

CITY OF JERSEY CITY

Department of Housing, Economic Development & Commerce
Division of City Planning
Memorandum



DATE: 6/26/2023
TO: Planning Board Commissioners
FROM: Matt Ward, AICP, PP, Supervising Planner
RE: 225 Phillip Street
Case P22-220
Preliminary and Final Major Site Plan with Variances
Staff Report

SITE LOCATION



(Approximate boundary of site highlighted above. Larger site was recently subdivided.)

APPLICATION SUMMARY

The applicant is proposing construction of a mixed use 12-story building with 500 dwelling units, 3,296 square feet of ground floor retail, 151 off-street parking spaces, residential amenities, and public open space. Proposal is a part of the SciTech Scity campus.

The applicant is requesting the following variances: Maximum building coverage, Maximum building height, Minimum number of parking, Maximum number of signs.

BACKGROUND

The subject site is over an acre at 94,675 square feet and located along Phillip Street just south of Jersey City Boulevard. The site was formerly a grit chamber that was no longer in use by the Municipal Utilities Authority. The address for the subject site is 225 Phillip Street, which is also known as Block 21504 Lot 4.04 on the Jersey City Tax Map.

The subject site is located in the Liberty Harbor Redevelopment Plan, which was first adopted in 1983. The site is located in the Science and Technology district of the redevelopment plan, which is a zone that was added to the plan in 2017.

The applicant is proposing the residential component of the Scitech Scity campus, which includes Edge Works (a conference center with office and incubator space including ground floor commercial), plaza, open space, high school, surface parking areas and circulation areas.

VARIANCES REQUESTED

Description	Required	Proposed	Staff Comments
Maximum Building Coverage	50%	51.1%	C2 See addendum.
Maximum Building Height	120 feet	129.83 feet	C2 See addendum.
Minimum number of parking	389 spaces	151 spaces	C2 See addendum.
Maximum number of signs	2 signs	8 signs	C2 See addendum.

STAFF COMMENTS

1. Applicant shall provide testimony for, but not limited to, the following: overall design, façade materials, unit mix and unit sizes, average unit sizes, bulk, setbacks, retail areas, lobby design, circulation, traffic, parking, landscape design, open space access, amenities, signage, trash removal and loading.
2. Applicant shall provide testimony regarding how this site is related to and part of the Scitech Scity campus.
3. Applicant shall provide testimony regarding the redesign of Phillip Street inclusive of a cycletrack, sidewalk, and on-street loading/parking areas.
4. Applicant shall provide testimony regarding private amenities versus publicly-accessible amenities
5. Applicant shall provide testimony regarding the variances requested.

STAFF RECOMMENDED CONDITIONS

Should the board make a motion to approve this application, staff recommends the following conditions:

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 and approval by planning staff.
2. All testimony given by the applicant and their expert witnesses in accordance with this application shall be binding.
3. That the applicant comply with all Jersey City review agent comments.
4. With exception of the proposed tree spacing, all street trees and landscaping shall be installed in accordance with 345-66, prior to an issuance of a Certificate of Occupancy.
5. Architect of record shall provide an affidavit confirming the development is built in accordance with the approved plans prior to the issuance of the first certificate of occupancy.
6. A copy of the memorialized resolution with amended deed shall be filed with the Hudson County Register's Office with proof of such filing to be submitted to the Division of City Planning prior to application for construction permits.

ADDENDUM

FINDINGS NEEDED FOR “c” VARIANCE RELIEF

The following findings are required for “c” Variance Relief:

- 1) **Hardship “C1” Variance Standard under N.J.S.A. 40:55(D)-70(c)(1):**
 - a. Pertinent information: Exceptional narrowness, shallowness, or shape of the property, exceptional topographical conditions, and/or other exceptional situations.
 - b. Based on this information, the strict application of the Ordinance would result in exceptional difficulties to, and undue hardships upon, the developer of such property.
 - c. The conditions causing hardship are peculiar to the subject property, and do not apply generally to other properties in the same district.
 - d. Other means to cure the deficiency (such as purchase or sale of property) do not exist, or are unreasonable or impracticable.
 - e. The variance requested is the reasonable minimum needed.
- 2) **Flexible “C2” Variance Standard under N.J.S.A. 40:55D-70(c)(2):**
 - a. The justifications must relate to a specific piece of property;
 - b. The purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirement;
 - c. The variance can be granted without substantial detriment to the public good;
 - d. The community benefits of the deviation would substantially outweigh any detriment and;
 - e. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

NEGATIVE CRITERIA

The language for negative criteria is first introduced in 1948 through a legislative amendment to the state land use laws.

“...provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.”

No relief may ever be granted unless it can be done WITHOUT:

- 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.

In *North Bergen Action Group v. Planning Board (1991)*, the Court noted:

"the greater the disparity between the variance granted and the ordinance's restriction, the more compelling and specific the proofs must be that the grant of the variance"

"Because zoning restrictions are enacted to further municipal planning and zoning objectives, it is fundamental that resolutions granting variances undertake to reconcile the deviation authorized by the Board with the municipality's objectives in establishing the restriction."

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