

RESOLUTION
City of Jersey City
Planning Board
In the Matter of TBG 431 MLK, LLC
Application No. P18-152, P18-147
Decided: February 19, 2019
Memorialized: March 26, 2019

**Application for minor subdivision and preliminary and final major site plan approval
with related bulk variances and design waivers/exceptions**

WHEREAS, TBG 431 MLK, LLC (the "Applicant"), has made an Application to the Planning Board of the City of Jersey City (the "Board") seeking minor subdivision and preliminary and final major site plan approval with related bulk variances and design waivers/exceptions (the "Applications") on property located at 431-433 M.L. King Drive (also known as 316 Forrest Street) and designated as Block 19503, Lot 42 on the City of Jersey City Tax Map (the "Property") and which is located in Zone 1 of the Jackson Hill Redevelopment Area; and

WHEREAS, the jurisdictional requirements of the Applications under Municipal Land Use Law, N.J.S.A. 40:55D-12 have been met as the Applicant has produced proof of notice of the public hearing in the official newspaper of the City of Jersey City, the Jersey Journal, on January 11, 2019, as well as produced proof of notice of the hearing on the adjoining property owners, within 200 feet of the subject property, as well as others required by law to be served with notice of the public hearing; and

WHEREAS, pursuant to the requirements of the statute and due process of law the Board conducted a public hearing on the Application on February 19, 2019 in the presence of the following Board Members: Christopher Langston (Chairman), Dr. Orlando V. Gonzales (Vice Chairman), Edwardo Torres, Arnold Bettinger, John Seborowski, Dr. Vijay Desai and David Cruz; and

WHEREAS, the Applicant sought and the Board agreed to hear both Applications together in one presentation; and

WHEREAS, on February 19, 2019 the Applicant, through its attorney, Jason R. Tuvel, Esq. of Prime Law, presented testimony from Jeffrey V. Lewis, a licensed architect in the State of New Jersey and Charles Heydt of Dresdner Robin, a Licensed Planner in the state of New Jersey; and

WHEREAS, Mr. Lewis and Mr. Heydt were accepted by the Board as experts in their respective fields; and

WHEREAS, along with the plans, reports and Applications submitted to the Board prior to the hearing the following Exhibits were marked and entered into evidence;

- A-1 – Affidavit and proof of service and notice of publication
- A-2 – Colorized elevations
- A-3 – Tax map of the area

NOW, THEREFORE, the Board makes the following findings of fact based upon the evidence and testimony presented at the aforesaid hearing (and in the Applications' materials submitted), at which a record was made:

A. FINDINGS OF FACTS

i. Project Description

- 1) The site is located at the corner of M.L. King Drive and Forrest Street in Zone 1 of the Jackson Hill Redevelopment Area.
- 2) The Applicant proposes to subdivide the Property into two (2) parcels to be designated as Lots 42.01 and 42.02 on Block 19503, (“Proposed Lot 42.01” and “Proposed Lot 42.02,” respectively).
- 3) The existing structure on Proposed Lot 42.01 is a three (3) story mixed use building comprised of ground floor commercial space with two (2) stories of residential units above. The Applicant proposes no changes to the building on Proposed Lot 42.01.
- 4) The existing structure on Proposed Lot 42.02 is a two (2) story mixed use building comprised of ground floor commercial space with one (1) residential unit above. The Applicant proposes to demolish the existing structure and improvements and to construct a six (6) story, 23-unit multifamily residential structure in its place.
- 5) The Applicant proposes a lot depth of 68.5 ft. for Proposed Lot 42.01 where a minimum lot depth of 100 ft. is required in the zone. Therefore a “c” variance is requested.
- 6) The Applicant requires *de minimis* exception from the state of New Jersey Residential Site Improvement Standards (“RSIS”) § 5:21-3.1 for number of parking spaces less than required.

ii. Testimony of Applicant’s Architect Jeffrey V. Lewis, R.A.

- 1) Mr. Lewis testified that the site is an “L”-shaped lot with 50 ft. of frontage along MLK Drive and 112 feet along Forrest Street, totaling 7,500 sq.ft. in area.
- 2) Mr. Lewis testified that once subdivided, the structure on Proposed Lot 42.01 that contains six (6) fully rented residential units above two (2) vacant commercial units would remain intact and no exterior changes would be made.
- 3) Mr. Lewis testified that the structure on Proposed Lot 42.02 would be demolished and replaced with a six- (6) story, 23 unit multi-family dwelling that is set back 5 ft. from the rear lot line at ground level, and 15 ft. from the rear lot line at all floors above the ground floor.
- 4) Mr. Lewis testified that the ground floor would contain three (3) units – two (2) 1BR units and one (1) 2BR unit. He indicated that the second through sixth floors would be identical in layout, and would each contain four (4) units – one (1) studio unit, two (2) 1BR units and one (1) 2BR unit.
- 5) Mr. Lewis testified that there will be bicycle storage on the first floor and a trash compactor and utility room in the basement.
- 6) Mr. Lewis testified that the rooftop will contain approximately 800 sq.ft. of open roof space that is accessible by all tenants, and that all HVAC equipment will be located elsewhere on the rooftop.
- 7) Mr. Lewis indicated that originally, the design of the building was to be metal cladding made up of a dark gray color, mixed with a beige. He indicated that this was changed to be a light gray with a light beige color to accord with the wishes of the neighbors.

N.D. **iii. Testimony of Applicant's Professional Planner, Charles Heydt, P.P., A.I.C.P., L.E.E.D., A.P.,**

- 1) Mr. Heydt testified that the neighborhood is mixed use in character with ground floor commercial uses along MLK Drive and multi-family and 1- & 2-family dwellings along the side streets. He indicated that structures in the neighborhood range from 1-story commercial buildings to 5-story mixed-use buildings.
- 2) Mr. Heydt opined that the proposed development comports with the intent of the Jackson Hill Redevelopment Plan (the "Plan"), in that it provides residential uses in "the hub" around the MLK Drive Hudson-Bergen Light Rail Station, which is one (1) block south of the Property.
- 3) Mr. Heydt testified that the proposed development seeks only one (1) variance, which is the lot depth for Proposed Lot 42.01, where a minimum depth of 100 ft. is required and only 68.5 ft. is proposed. He indicated that by permitting the subdivision of the lots, despite the depth of Proposed Lot 42.01 being less than required, the two lots could be developed independent of one another and permit the development of multiple appropriate uses.
- 4) Mr. Heydt testified that the proposed development advance the goals and objectives of the Plan. Specifically, Mr. Heydt opined that the proposed subdivision and development of Proposed Lot 42.02 will conform with the Plan in the following ways: it will provide an increased variety and opportunity of housing types, sizes and price points; it will reduce automobile dependency by encouraging high density development in close proximity to mass transit and neighborhood services with low automobile parking ratios and with high bicycle parking ratios; it will result in the removal of vacated, deteriorated and obsolete structures; and it will improve traffic circulation through the improvements to the sidewalk and removal of existing curb cuts along Forrest Street, which provide for separation of vehicular and pedestrian traffic and maximum use of public transportation.
- 5) Mr. Heydt testified that the proposed development advances purposes of the Municipal Land Use Law. Specifically, the proposed development will eliminate vacant and deteriorated structures on Lot 42.02 and construct a new 6-story multi-family building consistent with the intent and purpose of the act and in a manner which will promote the public health, safety, morals, and general welfare (Purpose A); and it promotes the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions (Purpose E).
- 6) Mr. Heydt testified that the proposed development carries no substantial detriment to the public good, in that it replaces deteriorated structures with a new multi-family structure that includes an ADA-adaptable unit in the rear of the building accessible through the lobby and it complies with all setback and height requirements, thereby providing adequate light, air and open space to adjacent structures.
- 7) Mr. Heydt testified that the proposed development does not impair the intent and purpose of the zone plan, in that it implements the purposes of the Plan as set forth above.
- 8) Mr. Heydt testified that the benefits of the proposed development far outweigh any negative impact, despite the 68.5 ft. lot depth.
- 9) Mr. Heydt opined that the proposed project is consistent with the surrounding neighborhood, will add to the street scape and the vitality of the neighborhood, and that the variance is justified and meets the proof standards.

v. Public Comment

- 1) The Board opened the hearing to the public as required by law and gave anyone who sought to speak on the Application the opportunity. There were no members of the public who sought to speak.

vi. Board Professional Review

- 1) The Board's Planner, Lindsey Sigmund, Planner, City Planning Division, was given the opportunity to provide her testimony on the application. She recommended approval of the Application with conditions.

B. CONCLUSIONS OF LAW

NOW, THEREFORE, the Board makes the following conclusions of law based upon the foregoing findings of fact:

- 1) The Board finds that the Applicant has met the positive criteria for a lot depth variance under N.J.S.A. 40:55D-70c(2), as well as the *de minimis* exception under RSIS, based on the analysis and testimony provided and outlined above by the Applicant's professionals and representatives.
- 2) As to the positive criteria, the Board finds that based on the Applicant's representations, the conditions of approval noted below, and the Applicant's representations and stipulations during the course of the public hearing, that the Application satisfies Purposes A, C and E of the Municipal Land Use Law for the reasons set forth above by Mr. Heydt.
- 3) As to the negative criteria, the Board finds that based on the Applicant's representations, the conditions of approval noted below, and the Applicant's representations and stipulations during the course of the public hearing, that the Application will not have a substantial detriment to the public good nor cause a substantial impairment to the zone plan or zone ordinance, for the reasons set forth above by Mr. Heydt.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the City of Jersey City that the Applications of TBG 431 MLK, LLC seeking minor subdivision and preliminary and final major site plan approval with related bulk variances and design waivers/exceptions for the aforesaid Property, is approved as follows:

- a. Minor subdivision approval as set forth above is granted pursuant to N.J.S.A. 40:55D-47;
- b. Preliminary and final major site plan approval as set forth above is granted pursuant to N.J.S.A. 40:55D-46 and 50;
- c. Bulk Variance relief as described above is approved pursuant to N.J.S.A. 40:55D-70c(2); and
- d. *De minimis* exception from RSIS § 5:21-3.1 for number of parking spaces less than required.

BE IT FURTHER RESOLVED by the Planning Board of the City of Jersey City that the Applications approved herein are subject to the following terms and conditions:

- 1) No changes to the site shall be permitted without consultation with and approval by planning staff.
- 2) All testimony given by the Applicant and their expert witnesses in accordance with these Applications shall be binding.
- 3) The Applicant shall work with staff siting a tree on the corner of Forrest Street and MLK Drive to supplement the street tree that's proposed in front of the new building on Forest.
- 4) The Applicant will repair the sidewalk along the frontage on Forrest Street within the scope of the project, if necessary.

- 5) The Applicant will work with staff to determine if any damage is done to the public right of way during construction, in which case the Applicant will repave the right of way at its sole expense.
- 6) All street trees and landscaping shall be installed in accordance with 345-66 and the City's forestry standards prior to issuance of a certificate of occupancy.
- 7) All comments provided by engineering in their memo dated January 14, 2019, shall be addressed and resubmitted for the division approval prior to final signature plans being released, with the exception of any right-of-way paving or sidewalk repair if same are not disturbed.

BE IT FURTHER RESOLVED that the within approvals are subject to whatever other approvals are necessary to be obtained by the Applicant from the appropriate Municipal, County or State officials and/or Boards, to obtain Construction permits or Certificates of Occupancy.

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to the Applicant and its attorney.

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City of Jersey City
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DATE OF HEARING: February 19, 2019

VOTE: 7-0

VOTING IN FAVOR:
COMMISSIONERS


1. Commissioner Christopher Langston, Chairman
2. Dr. Orlando V. Gonzales, Vice Chairman
3. Commissioner Eduardo Torres
4. Commissioner Arnold Bettinger
5. Commissioner John Seborowski
6. Dr. Vijay Desai
7. David Cruz

VOTING AGAINST:

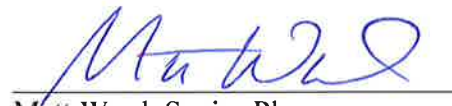
NONE

ABSTAINING:

NONE

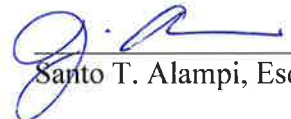


Christopher Langston, Chairman
Planning Board
of the City of Jersey City



Matt Ward, Senior Planner
Planning Board
of the City of Jersey City

APPROVED AS TO LEGAL FORM:



Santo T. Alampi, Esq. *Jennifer Alampi, Esq.*