section 25-12.1) does not restrict the number of hours, or times of day, parking may take place in off-street parking areas. Similarly, and as a logical extension, the Ordinance does not in any way prohibit the type of vehicles that can be parked at a given site, nor does it define or distinguish the "storage of vehicles" as opposed to the parking of vehicles, nor does it provide any prohibition on storage of vehicles in private parking lots to begin with (not to mention that the vehicles in question here are used on a daily basis and simply being parked when not being actively driven – which is not even close to any reasonable definition of the word "storage" to begin with). In short, there is nothing in the Ordinance, nor has anyone identified anything thereunder, that in any way prohibits the parking being considered here.

As an initial matter, the parking use contemplated in the Application, on its face, immediately fits within the definition of "Parking Area" as set forth in the Ordinance, as the vehicles in question clearly belong to a client of the Applicant who rents office space at the Property, are being used with the Applicant's permission, and are not located on a street, public way or access driveway. It only logically follows then that a location such as the parking lot at the Property is intended the exact place intended for the parking of such vehicles. Absent some express prohibition in the Ordinance to the contrary, such use must be deemed permitted.

In addition, the Planning Review Letter seems to particularly focus on the word "required" as same appears within the term "Required Accessory Parking", noting that the reviewer generally takes this language as being primarily related to the amount of parking to be provided at a site, as opposed to the use of the spaces. Even if this is accepted on its face as an interpretation of this term, it should be noted that the Application is not expressly tied to this term alone (although such

term is highlighted for purposes of identifying a section of the Ordinance with respect to which the concept seeking interpretation can be at least started around). As previously noted, the ultimate question which the Applicant seeks interpretation of from the Board as it relates to the Ordinance, is really, whether the proposed parking contemplated in the Application is allowed (or not prohibited) at the Property. As is the case with any such request for a zoning interpretation, particularly in a case like this where, as detailed further below, there is nothing in the Ordinance that prohibits or even otherwise restricts the parking use described herein, and when the denying office has not even cited a specific section of the Ordinance to base its denial on, an applicant may attempt to highlight or focus upon, in a effort to center the discussion and analysis, a section of a zoning ordinance that would logically lend itself as starting point for interpretation and analysis of the question at issue.

As set forth above, and as expressly noted in the Planning Review Letter, the Ordinance (Section 25-12.1) does not restrict the number of hours, or times of day, parking may take place in off-street parking areas. Nor does the Ordinance in any way prohibit the type of vehicles that can be parked at a given site, or define (or even prohibit) the "storage of vehicles" both generally or as a prohibition thereunder. Thus, and as presented in Applicant's initial submission, by the very letter of the Ordinance, there is no prohibition on the parking of a small number of tenant-owned vehicles at an on-site, off-street parking lot at the same property in which the tenant rents office space (which is in and of itself a permitted use at the site). Thus, given the mechanism provided under the Municipal Land Use Law (the "MLUL") (a request for interpretation of a zoning ordinance) for the type of inquiry raised in the Application, an applicant must generally at least identify some starting point within the ordinance itself as a starting point from which to commence the analysis needed in connection with such an application. Otherwise, an application such as the instant application would just be a blanket request of a board to decide, with little context or starting point, what would otherwise in many instances be arbitrary questions relating to uses of property within its jurisdiction.

Again, the initial request that sparked the application before the Board here, was the denial (see Exhibit A attached here for reference) by the Township Zoning Official's office of the tenant's request for a certificate of occupancy, expressing, without citation to any specific section, that, under the zoning ordinance, the parking of the vehicles (which are used on a daily basis in direct connection with the tenant's business) in question was "storage" of vehicles and thus not permitted. It is well established that under the MLUL, zoning ordinances are intended to govern the uses permitted with respect to a parcel of real property (for example, in this case whether tenant parking is permitted), and not how the occupant conducting the permitted use is allowed to conduct that use. Such restriction is properly left to other ordinances, statutes or regulations to be imposed by the appropriate governing authority.

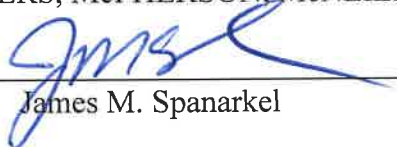
As stated above and in the Applicant's initial submission, nothing in the Ordinance (including the provisions relating to "Required Accessory Parking" or the definition of "Accessory Use") prohibits in any way the parking of any vehicles overnight (or at any time) in off-street, onsite parking lots. Even, if as posited in the Planning Review Letter, the word "required" in the term "Required Accessory Parking" is intended more to discuss the number of spots required as opposed to how those spots are used, these terms are clearly a section of the Ordinance applicable

to the Property/scenario at hand, and nothing set forth in the Planning Review Letter even remotely states that the parking at issue here is prohibited under the Ordinance. In fact, associating the word "required" with number as opposed to type of parking, further directly supports the point being made by Applicant here, in that in such an instance, there is still no prohibition whatsoever in the Ordinance on the type of vehicles that may be parked onsite at the Property, nor on the times of day or for how long they may be parked there. Thus, it is respectfully submitted that the Board's focus in connection with this application be properly framed as to encompass the totality of the question presented, as same applies to the Ordinance, and confirming, however the Board prefers to frame the question, that the parking arrangement described hereunder is allowed (either because it is exactly what is contemplated/permitted under the Ordinance, or, alternatively, because there is nothing prohibiting it).

Thus, for the reasons set forth both herein, and in the initial Application, it is respectfully submitted that the Board ought to interpret the Ordinance as permitting and/or in the alternative, not prohibiting the parking use described in the Application and herein, and issue a finding that such use is allowed under the Ordinance.

Very truly yours,

WATERS, McPHERSON, McNEILL, P.C.

By: 
James M. Spanarkel

Enclosures

Exhibit A

James Spanarkel

From: West Orange Township - Zoning Official <ZoningOfficial@westorange.org>
Sent: Tuesday, October 1, 2024 4:46 PM
To: James Spanarkel
Subject: FW: Denied-Elite Fleet Transport - 81 Northfield Avenue, Unit 103

The denial email.



Geniece Gary-Adams

Director of Planning & Development
Zoning Official
Township of West Orange
66 Main Street
West Orange, NJ 07052
Phone (973) 325-4119
Fax (973) 325-3959
zoningofficial@westorange.org
www.westorange.org



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From: Jamilet Baquerizo Vite <jvite@westorange.org>
Sent: Friday, August 16, 2024 2:12 PM
To: allrise_inc@yahoo.com
Cc: West Orange Township - Zoning Official <ZoningOfficial@westorange.org>; Diana L. Chandler <dchandler@westorange.org>; Arianna Raygada <araygada@westorange.org>
Subject: Denied-Elite Fleet Transport - 81 Northfield Avenue, Unit 103

Good afternoon,
Please be advised that the business mentioned above is **not approved**. The storage of vans and ambulances is not allowed.
If you have any questions, please feel free to contact the Zoning Official Ms. Adams at (973-325-4119;
ZoningOfficial@westorange.org)
Thank you.



Jamilet Baquerizo Vite

Keyboarding Clerk 1

Township of West Orange

66 Main Street

West Orange, NJ 07052

Office: (973) 325-4111

Office Hours: 8:30AM-4:30PM

Dept Closed Daily For Lunch: 12:00 PM – 1:00 PM

jvite@westorange.org

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