

APPLICATION FOR BOARD ACTION
DCP FORM #00, PAGE 1 of 5
(Revised March 14, 1988)

Planning Board _____
Zoning Board X

Application # _____
Date Filed _____
Received by _____
Hearing Date _____
Final Hearing _____

APPLICATION FOR BOARD HEARING

=====

APPLICATION IS HEREBY MADE FOR:

1. _____ Appeal of Administrative Action Pursuant to Section C.40:55-70a (Attach Form #01)
2. _____ Appeal for Interpretation Pursuant to Section C.40:55D-70b (Attach Form #02)
3. X Application for Hearing (Attach Form #00)
4. _____ Relief from Zoning Requirements Pursuant to Section C.40:55D-70c (Attach Form #03)
5. _____ Use Variance Pursuant to Section C.40:55D-70d (Attach Form #04)
6. _____ Conditional Use Authorization Pursuant to Section C.40:55D-67 (Attach Form #05)
7. _____ Approval of Submission (Attach Form #06)
8. _____ Final Approval of Major Subdivision (Attach Form #07)
9. X Preliminary Approval of Site Plan (Attach form #08) * **Amended**
10. X Final Approval of Site Plan (Attach form #09) * **Amended**
11. _____ Direction to Issue of Building Permit Pursuant to Section 602 or 604 of the Elizabeth Development Control Ordinance
12. _____ Hearing Application Checklist (Attach Form #18)

NOTE: IF AN APPLICATION FOR DEVELOPMENT HAS BEEN SUBMITTED FOR THIS PROPERTY WITHIN THE LAST TEN YEARS, PLEASE PROVIDE THE FOLLOWING INFORMATION:

DATE OF APPLICATION
3.25.19 (Z-03-19)

TYPE OF DEVELOPMENT
Multi-family

APPLICATION FOR BOARD ACTION
DCP FORM #00, PAGE 2 of 5
(Revised March 14, 1988)

Planning Board _____
Zoning Board X

Application # _____
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APPLICATION FOR BOARD HEARING (con't)

=====

PROJECT'S GENERAL INFORMATION

PROPERTY:

Address **1023-1043 Neck Lane**
Owner(s) **J.P. Gifford LLC**
Address(es) **c/o JP Management LLC, 190 Main Street, Suite 201, Hackensack, NJ 07601**

Date of Purchase April 11, 2007 Property Tax Account # - **8-1302**

APPLICANT:

Name **JP Management LLC**
Address **190 Main Street, Suite 201, Hackensack, NJ 07601**
Contact Person **Mike DeTora**
Telephone **(201) 342-7395**

PROPOSED OWNERSHIP STATUS*:

Proprietorship _____ Partnership _____ Corporation _____
Lessee _____ Contingent Purchaser _____
Other _____ (Explain) limited liability company

PROJECT'S ATTORNEY:

Name **Joseph Paparo, Esq.** Telephone **(973) 889-4042**
Firm **Porzio, Bromberg & Newman, PC.**
Address **100 Southgate Parkway, PO Box 1997, Morristown, NJ 07962**

PROJECT'S ARCHITECT:

Name **N/A** Telephone _____
Firm _____
Address _____

New Jersey License # _____

PROJECT'S ENGINEER:

Name **Matthew Seckler, P.E.** Telephone **(201) 340-4472**
Firm **Stonefield Engineering & Design**
Address **92 Park Avenue, Rutherford, NJ 07070**
New Jersey License # **48731**

PROJECT'S LAND SURVEYOR:

Name **David Aguanno, P.L.S.** Telephone **(973) 647-8664**
Firm **Solstice Surveying**
Address **113 Upper Sunset Drive, Long Valley, NJ 07950**
New Jersey License # **24GS04330500**

* Note: If the applicant is not the proprietor, then the applicant is required to submit a letter signed by the property owner, authorizing the filling and processing of this application (attach Form #13). Corporations and partnerships must attach Form #14. CORPORATIONS MUST BE REPRESENTED BY AN ATTORNEY.

APPLICATION FOR BOARD ACTION Planning Board _____
 DCP FORM #00, PAGE 3 of 5
 (Revised March 14, 1988) Zoning Board X

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APPLICATION FOR BOARD HEARING (con't)

PHYSICAL DEVELOPMENT INTENT

Property Description

Address **1023-1043 Neck Lane**
 Owner(s) **J.P. Gifford LLC**

Property Tax Account # - **8-1302**
 Lot Area **91,467 sf.**

Zoning - **R-3**
 Tract Area sq. ft. **91,467 sf.**

<u>FRONTAGE:</u>	STREET	LINEAR FEET
	<u>Neck Lane</u>	<u>405.3</u>
	_____	_____
	_____	_____
	_____	_____

STRUCTURES:

<u>INTENT*</u>	<u>STORIES</u>	<u>CONSTRUCTION TYPE</u>	<u>USE** TYPE</u>	<u>FLOOR AREA (Sq. Ft.)</u>	<u>EFF. UNITS</u>	<u># OF BR / UNIT</u>		
						<u>1</u>	<u>2</u>	<u>3</u>
B	N/A	Masonry wall	R	N/A				
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____

*Note: Definition of Intent

- A: Addition to Existing
- B: New Construction
- C: Existing to Remain
- D: To Be Demolished

**Note: Definition of Use Type

- R: Residential
- C: Commercial
- W: Warehousing
- M: Manufacturing
- A: Accessory
- I: Institutional
- O: Office

BUILDING LOTS (Please complete if property is to be subdivided): **N/A**

LOT AREA (Sq. Ft.)

LOT FRONTAGE (Sq. Ft.)

APPLICATION FOR BOARD HEARING (con't)

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CERTIFICATION FOR EXEMPTION FROM SITE PLAN APPROVAL (Please complete for projects other than one or two family residence):

- | | <u>YES</u> | <u>NO</u> | |
|----|------------|------------|--|
| 1. | _____ | <u> X </u> | Will the development require conditional use authorization? |
| 2. | _____ | <u> X </u> | Will the project involve a use requiring screening? |
| 3. | _____ | <u> X </u> | Does the lot width exceed 80 feet and will there be a change of use from one Schedule II Category to another? |
| 4. | <u> X </u> | _____ | Will the building construction or reconstruction cover more than 300 square feet? |
| 5. | <u> X </u> | _____ | Will the lot have 5 or more parking stalls and will stalls, aisles or driveways be established, altered or eliminated? |
| 6. | <u> X </u> | _____ | Will the development involve the removal of soil exceeding 1 foot in depth? |
| 7. | <u> X </u> | _____ | Will 5,000 square feet or more of residential open space be provided? |

Note: A Yes response to one or more of the above questions indicates the need for a site plan review or, a certification from the City Engineer, City Planner and Zoning Administrator that improvements meet the criteria for exemption from site plan hearing requirements.

APPLICATION FOR BOARD HEARING (con't)

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Present Use Category: G
Principal Use(s): Multi-family
Major Accessory Use(s): _____

Proposed Use Category: G
Principal Use(s) Multi-family
Major Accessory Use(s) _____
USE: _____

Describe the PRESENT USE of the property including both indoor and outdoor activities:
New 4-story multi-family building (120 units) currently under construction

Describe the PROPOSED USE of the property including both indoor and outdoor activities:
No change. Amended site plan approval requested to relocate previously approved masonry wall due to location of existing gas line.

REQUIRED ATTACHMENTS:

- | | <u>YES</u> | <u>NO</u> | |
|----|------------|------------|---|
| 1. | _____ | <u> X </u> | Is a new public street right-of-way proposed? If yes, please attach description. |
| 2. | _____ | <u> X </u> | Are off-tract facilities proposed? If yes, please attach description. |
| 3. | <u> X </u> | _____ | Are there any deed restrictions which affect the subject property in effect or contemplated? If yes, please attach description. |
| 4. | _____ | <u> X </u> | Is the subject property located in "A" Flood Hazard Area? If yes, please attach copy of necessary permit or waiver. |
| 5. | _____ | <u> X </u> | Is the subject property within 500 feet of a tidal water body? If yes, please attach a copy of the necessary permit or waiver. |

I hereby depose and say that all the statements contained in these papers submitted herewith are true and correct. I also authorize City Officials and Board members to have physical access to the property and any structures on the property as necessary for the purpose of gathering information relevant to this application.

Randy Blomberg
NOTARY PUBLIC
DATE: 4/9/21
Randy Blomberg
A Notary Public of New Jersey
My Commission Expires: 10/16/2021
STAMP OF NOTARY PUBLIC

JP MANAGEMENT LLC
[Signature]
APPLICANT'S SIGNATURE
DATE: 4/9/21

3. DEED RESTRICTIONS AFFECTING SUBJECT PROPERTY
IN EFFECT OR CONTEMPLATED

- * Proposed 10-foot wide utility easement for existing gas main line

DO NOT WRITE ABOVE LINE

Application is hereby made for approval of the proposed Site Plan for the land herein described.

1. Plan Description	Prepared By	Date	For Official Use Only
Amended Site Plan	Stonefield Engineering & Design	April 26, 2021	

2. Notification Information

Does the proposed development provide or is it required to provide five (5) or more parking spaces and located adjacent to an existing or proposed county road? If yes, County Planning Board shall be notified of hearing by the applicant and a copy of the site plan shall be submitted to the County Planning Board by the local Board.

Yes No
 _____ X

3. Public Hearing Notification Information – If Public Hearing has been waived omit this Section.

Notice shall be given by the applicant at least ten (10) days prior to the date of the hearing to the following parties where applicable. Notice shall be by personal service or certified mail. An affidavit of proof of service demonstrating compliance with this requirement shall be filed with the city agency holding the hearing at least two (2) days prior to the date of the hearing.

- a) Is the subject property within two hundred feet (200') of any municipal boundary? If yes, City Clerk of adjacent municipality and County Planning Board shall be notified of hearing by applicant.
- b) Is the subject property adjacent to a state highway? If yes, applicant shall notify the Commissioner of Transportation of the hearing. (Form #15)

_____ X
 _____ X

THE APPLICANT SHALL NOTIFY ALL PROPERTY OWNERS LOCATED IN THE STATE AND WITHIN TWO HUNDRED FEET (200') IN ALL DIRECTIONS OF PROPERTY IN QUESTION.

4. Disclosure Information

Is applicant and/or owner a corporation or partnership and does the subdivision involve six (6) or more lots? If yes, submit disclosure of all stockholders holding 10% or more stock or partners with 10% or greater interest in the partnership pursuant to N.J.S.A. 40:55D-48.1 et. seq. (Form #14) N/A

DO NOT WRITE ABOVE LINE

Application is hereby made for final approval of the proposed site plan for the land hereinafter more particularly described.

1. Date of preliminary approval: 3.9.2019 . Date of any extensions granted (attach documentation): N/A . Preliminary site plan approval pursuant to N.J.S.A. 40:55D-49, expire three years from the date of preliminary approval. The applicant may apply to the reviewing Board for extensions for additional periods of at least one (1) year but not to exceed a total extension of two (2) years.

	<u>Contact Persons</u>	<u>Phone</u>
2. a. Drainage Plan	Matthew Seckler, P.E.	201-340-4468
b. Paving Plan	Matthew Seckler, P.E.	201-340-4468
c. Utility Plan	Matthew Seckler, P.E.	201-340-4468
d. Landscaping Plan	Matthew Seckler, P.E.	201-340-4468
e. Sign Plan	N/A	N/A
f. Lighting Plan	Matthew Seckler, P.E.	201-340-4468
g. Elevation Drawing	N/A	N/A

3. Does the final plan follow exactly the plan granted preliminary approval in regard to development plans, area covered, and other details (Yes or No) * . If not, indicate material changes (attach copy if necessary). * **Applicant seeking Amended Site Plan approval**
4. Have all conditions of preliminary approval been met? (Yes or No) Yes* . Attach evidence of compliance if not included on plans. If conditions have not been met, specify reasons.
* **Applicant seeking Amended Site Plan approval**
5. Person to whom final approved plan is to be issued:

Name: **Joseph Paparo, Esq.**
Address: **Porzio, Bromberg & Newman, P.C.**
100 Southgate Pkwy, Morristown, NJ 07962
Phone: **(973) 889-4042**

Check one:

- X Applicant will pick up
_____ Documents should be mailed

DISCLOSURE AFFIDAVIT

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PURSUANT TO THE REQUIREMENTS OF NEW JERSEY STATUTE 40:55D-48.1 ET.SEQ., I,
 (NAME & TITLE) John Pjeternikaj, Manager HEREBY
 CERTIFY THAT THE FOLLOWING IS TRUE AND COMPLETE LIST OF THE NAMES AND
 ADDRESSES OF ALL INDIVIDUALS WHO OWN TEN PERCENT (10%) OR MORE STOCK
 OR OTHER INTEREST IN (NAME OF CORPORATION/PARTNERSHIP) J.P. Gifford, LLC
 _____ WHICH IS A NEW JERSEY LIMITED COMPANY
 WITH OWNERSHIP INTERESTS IN THE PROPERTY LOCATED AT 1023-1043 Neck Lane
 _____ FOR WHICH AN APPLICATION HAS BEEN FILED WITH THE CITY OF
 ELIZABETH PLANNING BOARD _____ /ZONING BOARD OF ADJUSTMENT X .
 I FULLY UNDERSTAND THAT FAILURE TO DISCLOSE ANY AND/OR ALL OWNERSHIP
 PARTIES WITH TEN PERCENT (10%) OR MORE INTEREST IN THE
 CORPORATION/PARTNERSHIP OR DELIBERATELY MISREPRESENTING ANY FACTS
 THEREON IS SUFFICIENT GROUNDS FOR DISAPPROVAL OF THE APPLICATION BY THE
 BOARD AND CAN RESULT IN A FINE AS PROVIDED FOR BY STATUTE.

	NAME	ADDRESS	% OF STOCK OR OTHER OWNERSHIP INTEREST
1.	<u> JDMJ Realty Holdings LLC </u>	<u> c/o JP Management LLC </u>	<u> 100% </u>
2.	_____	<u> 190 Main St. </u>	_____
3.	_____	<u> Hackensack, NJ 07601 </u>	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____

NOTE: If Additional Space is Required, Please Attach Separate Sheet.

Randy Blomberg
 NOTARY PUBLIC
 DATE 4/9/21
 RANDY BLOMBERG
 A Notary Public of New Jersey
 My Commission Expires: 10/18/2021
 SEAL OF NOTARY PUBLIC

J.P. MANAGEMENT LLC
 [Signature]
 APPLICANT'S SIGNATURE
 DATE 4/9/21

OWNER'S CONSENT FORM

I, John Pjeternikaj AM THE OWNER OF THE PREMISES KNOWN AS 1023-1043 Neck Lane

, TAX ACCOUNT NUMBER 8-1302 FOR WHICH AN APPLICATION OF

DEVELOPMENT HAS BEEN SUBMITTED BY J.P. Management LLC

OWNER _____ / LESSEE _____ / CONTINGENT PURCHASER _____ / OTHER X

(EXPLAIN) affiliated entity

WHICH INVOLVES Relocating wall due to location of existing gas line in connection with previously

approved 4-story, 120-unit multi-family building currently under construction.

AND REQUIRES THE GRANTING OF amended site plan approval

I HEREBY CERTIFY THAT I HAVE READ THE APPLICATION AND GRANT PERMISSION TO THE APPLICANT TO PROCEED BEFORE THE PROPER BOARD. I FURTHER CERTIFY THAT I AM AWARE THAT THE ENTIRE PROPERTY IS SUBJECT TO THE ACTIONS OF THE REVIEWING BOARD WHICH MAY AFFECT THE PROPERTY RIGHTS OF MYSELF OR MY SUCCESSORS, AND THAT, AS THE OWNER OF SAID PROPERTY, I AM ULTIMATELY RESPONSIBLE FOR COMPLYING WITH ANY AND ALL CONDITIONS IMPOSED BY THE REVIEWING BOARD. I FURTHER CERTIFY THAT I AM AWARE THAT INFORMATION REGARDING THE APPLICATION AND ANY PROSPECTIVE CONDITIONS OF APPROVAL WILL BE AVAILABLE FOR PUBLIC INSPECTION FOR TEN (10) DAYS PRIOR TO THE HEARING AND THAT THE ACTUAL DECISION CONTAINING THE CONDITIONS IMPOSED WILL BE AVAILABLE FOR PUBLIC INSPECTION NOT LATER THAN TEN (10) DAYS AFTER SAID HEARING. INFORMATION IS AVAILABLE DURING NORMAL BUSINESS HOURS AT THE OFFICE OF THE DIVISION OF ZONING AND LAND USE CONTROL, 50 WINFIELD SCOTT PLAZA, ELIZABETH, NEW JERSEY 07201.

Ronny Blomberg
NOTARY PUBLIC
DATE 10/9/20
A Notary Public of New Jersey
My Commission Expires: 10/18/2021

STAMP OF NOTARY PUBLIC

J.P. GIFFORD LLC
OWNER'S SIGNATURE
DATE 10/9/20

APPLICANT: JP MANAGEMENT LLC

STATEMENT OF PRINCIPAL POINTS

The within Application involves a request for amended site plan approval in connection with the property located at 1023-1043 Neck Lane, Block 8, Lot 1302 on the Tax Map of the City of Elizabeth. The property in question was the subject of a site plan and variance application for a new, 4-story multi-family building consisting of 120 units with both onsite and offsite improvements associated with the project. The application was approved by the Zoning Board on April 11, 2019 and the approval was memorialized in a resolution adopted by the Board on May 9, 2019 (attached). The project is currently under construction and an issue has arisen during the course of construction that will require an amendment to the previously approved site plan.

As depicted on the amended site plan, the previously approved six foot high privacy wall between the parking area and neighboring properties will be shifted closer to the property boundary line in order to avoid any conflicts with an existing gas main. The height and design of the wall will not change from the original approval, only the location. An associated 10 foot easement area over the gas line is proposed on site to ensure appropriate access to that utility.

No new variances or design waivers are required as part of this amended site plan approval request.

RESOLUTION
City of Elizabeth
Zoning Board of Adjustment
In the Matter of JP Management, LLC
Application No. Z-03-19
Decided on April 11, 2019
Memorialized on May 9, 2019
Height Variance, Bulk Variances, Design Waivers and
Preliminary and Final Site Plan Approval

WHEREAS, JP Management, LLC (hereinafter the “applicant”) has made an application to the City of Elizabeth Zoning Board of Adjustment for variances to demolish 15 two-story multi-family buildings and construct a 4-story multi-family building containing a total of 120 units and parking for 216 cars on property located at 1023-1043 Neck Lane, also known as Tax Account Number 8-1302;

WHEREAS, a public hearing was conducted on April 11, 2019;

WHEREAS, the applicant was represented by Joseph Paparo, Esq.;

WHEREAS, in support of the application the applicant presented the testimony of Sonja Ommundsen, a professional engineer whose expertise and credentials were accepted by the Board; Barry Poskanzer, a professional architect whose experience and expertise were accepted by the Board and Matthew Seckler, a professional engineer and planner who testified with respect to traffic impacts and satisfaction of the applicable planning criteria, whose experience and expertise were accepted by the Board;

WHEREAS, in support of the application the applicant submitted the following exhibits:

A-1, Aerial Exhibit dated April 11, 2019;

A-2, A colorized site plan C-4 with landscaping added;

A-3, A colorized roof plan and other drawings from the site plan package, sheet numbers SK00-07;

A-4, Samples of façade materials; and

WHEREAS, members of the public offered comments on the application, focused primarily on drainage, sanitary sewer flow and traffic issues, including comments by Caesar Amora, Rui Viveiros, and Joao Viveiros.

NOW THEREFORE, the Zoning Board of Adjustment makes the following findings of fact, based upon evidence presented at its public hearing, at which a record was made. The applicant proposes to demolish 15 two-story multi-family buildings with a total of 68 two-bedroom units currently located on the property and to construct a four-story multi-family building containing a total of 120-units. The property is located in the R-3 Multi Family Residential Zone, where the proposed use is a permitted use. The applicant requests the following variances:

1. A height variance because a maximum height of three (3) stories and 38 feet is permitted in R-3 Zone whereas the applicant proposes a building with a height of four (4) stories and 47 feet;
2. A variance from Section 17.36.110.A.4, which provides for a minimum front yard setback of 35 feet, whereas the applicant proposes a setback of 13.4 feet;
3. A variance from Section 17.36.110.A.6, which provides for a minimum rear yard setback of 35% of lot depth, or 93.1 feet here, whereas the applicant proposes a setback of 6.8 feet;
4. A variance from Section 17.36.110.D, which provides for a minimum open space of 200 square feet per unit or 24,000 square feet here, whereas the applicant proposes open space of 23,278 square feet;
5. A variance from Section 17.36.110.F, which provides for maximum impervious coverage of 60%, whereas the applicant proposes coverage of 86.2%;

6. A variance from Section 17.36.40 and the Residential Site Improvement Standards, which, in this instance would require 220 parking spaces, whereas the applicant proposes 216 spaces; and

7. A variance from Section 17.36.140.E.4, which provides that the parking areas must include landscaped areas totaling 20% of the paved parking and driveway area, whereas the landscaped area in the parking area of this project will equal 0.02% of the paved parking and driveway area.

The applicant also requests the following design waivers:

1. Waiver from Section 17.40.040.A.2, which requires a clearance distance of 18 inches around columns in the parking area, whereas zero inches of clearance is proposed;

2. Waiver from Section 17.32.060.A.1, which requires a minimum parking stall depth of 19 feet, whereas the applicant proposes a depth of 18 feet; and

3. Waiver from Section 17.32.060.A.2, which requires a minimum parking stall width of 9.5 feet, whereas the applicant proposes a width of 9 feet.

The applicant proposes a four-story building with 120-units. The ground level will include parking with lobby space and mechanicals. The second floor will include nine (9) studio apartments, 24 one-bedroom units, seven (7) two-bedroom units, and amenities and common space. The third (3) floor will include eight (8) studio apartments, 28 one-bedroom units and seven (7) two-bedroom units. The fourth floor will include eight (8) studio apartments, 22 one-bedroom units and seven (7) two-bedroom units. The applicant is stepping back the fourth floor from the side yard facing Carolynn Road to provide for greater setback at that height. Façade materials will include cement fiberboard colored off-gray and slate blue and brick blended color toward the bottom of the façade. The building will comply with all fire code requirements.

The existing Coakley Circle will be vacated, and access will be provided by way of a two-way driveway and a one-way driveway from Neck Lane. Coakley Circle is currently a public road that is maintained by the City. Vacating that road will avoid the need for City commitment to its maintenance, given that it only serves the residents of the property. There will also be a 20-foot-wide fire lane along the easterly property line for fire truck access to the eastern side of the building. There will be separate access into the adjacent Coakley Circle Park by way of a new 32-foot-wide driveway.

Off-tract improvements associated with the project include the re-alignment of Neck Lane, Van Buren Avenue and Alina Street, a new 9-space parking lot for the park, the new 32-foot-wide driveway for the park, and park improvements to be developed in coordination with the City Recreation Department.

Residents of the site will have access to secured parking that they will access using a keypad. Visitors will be able to park in spaces that will be accessed without needing to enter the secured area. 216 parking spaces are being provided, with 206 on the site and 10 on Neck Lane.

To limit the impact of the new structure on the single-family homes located on Carolynn Road, the building has been located primarily on the southern side of the site and pulled away from the property line facing those single-family residences. The building is located closer to the hotel to the east and the park to the south. Therefore, the setbacks to the single-family residential uses are increasing from the existing condition. A six-foot-high brick knee wall along the perimeter of the site will provide screening and an 8-foot evergreen buffer will be placed on the boundary of the site facing the residential properties and along the hotel properties. Foundation plantings and street trees will be planted. The existing condition, to the extent there is green area, consists primary of lawn space, so the applicant is improving that by adding the landscaping.

The applicant is complying with all relevant stormwater management regulations. The applicant is adding an underground detention basin, whereas the current site has no stormwater management facilities except for inlets on Coakley Circle. Therefore, the stormwater management improvements proposed by the applicant will reduce rate and volume of runoff.

All lighting will be shielded to avoid any spillover onto adjacent properties.

The applicant proposes a building sign which will simply identify the proposed use and will be in compliance with the Ordinance.

The applicant is proposing to construct the building 47 feet high, in excess of what is permitted by the Ordinance. However, that height increase is being mitigated by increasing the setback on the side facing the single-family residences to 43 feet, whereas only 15.5 feet is required. The applicant conducted a shadowing study which showed that, even in the worst-case scenario, there would be less shadow on the single-family residences than if the applicant had constructed the building as close to the property line as allowed by Ordinance.

In terms of traffic impact, the applicant's evidence indicates that the proposed building will generate 40 to 55 trips in the peak hour and that the existing condition already generates 35 trips in the peak hour, despite the fact that the number of units is increasing from the existing 68 units to 120 units. The reason for this conclusion is that although the number of units is increasing dramatically the number of bedrooms is not. The existing condition includes 136 bedrooms whereas 141 bedrooms are proposed.

The proposed circulation plan, including the realignment of the adjacent intersection will improve access and safety. The applicant addressed the potential for queuing from the security point back onto the road network by demonstrating that there is a 40-60 foot setback at that point,

so that two to three cars can be stacked there before there would be any backup onto the streets, an unlikely scenario.

NOW THEREFORE, the Zoning Board of Adjustment makes the following conclusions of law, based upon the findings of fact.

Based upon the application, plans, reports and testimony placed before the Board, the Board finds that the Applicant has met the requirements of the Municipal Land Use Law, case law and City ordinances so as to grant the relief requested.

More specifically, under the Municipal Land Use Law, a Zoning Board of Adjustment, when considering a (d)(6) height variance, the applicant's burden of proof is different than the burden imposed for a (d)(1) use variance. The applicant still must establish special reasons for granting the relief, by demonstrating that the increased height of the building does not offend the purpose of the height restriction.

The applicant must and here has demonstrated that the property can support the additional height without substantial impact on neighboring properties or harm to the purpose or intent of the zone plan. The project has been designed to limit the setback impact to the single-family residences and there is no impact of the proposed facility on the park or hotel on the other side of the property. The applicant is providing a setback to the residential neighborhood that is twice what is required, and it has designed the building in U-shape to avoid shadow impact.

These design elements satisfy the positive criteria for the height variance. The applicant is improving the circulation patterns and improving the visual environment by replacing an aging complex with a quality new building. The applicant is also increasing buffering and screening to neighboring properties and providing better fire access and additional parking.

The applicant also must satisfy the negative criteria; that is, that the relief can be granted without substantial detriment to the public good and without significant impairment of the intent and purpose of the zoning plan or Ordinance.

The applicant has demonstrated that granting the height relief will not cause a substantial detriment to the public good in light of its evidence that locating the building as proposed will not cause a substantial detriment to the single-family residences. The applicant has also shown that there will be no substantial impact on the intent or purpose of the zone plan. In fact it will be revitalizing the improving area with a permitted use.

With respect to the bulk variances, the Municipal Land Use Law, at N.J.S.A. 40:55D-70(c) provides Boards with the power to grant variances from bulk and other non-use related Ordinance requirements when the Applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the Applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An Applicant may show that exceptional topographic conditions; physical features, or other extraordinary circumstances exist which uniquely affect the specific piece of property and limit its development potential in conformance with Ordinance requirements, such that the strict application of a regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Alternatively, under the (c)(2) criteria, the Applicant has the option of showing that in a particular instance relating to a specific piece of property, the purposes of the Act would be advanced by allowing a deviation from the Zoning Ordinance requirements and that the benefits of any deviation will substantially outweigh any detriment. These tests specifically enumerated above constitute the affirmative proofs necessary in order to obtain "bulk" or (c) variance relief. Finally, an Applicant for these variances must also

show that the proposed relief sought will not cause a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. The burden of proof is upon the Applicant to establish that these criteria have been met.

With respect to the setback variances requested, the overall setback conditions are being significantly improved in the area where they are most important - where the property is bordered by single family residential uses. There will be no detrimental impact from the setbacks proposed. The variance related to the minimum open space is relatively minor and is mitigated by the presence of the park on the adjacent lot. The impervious coverage variance is being mitigated by providing stormwater detention where no stormwater management exists today. The parking variances only relate to four spaces, a minor deviation, and the evidence demonstrates that there will be significantly greater parking and the number of bedrooms is only increasing by five. The variance related to the amount of landscaping in the parking area can be justified by the increased landscaping being provided elsewhere on the site and the improvements to the adjacent park.

With respect to the design waivers, the waiver related to the column clearance is justified by the fact that the columns are located at the rear of the spaces, so there is no risk of damage to car doors when they open. The design waivers with respect to the size of the stalls can be granted because these are residential spaces, with relatively low turnover.

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of Adjustment of the City of Elizabeth that the application of JP Management, LLC for property located at 1023-1043 Neck Lane, in the R-3 Multi Family Residential Zone, is determined as follows:

1. The height variance is granted pursuant to N.J.S.A. 40:55D-70(d)(6).
2. The bulk variances are approved pursuant to N.J.S.A. 40:55D-70(c).
3. The design waivers proposed are approved.

4. Preliminary and final site plan approval is granted pursuant to N.J.S.A. 40:55D-46 and 50.

IT IS FURTHER RESOLVED that the above approval is subject to the following terms and conditions:

1. The development of this parcel shall be implemented in accordance with the plans submitted and approved.

2. This approval is granted strictly in accordance with the plans prepared by Stonefield Engineering and Design, entitled "Preliminary and Final Major Site Plans for JP Management, LLC, Proposed Four-Story Residential Building, Block 8, Lot 1302, 1023-1043 Neck Lane, City of Elizabeth, Union County, New Jersey," last revised March 25, 2019, consisting of 14 sheets; and architectural plans prepared by Poskanzer Skott Architects entitled "JP-Neck Lane, Elizabeth, NJ," dated February 20, 2018, consisting of 7 sheets.

3. The applicant shall comply with all requirements of the Harbor Consultants Report of April 4, 2019, except as specifically modified at the public hearing.

4. Payment of all fees, costs and escrow due or to become due. Any monies are to be paid within 20 days of said request by the Board Secretary.

5. Certification of taxes have been paid to the date of approval, if required.

6. Union County Planning Board approval, if required.

7. Somerset – Union County Soil Conservation District approval, if required.

8. Municipal Board of Health approval, if required.

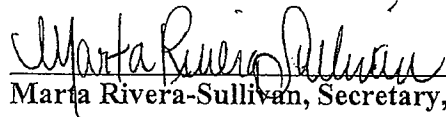
9. NJDEP sewer extension and any other permits required by the NJDEP pursuant to their authority, if required.

10. Prior to the issuance of any construction permit, the Applicant shall file with the Board and Construction Official, an affidavit verifying that the Applicant is in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the application and supply a copy of any approvals received.

11. Subject to all other applicable rules, regulations, ordinances and statutes of the City of Elizabeth, County of Union, State of New Jersey or any other jurisdiction.

12. The applicant will conduct a sanitary sewer flow study that will be reviewed and approved by the City engineer to determine that there is adequate capacity for the flow generated by the project and to determine whether a Treatment Works Approval is required from the New Jersey Department of Environmental Protection.

The undersigned secretary certifies the within decision was adopted by this Board on April 11, 2019 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on May 9, 2019.


Marta Rivera-Sullivan, Secretary, ZBA

FOR:
AGAINST: 0

Board Member(s) Eligible to Vote:

 E. Cano, x T. Concalves, x J. Donahue, x F. Horta, x J. Nunes
 x Sosa, x Falcone, x Castro