

DEVELOPMENT APPLICATION REVIEW | STAFF REPORT

DATE :	01.10.2023
TO :	Planning Board Commissioners
FROM :	Liz Oppen, AICP, Urban Designer Tanya Marione, PP, AICP, Division Director
CASE :	P22-123
PROJECT :	335 Washington
FOR :	Preliminary and Final Major Site Plan with 'C' Variances(s)

I. DOCUMENTS REVIEWED

- General Development Application
- Principal Points
- Affidavit of Publication and proof of notice
- 200 foot list
- Site survey
- Civil Drawings
- Architectural Plans
- Civil Engineering Plans Photos, undated
- *Sanitary Sewer Engineer's Report*, prepared by Insite Engineering, dated May 27, 2022
- *Engineer's Water Report*, prepared by Insite Engineering, dated May 27, 2022
- *Abbreviated Stormwater Management Report*, prepared by Insite Engineering, dated September 19, 2022

II. APPLICATION BACKGROUND + PROPOSAL

▪ Previous Applications and Approvals:

H22-308: certificate of appropriateness was approved with conditions by the HPC at its regularly meeting of Dec 12, 2022. The board recommended that the planning board approve the project with the conditions outlined in the COA.

▪ Existing Conditions:

The property is located at the southeast corner of Washington Street and Bay Street. There is an existing structure on the property which housed the former boiler building for the Butler Brother's Warehouse. This property is a municipal landmark, a national historic landmark, and is on the NJ and National Registers of Historic Places. This landmarked structure is in need of rehabilitation.

The site lies within the Rehabilitation Zone of the Powerhouse Art District Redevelopment Plan. A bicycle lane is located adjacent to the property on Washington Street.



▪ **Proposed Conditions:**

Renovation/rehabilitation of existing building is proposed. The renovation/rehabilitation is part of the bonus provision (see below for bonus language) attached to the development of Block 11612, Lot 1 in the High Rise Zone of the Powerhouse Arts Redevelopment Plan. The building will be used for permitted non-residential uses and is proposed to be transferred to the City of Jersey City as a “vanilla box”. The proposed building stairs/ramps extend into the public right of way and would require a franchise agreement.

VIII.D. Bonus and Incentive

Block 11612, Lot 1 shall be permitted an additional 100 feet of height and an additional FAR of 4:1, provided that the 100 feet by 100 feet parcel at the northeast corner of 11611, Lot 1 (at the corner of Washington and Bay Streets) is first donated to, and accepted by, the City of Jersey City or the Port Authority of New York and New Jersey, at no cost to the City of Jersey City nor to the Port Authority of New York and New Jersey, for a public purpose that is compliant with this Plan.

▪ **Variances:**

- Sidewalk width (existing condition)
- Green Area Ratio

III. **STAFF COMMENTS – ‘c’ Variance**

The variances being sought have a direct correlation to the nature of a rehabilitation project. As the existing structure (with 100% lot coverage) is being rehabilitated, the existing width of the sidewalk cannot be modified and is currently undersized. Meeting the Green Area Ratio would

also be very difficult to meet given the full lot coverage and the limitation of the existing structure. Staff does not see any substantial detriment to the public good in granting the variance sidewalk width or being unable to meet the Green Area Ratio. These variances do not substantially impair the intent and purpose of the zone plan and zoning ordinance and are necessary to satisfying the intent of the zone plan

IV. STAFF RECOMMENDED CONDITIONS

All testimony given by the applicant and their expert witnesses in accordance with this application shall be binding. The staff recommends the following conditions to mitigate the negative criteria:

1. All materials and color selections shall be shown on Final Plans. No change to the facade 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 or approval by planning board.
2. All street trees and landscaping shall be installed in accordance with the Jersey City Forestry Standards prior to the issuance of a Certificate of Occupancy (CO) or Temporary Certificate of Occupancy (TCO).
3. Applicant shall apply to the City Council for a franchise ordinance regarding the encroaching stairs/ramps into the public right of way.
4. Applicant shall comply with conditions outlined in the COA.

APPENDIX : REQUIRED PROOFS FOR VARIANCES

▪ 'C' VARIANCE

Required Findings for 'C' Variance Standard/Deviations under N.J.S.A. 40:55D-70(c)(2):

1. The justifications must relate to a specific piece of property;
2. The purposes of the Municipal Land Use Law would be advanced by the deviation from the zoning ordinance requirement;
3. The deviation can be granted without substantial detriment to the public good;
4. The community benefits of the deviation would substantially outweigh any detriment and;
5. The deviation will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

▫ **Negative Criteria**

No relief may ever be granted unless it can be done

1. without substantial detriment to the public good, and

2. without substantially impairing the intent and purpose of the zone plan and zoning ordinance

1) Substantial detriment to the public good – Balancing Requirement.

The focus of this first prong of the negative criteria is on the variance's effect on the surrounding properties. The board must weigh the zoning benefits from the variance against the zoning harms. In many instances, conditions of approval address the negative criteria standard and help to mitigate the impact of the variance.

2) Substantial impairment to the intent and purpose of the zone plan and ordinance.

The focus of this second prong of the negative criteria is on the power to zone based on ordinance and not variance