

CORRECTIVE RESOLUTION

RESOLUTION OF THE PLANNING BOARD OF THE CITY OF JERSEY CITY

APPLICANT: BGT ENTERPRISES LLC
FOR: PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL WITH “C” VARIANCES
(REAR YARD SETBACK; ROOFTOP APPURTENANCE SETBACK)
306-310 NEWARK AVENUE, JERSEY CITY, NEW JERSEY
BLOCK 9902, LOT 1

CASE NO.: P20-116

WHEREAS, the Applicant, **BGT Enterprises LLC**, per **CONNELL FOLEY, LLP** (Charles J. Harrington, III, Esq., appearing) made application to the City of Jersey City Planning Board, County of Hudson and State of New Jersey, for Preliminary and Final Major Site Plan Approval with “c” variances (rear yard setback; rooftop appurtenance setback), to wit, Calendar No. P20-116, to construct a new five (5) story mixed-use building with twelve (12) residential units and ground floor commercial space (the “Project”), with regard to the property located at 306-310 Newark Avenue, Jersey City, New Jersey and which is identified on the Jersey City tax maps as Block 9902, Lot 1 and is located within the NC, Neighborhood Commercial zoning district (the “NC Zone”); 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 June 22, 2021 at 5:30 p.m., was duly published as prescribed in the Jersey City Land Development Ordinance of the City of Jersey City; and

WHEREAS, the application was heard by the Planning Board on June 22, 2021 by way of a Virtual meeting via Zoom; and

WHEREAS, the resolution approving this application was adopted by the Planning Board at the hearing on July 20, 2021 (“Approving Resolution”; Exhibit A), and notice of the adoption of the resolution was duly published; and

WHEREAS, it has been discovered that there is a typographical error in the identification of the tax block in the Approving Resolution that incorrectly referred to the tax block as tax block 9901 instead of tax block 9902; and

WHEREAS, this resolution is being adopted to correct these typographical errors to correctly reflect the tax block as 9902; 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. All the Recitals hereinabove set forth are incorporated herein by reference and all the exhibits, drawings and documents, including the architectural site plans prepared by International Office of Architects (Murat Mutlu, AIA) dated June 4, 2021, the Applicant's General Development Application and supporting documents (collectively, the "Applicant's Supporting Documents") and City planner's testimony and reports, if any, are hereby incorporated by reference.
2. The Applicant made application to the City of Jersey City Planning Board for Preliminary and Final Major Site Plan Approval to construct a new five (5) story mixed-use building with twelve (12) residential units and ground floor commercial space (the "Project"), with regard to the property located at 306-310 Newark Avenue, which is also identified on the Jersey City tax maps as Block 9902, Lot 1 (the "Property").
3. The Property is located within the NC Neighborhood Commercial zoning district (the "NC Zone") and is subject to the requirements of the Jersey City Land Development Ordinance (the "JC LDO").
4. The Property is an irregular corner lot with five (5) sides and is approximately 2,627 square feet in area. The Property is located at the corner of Fourth Street and Newark Avenue. While this is a corner lot, it could also be defined as a through lot, and accordingly it would not have any rear yard. The Property currently contains one (1) story commercial use, and has 100% lot coverage.
5. Murat Mutlu, AIA was accepted as an expert in the field of architecture by the Planning Board. Mr. Mutlu testified as to the existing conditions, the site plan, material, and overall building design. The proposed project involves construction of a new five (5) story mixed-use building with twelve (12) residential units and ground floor commercial space. Mr. Mutlu also described the proposed bioswales at the street level, as well as the seven (7) street trees proposed as part of the Project. He also described and explained that portions of the building

on the upper floors will extend into the public right-of-way. The extension of the upper floor areas into the right-of-way is consistent with other projects approved by this Board and along Newark Avenue.

6. Mr. Mutlu was cross-examined by a neighbor's attorney, Cynthia Hadjiyannis, Esq., who asked him several questions about the specifics of the building projections. Mr. Mutlu demonstrated on the architectural plans where the projections were located, and testified that any projection would be above the ground floor and would comply with all building code requirements.
7. Samuel Bellamy of Dresdner Robin was next to testify on behalf of the Applicant. Mr. Bellamy was accepted as an expert in the field of planning.
8. Mr. Bellamy testified as to the following variances:
 - a) A variance to permit a relief from the minimum required rear yard setback, if necessary;
 - b) A variance to permit relief from the minimum rooftop appurtenances setback requirements from the façade facing 4th Street.
9. Mr. Bellamy first addressed the requested rear yard setback variance. He testified that the irregular shape of the corner lot creates a hardship and means that the "rear yard," as defined by the JC LDO, acts more like a side yard with respect to the streetscape. Zero-foot side yards are permitted in the NC Zone. If the Project were to comply with the minimum rear yard setback requirements, it would result in a 15-foot gap in the streetscape along Newark Avenue, which would be inconsistent with the development pattern along Newark Avenue and would be inconsistent with the intent of the NC Zone. Furthermore, treating that lot line as a side lot line, rather than a rear lot line, is a better design approach that meets the intent and purpose of the zone plan and zoning ordinance and would not result in any substantial detriments to the general welfare.
10. Mr. Bellamy then addressed the requested rooftop appurtenance setback variance. He testified that the irregular shape of the Property also creates a hardship and makes it a challenge to place the bulkhead in a way that would conform with setback requirements. The setback requirement for a rooftop appurtenance is one foot one inch for every foot of appurtenance height from the front façade of the building, both primary and secondary. The Property has three frontages: one along Newark Avenue, one along Fourth Street, and one along Brunswick Street. The Project is proposing the rooftop appurtenances to be located in the northeast corner of the building, which is the area furthest away from the Newark Avenue and Brunswick Street frontages. The rooftop appurtenances will be setback 24 feet from Newark Avenue and approximately 34 feet from Brunswick Street, which both exceed that minimum setback requirement. A bulkhead of this size is required to make the roof ADA

accessible.

11. The staircases, the elevator bulkheads, and the corridor provide roof access to an ADA accessible roof deck area for an open space for the residents of the building.
12. The proposed rooftop appurtenances are within the maximum height permitted for rooftop appurtenances, and within the maximum roof coverage area permitted for rooftop appurtenances.
13. The requested bulk variances: the rear yard setback, and the minimum setback of the rooftop appurtenances, can be granted both through the c(1) criteria whereby exceptional and undue hardship exist, creating a unique situation on this Property, and also by the c(2) criteria, wherein the benefits of the proposed project and variances would substantially outweigh the detriments.
14. The Projects also promotes the purposes of the Municipal Land Use Law. The Project is proposing a permitted mixed use building consistent with purpose (a) of N.J.S.A. 40:55D-1; a density consistent with purpose (e); a desirable visual environment consistent with purpose (i); and it promotes green development techniques consistent with purpose (j).
15. With respect to the negative criteria, there is no substantial detriment to the general welfare. Due to the irregular conditions of the lot, the proposed setbacks will have no substantial detriment to light, air, and open space. The two buildings to the rear of the Property almost connect. This is also an irregular block so there is no impact to the light and air going into the interior of the block.
16. The proposed bioswales and tree pits will also mitigate stormwater runoff, and the addition of three street trees along Newark Avenue and four street trees along Fourth Street will improve the streetscape. These proposed sustainable landscape developments meet the green area ratio requirements of the JC LDO, addressing any environmental concerns.
17. This Project directly promotes the purpose of the NC Zone, which is to recognize the existence and importance of the neighborhood business district and provide ground floor commercial in mixed-use buildings to promote walkability. The rear yard setback creates a complete streetscape along Newark Avenue, promoting walkability and that commercial storefront.
18. This Project also advances the Jersey City Master Plan. It adds residences along this mixed-use corridor, and also adds to the commercial viability along this known activity district along Newark Avenue. Accordingly, the requested variances for the proposed Project can be granted in that both the positive and negative criteria have been met.
19. The Division of City Planning testified that the requested variances are minor in nature and

that the variances are generally related to the hardship associated with the irregular depth and shape of the Property, and are warranted. Further, the Division of City Planning testified that the Project advances the goals of the Zone Plan. The Planning Board accepted this testimony.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the 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 Approval with “c” variances (rear yard setback; rooftop appurtenance setback), to wit, Calendar No. P20-116, to construct a new five (5) story mixed-use building with twelve (12) residential units and ground floor commercial space (the “Project”), with regard to the property located at 306-310 Newark Avenue, Jersey City, New Jersey and which is identified on the Jersey City tax maps as Block 9902, Lot 1, and which is located within the NC Neighborhood Commercial zoning district, in accordance with the plans and testimony submitted to the Planning Board of the City of Jersey City, subject to the following conditions:


1. No change to the site design 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. All street trees/landscaping shall be installed in accordance with 345-66 and the City’s Forestry Standards, prior to an issuance of a Certificate of Occupancy.
4. All comments from JC Engineering and JCMUA shall be addressed and shown on final signature plans.
5. In the event it is determined that any of the proposed building encroachments do not comply with the building code, the Applicant shall be permitted to revise the building to bring the building, or portions of the building, within the Property line to comply with the applicable building code. These changes may be made with the Division of Planning staff and their approval, and the Applicant would not be required to return to the Planning Board to effectuate these amendments / changes.
6. The site plan shall be revised to represent the green area ratio requirements.
7. A revised green area ratio sheet shall be submitted to reflect those changes.
8. The file bioswale dimensions, including the soil depth and the planting and maintenance notes, shall be maintained by the property owner or manager in perpetuity.
9. If the updated green area ratio calculation does not match up to the previously conforming 0.25, as required, the plans shall be revised to meet that requirement.

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VOTE: 8-0

<u>COMMISSIONER:</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Christopher Langston, Chairman	X			
Dr. Orlando Gonzalez, Vice-Chairman	X			
Eduardo Torres, Commissioner	X			
Geoffrey Allen, Commissioner	X			
Christopher Langston, Chairman	X			
David Cruz, Commissioner	X			
Dr. Vijaya Desai, Commissioner	X			
Joyce E. Watterman, Councilwoman	X			



Christopher Langston (Oct 17, 2022 20:06 EDT)

CHRISTOPHER LANGSTON, CHAIRMAN
JERSEY CITY PLANNING BOARD


Cameron Black (Oct 17, 2022 11:19 EDT)

CAMERON BLACK, SECRETARY
JERSEY CITY PLANNING BOARD

APPROVED AS TO LEGAL FORM:


Santo T. Alampi (Oct 18, 2022 09:10 EDT)

SANTO ALAMPI, ESQ.

DATE OF HEARING: June 22, 2021
DATE OF MEMORIALIZATION: July 20, 2021
CORRECTIVE RESOLUTION: October 11, 2022