

**RESOLUTION OF THE PLANNING BOARD OF THE CITY OF JERSEY CITY**

**APPLICANT: STORMS 99, LLC**

**FOR: PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL  
WITH "C" VARIANCES  
99 STORMS AVENUE AND 253 MONTICELLO AVENUE  
BLOCK 15003, LOTS 18 & 19  
JERSEY CITY, NEW JERSEY**

**CASE NO.: P19-057**

**WHEREAS**, the Applicant, **STORMS 99, LLC (the "Applicant")**, per **Connell Foley, LLC**, (Charles J. Harrington, III, Esq., appearing) made application to the Planning Board of the City of Jersey City, County of Hudson and State of New Jersey for Preliminary and Final Major Site Plan with variances pursuant to N.J.S.A 40:55D-70(c) (maximum amount of stories; minimum rear yard setback; minimum on-site parking spaces; maximum signage area of primary façade; maximum signage area of secondary façade; and maximum number of signs on secondary facade), to wit: Calendar No. P19-057, for the purpose to construct a six (6) story mixed-use building with ground floor commercial/retail, fifty (50) residential units, and five (5) on-site carsharing vehicle/parking spaces on an 8,892 square feet irregular corner lot with regard to the property located at 99 Storms Avenue and 253 Monticello Avenue, Jersey City, New Jersey, which is also identified on the Jersey City tax maps as Block 15003, Lots 18 and 19 ("Property"); and

**WHEREAS**, it appears that due notice of a hearing on the above said application before the Planning Board of the City of Jersey City, on July 23, 2019 at 5:30 p.m., was duly published as prescribed in the Jersey City Land Development Ordinance ("JC LDO") and the Municipal Land Use Law; and;

**WHEREAS**, the Applicant has submitted proof that it has complied with the applicable procedural requirements including the payment of fees and public notices; and

**WHEREAS**, the Applicant and its witnesses first having been sworn and all testimony having been formally heard for this application; and

**WHEREAS**, after consideration of the application and the testimony presented at the meeting, the Planning Board has made the following findings of fact:

## FINDINGS OF FACT

1. The Applicant filed an application to the Planning Board of the City of Jersey City for Preliminary and Final Major Site Plan with variances pursuant to N.J.S.A 40:55D-70(c) (maximum amount of stories; minimum rear yard setback; minimum on-site parking spaces; maximum signage area of primary façade; maximum signage area of secondary façade; and maximum number of signs on secondary facade), with regard to the property located at 99 Storms Avenue and 253 Monticello Avenue, Jersey City, New Jersey, which is also identified on the Jersey City tax maps as Block 15003, Lots 18 and 19 ("Property").

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2. The Property is located within the NC- Neighborhood Commercial Zoning district ("NC Zone").

3. The Applicant proposes to construct a six (6) story mixed-use building with ground floor commercial/retail, fifty (50) residential units, and five (5) on-site carsharing vehicle/parking spaces on an 8,892 SF irregular corner lot ("Project").

4. As part of the application, the Applicant is seeking the following variances, deviations, exceptions and/or waivers from the Jersey City Land Development Ordinance and the Jersey City Land Development Ordinance:

1. The Applicant requests relief from the maximum amount of stories ("c" variance).
2. The Applicant requests relief from the minimum rear yard setback.
3. The Applicant requests relief from the minimum amount of on-site parking spaces.
4. The Applicant requests relief from signage requirements signage (maximum area of primary façade; maximum number of signs on secondary façade; and maximum area of secondary façade).
5. Any additional approvals, permits, variances, interpretations, waivers or exceptions reflected in the plans and materials filed (as same may be amended or revised from time to time without further notice) or determined to be necessary during the review and processing of this application.

5. As set forth in the Land Development Ordinance, "the purpose of this [NC-Neighborhood Commercial] district is to recognize the existence and importance of neighborhood business districts and promote continued efforts to strengthen and revitalize them, through public-private partnership."

6. The Applicant requests a "c" height variance for relief from the maximum amount of five (5) stories to permit six (6) stories. The NC Zone does not provide a limitation in numeric feet, and instead, the limitation on the vertical development of a project is the number of stories.

7. The story limitation is five (5) stories where on-site parking is required (on lots over fifty feet (50')). The NC Zone does contain floor to ceiling limitations for residential floors which in essence regulate the height of each floor of the building in feet, "minimum floor to ceiling height shall be nine (9) feet for all floors except those devoted to parking; maximum floor to ceiling height for residential floors shall be twelve (12) feet." Accounting for the assemblage between stories, the measurement from floor to the next floor for twelve feet (12') floor to ceiling floors would be approximately thirteen feet (13') for residential. Accordingly, an example of a permitted height of a building in the NC Zone is shown as follows: Since there is no maximum floor to ceiling height for ground floor commercial and retail uses; in the event a hypothetical ground floor retail was twenty-two feet (22') with four (4) residential floors with thirteen (13') floor ceiling heights, plus assemblage, it would result in a five (5) story building with seventy-four feet (74') in height, the same height as the Project. Therefore, within the permitted vertical building envelope as contemplated by the NC Zone. However, this instance, the Applicant is proposing a sixth (6<sup>th</sup>) story above the permitted five (5) stories with the same building height of seventy-four feet (74').

8. Since there is no numerical limitation in the NC Zone, and only a story height limitation, it is impossible measure "if the height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure" as required by a D(6) height variance. Since there is no maximum permitted height, this a missing necessary variable, and these answers are unattainable, and cannot fit within the parameters of a d(6) height variance. If a requested variance does not fit squarely within one of the six (6) sections of the N.J.S.A. 40:55D-70(d), then by default, it is a variance pursuant to N.J.S.A. 40:55D-70(c). Accordingly, since there is no numerical height limitation to exceed, the only possible variance for the one additional story would be a "c" variance. This also makes practical sense inasmuch as since there is no numerical height limit, as previously demonstrated, a permitted five (5) story building could be the same height or taller than a building with more than five (5) stories.

9. The Property is also located in between two redevelopment areas, McGinley Square East Redevelopment Plan and Jackson Hill Redevelopment Plan. Across the street of the Property on Storms Avenue and Monticello Avenue is McGinley Square East Zone 1, which allows for a maximum building height of sixteen (16) stories and one hundred and seventy-five feet (175'). One block away from the property on the Fairmont Avenue and Storms Avenue is the Jackson Hill Redevelopment Plan, which allows for a maximum height of eight (8) stories and eighty-five feet (85'). Given the adjacent redevelopment plans, it is plausible that the proposed project of six (6) stories will be located in between an eight (8) story building and a sixteen (16) story building in future development. Additionally, there are existing over six (6) story buildings in the area including 111 Storms Avenue, which is an eleven (11) story senior housing project. Thus, the proposed height and stories of the Project are consistent with the permitted and existing heights and development in the zone and immediate area. Therefore, the additional story will not have any substantial detriments to the immediate area and the variance can be granted accordingly.

10. Additionally, the Applicant is seeking a variance for relief from the minimum rear yard setback of fifteen (15') feet. The development site is comprised of two lots (Lot 18 and Lot 19), which together are an irregular angled quadrilateral shaped corner lot facing Storms Avenue and Monticello Avenue. A corner lot has no real rear yard since it is essentially two fronts and two side yards. According to the JC LDO, the front yard is considered the smaller of the two street frontages, thus Storms is considered the front yard. Since the lot depth is 150', the NC Zone requires a forty (40') foot rear yard setback because where lot depth exceeds one hundred (100) feet, the minimum rear yard of fifteen (15) feet is increased by five linear feet for every ten (10) linear feet of increase in lot depth. The irregular shape presents a hardship to meet the rear yard setback as well as be able to provide on-site parking and commercial space. In order to meet the intent of the NC Zone, it is necessary to provide full lot coverage on the first floor for the five (5) on-site carsharing vehicle spaces, the two retail spaces of approximately 2,600 square feet and 382 square feet, and required building mechanical and service areas. Also, if the Project met the rear yard setback requirements it would leave a forty (40') foot gap on the frontage of Monticello Avenue, which defeats the intent of the NC Zone of providing a consistent streetscape frontage. However, a portion of the rear, which is not facing Monticello Avenue, has a 15'-2" rear setback on the second floor and above, which meets the required fifteen feet (15') rear yard setback if the lot was one hundred feet (100') deep. The rear setback allows for light and air to be addressed as intended by rear setback requirement. In addition, the Project features an extensive green roof of 1,360 square feet, which allows for sustainable stormwater management in areas of impermeable surfaces. The benefits of providing continuous visually desirable street frontage and extensive green roof outweigh any substantial detriments of no rear yard, and therefore, the minimum rear yard variance can be granted.

11. The Applicant requests relief from the required minimum rooftop appurtenance setback of 9.75' (1'-1" for every foot of rooftop structure). The Property's irregular shaped corner creates a hardship to meet the required minimum rooftop appurtenance setback and provide for public safety. The Project provides for two (2) egress stairs with one on Storms Avenue where the main residential entrance is located. The Project provides a 1.33' rooftop appurtenance setback on Storms Avenue instead of the required 9.75' to accommodate a stairwell for a safer emergency egress. The stairwell allows for residents to enter and exit into the lobby or directly on the street. The proposed rooftop appurtenance setback on Storms Avenue promotes public health, safety, and general welfare by providing safe access for emergency egress in light of the Property's irregular corner lot. Therefore, the benefits outweigh any substantial detriments and the variance can be granted accordingly.

12. The Applicant is also seeking relief from the minimum parking requirements of one (1) parking space per unit for a total of fifty (50) parking spaces. Due to the irregular corner lot creating a hardship as noted previously, it is impractical to provide fifty (50) on-site parking spaces as required by the NC Zone. If the Applicant was to provide the maximum amount of parking available on the lot, there would be no ground floor commercial/retail space, which defeats the purpose of the NC Zone to revitalize neighborhood business districts. According to the

"Transportation Research Record: Journal of the Transportation Research Board", each carsharing vehicle (such as Zipcar) results in nine (9) to thirteen (13) vehicles taken off the road. In other words, a carsharing vehicle equates to the usage of nine (9) to thirteen (13) cars. For urban areas, where car insurance, gas, and parking is expensive, the availability of carsharing vehicles in the building can provide access to grocery food stores and other errands. These carsharing vehicles will be available to the public while there will be only five (5) carsharing vehicles/ parking spaces in the building, it will equate to the usage of virtually forty-five (45) to sixty-five (65) personal cars. Therefore, the five (5) on-site carsharing vehicles/parking spaces parking spaces provides benefits that outweigh any substantial detriments to the surrounding area, and the variance can be granted accordingly.

13. The Applicant also requests relief from signage requirements: maximum area of primary and secondary façade and maximum number of signs on secondary façade. Due to the Property being an irregular corner lot with two frontages, Monticello Avenue (162'-4") and Storms Avenue (25'-1"), signage variances are necessary. According to the JC LDO, Storms Avenue is considered to be the front of the Property, thus being considered the primary front façade and Monticello Avenue is considered to be the secondary front façade despite it being a larger frontage. The Applicant is proposing three (3) signs instead of the permitted one (1) sign allowed on Monticello Avenue for the two (2) proposed commercial/retail spaces on the ground floor. With the secondary frontage being approximately 162'-4" in length, the three (3) signs would be considered one (1) sign for every fifty-four feet (54'), which is reasonable considering that twenty-five feet (25') is the minimum width. Additionally, the maximum sign area for primary and secondary façade are affected by the irregular corner lot because the primary façade maximum area for the sign is twenty feet (20') or 5% of the ground floor portion of that primary façade applicable to commercial use, whichever is smaller, and the secondary façade area is half the width of the primary façade. This equates the primary façade signage to be 16 square feet and the secondary façade signage to be 8 square feet, which is not appropriate for the 2,982 square feet of commercial/retail space located primarily on the Monticello Avenue. Additionally, this requirement negates the NC Zone purpose of strengthening the neighborhood business corridor. Therefore, the sign variances can be granted because the benefits of providing proper signage to strengthen the neighborhood commercial outweigh any substantial detriments to the neighborhood.

14. Additionally, the Applicant requests to provide a payment in lieu of the planting four (4) street trees instead of eight (8) street trees as required by the Jersey City Forestry Standards ("Forestry Standards"). The Forestry Standards provide that all new buildings must provide one new or existing street tree for every twenty-five (25) feet of building road frontage. If planting of new street trees is determined not to be practical at a given location by the Forester, then a monetary contribution equal to the cost of installing a new street tree must be paid to the City. The Property has approximately 162'-4" of building road frontage on Monticello Avenue and approximately twenty five (25) feet of building road frontage on Storms Avenue, which equates to eight (8) street trees required. Along Project's Monticello Avenue, there are retail entrances,

residential entrances, and crosswalks, which render eight (8) street trees not practical at the given location as well against the Forestry Standards. The Project can provide a maximum four (4) street trees on the site and a payment in lieu of the remaining four (4) street trees that amounts to a payment of \$2,000 to the City of Jersey City. The four (4) street trees and payment in lieu of the other four (4) meet the intention and requirements of the Forestry Standards. Therefore, the benefits outweigh any detriments by providing four (4) street trees and monetary payment for four (4) street trees since the locations are not practical.

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15. The proposed and requested variances are appropriate for the development of the property and will benefit the immediate neighborhood and will promote the general welfare, and the Applicant will be subject to a hardship if required to strictly comply with the zoning standards. The development will also promote a desirable visual environment by developing a creative and appropriate in-fill development and a mixed use appropriate for the neighborhood. Lastly, the proposed variances will not cause any substantial detriments to the public good, or impairment to the intent and purpose of the Jersey City Zoning Plan or the Jersey City Land Development Ordinance.

16. It is submitted that the proposed variances will not cause any substantial detriments to the public good, or impair the intent and purpose of the Jersey City Zoning Plan, or the Jersey City Land Development Ordinance, and accordingly, all of the requested variances can be granted.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Board of the City of Jersey City, County of Hudson and State of New Jersey, for the foregoing reasons, approves the within application for Preliminary and Final Major Site Plan with variances pursuant to N.J.S.A 40:55D-70(c) (maximum amount of stories; minimum rear yard setback; minimum on-site parking spaces; maximum signage area of primary façade; maximum signage area of secondary façade; and maximum number of signs on secondary facade), to wit: Calendar No. P19-057, for the purpose to construct a six (6) story mixed-use building with ground floor commercial/retail, fifty (50) residential units, and five (5) on-site carsharing vehicle/parking spaces on an 8,892 square foot irregular corner lot with regard to the property located at 99 Storms Avenue and 253 Monticello Avenue, Jersey City, New Jersey, which is also identified on the Jersey City tax maps as Block 15003, Lots 18 and 19, in accordance with plans and testimony submitted to the Planning Board of the City of Jersey City, subject to the following conditions:

- 1) All testimony given by the Applicant and their expert witnesses shall be binding.
- 2) The Applicant shall enlarge existing tree pits along Monticello Avenue to comply with the Jersey City Forestry Standards.
- 3) The Applicant shall remove drop apron and add a curb along Storms Avenue.
- 4) The Applicant shall address and comply with all comments and recommendations of municipal review agents and will submit revised plans to the Division of City Planning.

- 5) All materials and color selections shall be shown on Final Plans. No change to the façade and site design, including materials as well as any changes that may be required by the Office of Construction Code, shall be permitted without consultation with planning staff; and
- 6) The Architect of record, Arkitek Designs LLC, shall submit a signed and sealed affidavit confirming that the building was constructed as approved, prior to issuance of the Certificate of Occupancy.

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JERSEY CITY, NEW JERSEY

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CASE NO.: P19-057

VOTE: 8 - 0

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COMMISSIONER:	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Christopher Langston, Chairman	X			
Dr. Orlando V. Gonzalez, Vice Chairman	X			
Arnold Bettinger, Commissioner	X			
John Seborowski, Commissioner	X			
Dr. Vijaya Desai, Commissioner	X			
Allison Solowsky, Commissioner	X			
David Cruz, Commissioner	X			
Vidya Gangadin, Commissioner	X			

  
CHRISTOPHER LANGSTON, CHAIRMAN  
JERSEY CITY PLANNING BOARD

  
MATT WARD, SECRETARY  
JERSEY CITY PLANNING BOARD

APPROVED AS TO LEGAL FORM:

  
SANTO T. ALAMPI, ESQ.

DATE OF HEARING:

July 23, 2019

DATE OF MEMORIALIZATION:

September 10, 2019