

Statement of Principal Points
74 Bowers Street (Block 2301, Lot 1)
Jersey City, Hudson County, New Jersey

April 26, 2022

An application has been filed for the above-noted property (subject property) with the Jersey City Zoning Board of Adjustment for Preliminary and Final Site Plan approval; approval of a use variance pursuant to N.J.S.A. 40:55D-70.d.(1); and approval of bulk variances for maximum building height, minimum side yard setback, minimum rear yard, maximum building coverage, maximum driveway and curb cut width pursuant to N.J.S.A. 40:55D-70.c.

The subject property at 74 Bowers Street is identified as Block 2301, Lot 1 and is located at the easterly corner of Bowers Street and Sherman Avenue. The subject property has a lot area of 2,500 square feet, with 25 feet of primary frontage along Bowers Street and 100 feet of secondary frontage along Sherman Avenue. Currently, the subject property is improved with a 3-story mixed-use building, with commercial use and 2 residential units and a 1-story garage with five individual parking spaces.

The project proposes to convert the existing 2-unit mixed-use building with parking into a 5-unit mixed-use building, through the renovation and addition of 2 stories over the existing 1-story, 4-space garage. Commercial access is proposed from Bowers Street, residential access is proposed from Sherman Avenue, and off-street parking will be accessible from Sherman Avenue. The ground floor will consist of a 538-square-foot commercial space, one 692-square-foot ADA adaptable studio unit (Unit 101), and a 4-car garage. The second floor will consist of a 1,131 square foot two-bedroom unit (Unit 201) and a 1,076 square foot two-bedroom unit (Unit 202). The third floor will consist of a 1,131-square-foot two-bedroom unit (Unit 301) and a 1,108-square-foot two-bedroom unit (Unit 302). Unit 301 residents will have access to a private 569-square-foot private roof deck and Unit 302 residents will have access to a 577-square-foot private roof deck. Green roofing and three new street trees are proposed. The existing cellar will be renovated and will provide additional 358 square feet of commercial space and storage space for each unit. The proposed expansion is limited to the second and third floors and includes a total addition of 2,480 square feet: 1,240 square feet on the second and third floors each.

As the project proposes an expansion of the existing building, there are several existing non-conforming conditions that currently exist on site including side yard setback, rear yard setback, curb cut width, and driveway width, building coverage, and lot coverage.

d(1) Use Variance:

The Zoning Board of Adjustment has the jurisdiction to grant “d(1)” use variances pursuant to the Municipal Land Use Law (NJSA 40:55D-70(1)) “in particular cases and for special reasons.” Under relevant case law (*Medici v. BPR Co.* 107 NJ 1 (1987)), the standard for granting variances with respect to the positive criteria is that proposed use will promote the general welfare, the property must be particularly suited to accommodate the proposed use, and the proposed use is consistent with the development in the surrounding neighborhood. The justification must also address the negative criteria.

Bulk variances are subsumed within the request for the d(1) use variance. See *Kessler v. Bowker*, 174 N.J. Super. 478 (App. Div. 1979) certify. den. 85 N.J. 99 (1980); *O’Donnell v. Koch*, 197 N.J. Super.134 (App. Div. 1984); and *Price v. Himegi, LLC*, 214 N.J. 263, 301 (2013).

The subject property is a corner lot with 25 feet of frontage on Bowers Street and 100 feet of frontage on Sherman Avenue. The corner lot property is particularly well suited for the proposed mixed-use due to the two frontages

which will offer separate commercial entry and residential entry. Furthermore, from an urban design potential, a mixed, multi-family use is appropriate for corner locations.

The existing building height is 3 stories and 35 feet. The ground floor provides a commercial space and parking which is built from the front to the rear property lines. This building footprint is proposed to be maintained with internal renovations future use.

The proposed mixed-use and multi-family, building is in character and of similar intensity to the existing mixed-use and multi-family uses in the surrounding area. Of the multi-family buildings in the surrounding area, the number of units ranges from 3 units to 17 units. Across Sherman Avenue to the west is a corner property, 76 Bowers Street (Block 2205, Lot 43) which is improved with a 3-story, mixed-use building. Additionally, to the southeast is 43 Bowers Street (Block 2905, Lot 9) which is improved with a 3-story, mixed-use building.

With respect to density, the proposed 5-unit multi-family residential project has a calculated density of 87 units per acre. This is consistent with several other multi-family residential buildings in the area including the same block, Block 2301, Lot 2 (17 units, 74 units per acre); Lot 33 (8 units, 124 units per acre); Lot 34 (6 units, 105 units per acre); Lot 36 (6 units, 105 units per acre). Across Bowers Street, on Block 2904, Lot 4 is also a higher density building (6 units, 115 units per acre). Overall, 33% of the properties on tax Block 2301 are multi-family buildings. Thus, the proposed multi-family use is consistent with the surrounding multi-family buildings on Block 2301 and within the greater vicinity.

Bulk “c” Variances: The requested bulk variances for maximum building height, minimum side yard setback, minimum rear yard setback, maximum building coverage, and maximum driveway and curbcut width can be granted pursuant to N.J.S.A. 40:55D-70.c.(2), *wherein the benefits of the proposed project would outweigh any detriments and the purposes of land use planning are advanced.*

Maximum Building Height: The existing building height is 3 stories and 36 feet, with 11-foot ground floor and 10-foot upper floor-to-ceiling heights. A maximum building height of 3 stories and 34 feet is permitted. The project will maintain the existing 36-foot building height with the additional proposed to match the existing building height. The requested variance is de minimis for an additional 2 feet. The adjacent property to the rear is a 4-story, approximately 49-foot building height. The proposed addition will match the existing floor-to-ceiling heights and provide seamless access for residents from the existing floors to the proposed extension.

Minimum Side Yard Setback: The existing building has non-conforming zero-foot side yard, where a setback of 2 feet for one side and 5 feet and 1 inch for both sides are required. The side yard setbacks of the 2nd- and 3rd-story addition are proposed to match the existing zero-foot setbacks. The proposed setbacks will provide consistency with the remainder of the existing portion of the building.

Minimum Rear Yard Setback: The existing ground floor has an existing non-conforming zero-foot rear yard setback, where a minimum setback of 35 feet is required. As a result of maintaining the existing ground floor, the zero-foot setback is proposed to remain unchanged. The proposed second and third floor additions will match this zero-foot setback. The rear yard abuts the side yard of the adjacent 4-story building at 176 Sherman Avenue (Block 2301, Lot 2). This 4-story multi-family building does not have any side windows therefore, the proposed zero-foot rear yard setback will not detract light and air to the adjacent property. The proposed setback will provide consistency with the remainder of the existing portion of the building.

Maximum Building Coverage: The project site has an existing non-conforming building and lot coverage of 100%. The proposed project will result in the upper floors having a building coverage of 100%. The increased building coverage is mitigated by the addition of a green roof.

Maximum Driveway and Curbscut Width: The project also proposes to reduce the existing curbscut/driveway width from 48 feet-10 inches to 37-feet, bringing the property into greater conformity with requirements.

Overall, the benefits of the project outweigh the detriments, with the benefits including preservation and renovation of an existing structure, renovation of a “storefront” on a corner lot, reduced curb cut/driveway width along Sherman Avenue, new sidewalks and three street trees.

The project will advance and promote various purposes of the *Municipal Land Use Law (MLUL)*. The granting of the variances will promote the renovation of the building and will promote the appropriate use and development of the subject property and promote the public health, safety and general welfare; consistent with N.J.S.A. 40:55D-2.a. The project proposes sufficient setbacks to the surrounding properties which will provide adequate light, air, and open space to the surrounding properties consistent with N.J.S.A. 40:55D-2.c. The proposed project is also consistent with the multi-family character of the surrounding area and will promote the establishment of an appropriate population density and will contribute to the well-being of the community; consistent with N.J.S.A. 40:55D-2.e. Granting the requested variances will provide sufficient space in appropriate locations for a variety of residential and commercial uses and open space, both public and private pursuant to N.J.S.A. 40:55D-2.g. The proposed building design and renovations will promote a desirable visual environment through creative development techniques and good civic design and arrangement consistent with N.J.S.A. 40:55D-2.i.

The granting of the variance will not result in a substantial detriment to the public good or the general welfare. The proposed building is consistent with the character of the area, which already contains other multi-family structures and will therefore not have any more impact than many of the existing buildings in the area. The granting of the variance will likewise not result in a substantial detriment to the intent and the purpose of the zone plan. The proposed multi-family project is in an area that is already multi-family residential in character and could not rise to the level of a substantial detriment to the intent and purpose of the zone plan, even if not a permitted form of use within the district.

The proposed project will be complete the street scape along Sherman Avenue with an attractive building. In addition, the project will be making interior renovations and bringing the building up to current code standards. Thus, the proposed project, including the additional residential units will not cause a substantial detriment to the public good, or impairment to the intent and purpose of the Jersey City Zone Plan and Jersey City Land Development Ordinance.

The requested variances for the proposed project are justified and can be granted in that both the positive and negative criteria have been met pursuant to N.J.S.A. 40:55D-70.d. and N.J.S.A. 40:55D-70.c. The Applicant reserves the right to supplement the foregoing reasons with expert testimony at the Jersey City Zoning Board of Adjustment hearing.