



TOWNSHIP OF WEST ORANGE

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

Department of Planning and Development

ROBERT D. PARISI
Mayor

Tel: (973) 325-4108
Fax: (973) 325-6359
Email: zoningboard@westorange.org

ROSE DESENA
Zoning Board Secretary

TO: Zoning Board Members

FROM: Paul Grygiel, AICP, PP, Planning Director

DATE: September 10, 2021

RE: **ZB-21-08 – Main West Orange LLC**
Block: 116; Lots: 51, 53, 53.01, 55; Zone: B-1 and R-T
253-255, 257, 259 Main Street
Seeking “c” and “d” variances for modifications to property with mix of uses

INTRODUCTION

The applicant is proposing to renovate an existing building and expand and renovate an existing mixed-use building to add two floors of residential use on new third and fourth floors, and to improve an existing unpaved parking lot for the residents of the development. A “d(1)” use variance is required for the portion of the property in the R-T zone and a “d(6)” variance is required for building height that exceeds the maximum permitted height by more than 10 feet and 10 percent. Certain “c” variances are also required.

LAND USE/CIRCULATION

The subject property consists of four tax lots with a combined area of 13,759 square feet (0.31 acres). The combined site has 91 feet of frontage on Main Street and 140 feet of frontage on Kling Street. It is rectangular, except for a 30 foot by 34 foot appendage in the southeastern corner. The subject property is developed with three attached buildings. A 3 ½-story hotel



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building with one apartment and a retail space is located on Lot 53, a two-story mixed-use building is located on Lot 53.01, and a three-story mixed-use building is located on Lot 51. Lot 55 is vacant and used for parking and storage. This undefined parking area is also partially located on portions of the other three lots. Site photographs taken on March 26, 2021 are included at the end of this memorandum.

The property is located on the east side of Main Street at its intersection with Kling Street. A mix of land uses are located in the surrounding area, including commercial, residential, institutional and governmental uses. Main Street is primarily developed with commercial and mixed-use buildings, while residential uses are located along side streets. The subject property abuts the side and rear yards of a residential property on Kling Street.

There are sidewalks along the site's two street frontages. These are generally in good condition. Main Street in front of the subject property is a four-lane street with two-way traffic, although the outermost lanes are available for parking. Kling Street is a two-lane, two-way street with parking on both sides. Bus service is provided on Main Street, with stops for New Jersey Transit's 21 bus on both sides of the street within a short distance of the subject property.

SUBMISSIONS

<u>ITEM</u>	<u>SIGNED BY</u>	<u>DATE/REVISION</u>
Site Plan (5 sheets)	Joseph F. Vince, PE, LS, PP	8/30/21
Architectural Plans (4 sheets)	Piero F. Gabucci, AIA	8/11/21
Planning Report	Joseph J. Staigar, PE, PP	6/14/21
Traffic and Parking Study	Joseph J. Staigar, PE, PP and Craig W Peregoy, PE	3/25/21

VARIANCES REQUIRED

<i>"d(1)" Variance</i>			
SECTION/REQUIREMENT	PERMITTED /REQUIRED	EXISTING	PROPOSED
25-7.1 Permitted uses in R-T zone	One- and two-family dwellings and other uses	Hotel/mixed-use development	Mixed-use development
<i>"d(6)" Variance</i>			
SECTION/REQUIREMENT	PERMITTED /REQUIRED	EXISTING	PROPOSED
25-7.1 Maximum building height	35 feet	50.31 feet	50.46 feet



"c" Variances			
SECTION/REQUIREMENT	PERMITTED /REQUIRED	EXISTING	PROPOSED
25-7.1 Maximum building height	2 ½ stories	3 ½ stories	4 stories
25-7.1 Maximum lot coverage	75%	100%	93.3%
25-8.1 Minimum parking area setback from property line	5 ft.	0 ft.	0.7 ft.
25-8.4 b. Solid fence location	Rear yard and side yard behind rear building line	None	Rear yard and side yard
25-12.1 a. Minimum distance between parking area and building	5 ft. with sidewalk	0 ft., no sidewalk	0 ft., no sidewalk
25-12.1 b. Minimum distance from parking lot curbing to fence	5 ft.	0 ft.	0.7 ft.
25-12.1 l. Minimum parking setback from side property line	10 ft.	0 ft.	0.7 ft.
25-12.2 a.1. and b.1. Minimum number of parking spaces	32	Not delineated	13

As discussed below, due to recent amendments to the Land Use Regulations Ordinance, the required number of parking spaces is lower than indicated on the site plan.

PROPOSED DEVELOPMENT

The applicant is seeking preliminary and final major site plan approval and variances to renovate and expand existing buildings and improvements on the subject property. In particular, the proposal includes constructing additions to two of the existing buildings and converting the hotel building to residential use. Eleven apartments (five one-bedroom and six two-bedroom) are proposed on the second through fourth floors of the renovated and expanded buildings on Lots 53 and 53.01. Retail (865 square feet) and office (869 square feet) space is proposed in these buildings. The buildings on Lots 53 and 53.01 are proposed to be accessible through the addition of a ramp from the parking lot in the rear and an elevator.

The existing three-story building on Lot 51 with 1,500 square feet of retail space and four three-bedroom apartments on the upper floors will remain. The basement of the building on Lot 53 will be utilized for storage. An existing Bilco door providing direct access to the parking area will be removed and all access to this level will be through the interior of the building.



The existing parking area is proposed to be paved, striped and curbed. Thirteen parking spaces are proposed, including one handicap space. A 24-foot wide two-way circulation aisle is proposed. The existing driveway on Kling Street will continue to provide access to the parking area. Three wall-mounted lights and one pole-mounted light are proposed for the parking lot. A five-foot high PVC fence is proposed on the side lot line. A trash enclosure is proposed along the eastern property line in the southeast corner of the parking lot. A landscaped area is proposed in the appendage in the southeastern corner of the site, with two red maple trees and six juniper shrubs proposed in this area.

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.

However, a portion of the subject property is located in the R-T zone in which a mixed-use development is not permitted. Although this section of the property does not contain any buildings, accessory uses to the mixed-use development including parking and a trash enclosure are proposed on that portion of the site, meaning a “d(1)” use variance is required. 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, as the proposed building height exceeds the maximum permitted by more than 10 feet and 10 percent, a “d(6)” height variance is required pursuant to the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70d(6). An applicant for a “(d)6” variance must provide special reasons to show that the site will accommodate the problems associated with a height greater than permitted by the ordinance or be consistent with the purpose of the height regulations, per Grasso v. Spring Lake Heights, 375 N.J. Super. 41 (App. Div. 2004).

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.



The applicant's planner must also address the "negative criteria" for all of the above variances, and affirmatively demonstrate that the variances 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.

Site Plan/Other Issues

The Township of West Orange Site Plan Review Advisory Board (SPRAB) held a virtual meeting on July 13, 2021. At this meeting, the SPRAB reviewed the above application with the applicant and its attorney, engineer and architect. The applicant's attorney submitted a letter dated September 8, 2021 and supporting documents which address the site plan and design issues discussed at this meeting. One issue that may require additional discussion at the Zoning Board hearing on the application is whether fencing may be appropriate to regulate use of the landscaped area in the rear of the property, and whether any additional landscaping should be provided in this area.

The site plan indicates a total of 48 parking spaces are required: 32 per residential requirements and 16 per nonresidential requirements. However, Township Ordinance 2617-20 adopted in September 2020 amended various sections of the West Orange Land Use Regulations Ordinance. The off-street parking requirements were modified to implement recommendations in the Township's 2019 Master Plan Update. In particular, Section 25-12.2 b.5. provides an exemption from providing off-street parking for the first 1,000 square feet of gross floor area of an individual use for all permitted nonresidential uses other than restaurants and bars in the portions of the B-1 and B-2 Zones in the Central Business District. This section also requires provision of one space per 300 square feet of gross floor area above the first 1,000 square feet. Therefore, the requirement for the proposed development is 32 spaces for the residential units, as the commercial spaces are all exempt.

A new electric vehicle supply equipment law that became effective on July 9, 2021 (NJ S3223, 2020-2021) requires the installation of Make-Ready¹ parking spaces or electric vehicle supply equipment (EVSE) onsite as a condition of preliminary site plan approval for certain applications. For an application involving a multiple dwelling with five or more units (including a mixed use development), the developer is required to prepare as Make-Ready parking spaces at least 15 percent of the required off-street parking spaces, and install electric vehicle supply equipment in at least one-third of the 15 percent of Make-Ready parking spaces. As the required parking for the

¹ "Make-Ready" means the pre-wiring of electrical infrastructure at a parking space, or set of parking spaces, to facilitate easy and cost-efficient future installation of Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment, including, but not limited to, Level Two EVSE and direct current fast chargers. Make Ready includes expenses related to service panels, junction boxes, conduit, wiring, and other components necessary to make a particular location able to accommodate Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment on a "plug and play" basis. "Make-Ready" is synonymous with the term "charger ready," as used in P.L.2019, c.362 (C.48:25-1 et al.).



residential component of the development is 32 spaces, the applicant is required to install at least five Make-Ready parking spaces, including two spaces with EVSE, as a condition of preliminary site plan approval. In addition, at least five percent of the EVSE should be accessible to people with disabilities (Section 3.b.(1)(b) and Section 3.b.(2)). The applicant should provide testimony regarding the location and accessibility of the required Make-Ready parking spaces and/or EVSE on the site.





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