

Statement of Principal Points
81 Sherman Avenue (Block 4406, Lot 12)
Jersey City, Hudson County, New Jersey

June 9, 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 an expansion of a non-conforming use pursuant to N.J.S.A. 40:55D-70.d.(2); and approval of a bulk variance for minimum combined front and rear yard setback pursuant to N.J.S.A. 40:55D-70.c.

The subject property at 81 Sherman Avenue is identified as Block 4406, Lot 12 and is located on Sherman Avenue between Franklin Street and Hutton Street. The subject property is oversized with a lot area of 3,358 square feet, with approximately 39 feet of frontage along Sherman Avenue and a non-conforming lot depth of approximately 84 feet. Currently, the subject property is improved with a 2-story multi-family building, with four 2-bedroom units.

The project proposes to renovate and expand the existing building, with a new third floor and a three-story rear addition. The proposed expansion will accommodate four duplex apartment units. Unit 101 will be a 1,192-square-foot, 2-bedroom plus den/2-bath apartment, with access to a private rear yard via a deck. Unit 102 will be a 1,196-square-foot, 3-bedroom/2-bath apartment, with access to a private rear yard via a deck. Unit 201 will be a 1,518-square-foot, 3-bedroom/2-bath apartment, with access to a private 403-square-foot roof deck. Unit 202 will be a 1,556-square-foot, 3-bedroom/2-bath apartment, with access to a private 376-square-foot roof deck. The façade of the building will be improved with new cladding and the front stoop will be rebuilt. Approximately 177 square feet of new landscaping will be added to the front yard and one new street tree will be planted.

Under relevant case law *Per Fin. Serv. V. Little Ferry Zon. Bd. Of Adj.*, 326 N.J. Super. 265, 275-276 (App. Div. 1994), an applicant for a d(2) variance permitting expansion of a lawfully created preexisting non-conforming use need not show that it would have been entitled to a variance for the initial nonconformity, it must satisfy the same positive and negative criteria test as other d variance applications. Additionally, per *Burbridge v. Mine Hill Tp.*, 117 N.J. 376 (1990), in some cases special reasons may be found in that fact that the variance, if granted, would tend to minimize the nonconformity of a lawfully created preexisting non-conforming use and make it more acceptable in its particular setting. Furthermore, per *Burbridge*, the Court held that in certain circumstances, aesthetic improvement alone can be sufficient special reason to justify the variance.

The subject property being an oversized lot with an area of approximately 3,358 square feet (0.08 acres), is particularly well suited for the proposed multi-family expansion. The project provides adequately sized 3-bedroom units within a building footprint that provides conforming yard setbacks and building and lot coverages. Furthermore, the project will maintain the existing density of the property of 4 dwelling units at 50 units per acre. The density is consistent with the character of the residential properties on Block 4405, 9 of the 14 residential properties on Block 4406 are multi-family uses, with an average density of 76 units per acre. The adjacent property to the south, 77 Sherman Avenue (Lot 13) has 10 units with a density of 144 units per acre.

The proposed project will also provide significant aesthetic improvements. The project proposes a new façade and windows, and the new third floor is designed to appear like a mansard roof, angled away from the street with two dormer style windows. Additionally, the project will introduce landscaping into what is currently a completely impervious front yard, exceeding the minimum 60% landscaping requirement for a residential property. One new street tree will be planted, and the new and existing tree pits will be enhanced with bio retention systems. Finally,

the existing decorative fencing, which extends into the sidewalk right-of-way will be removed and the full width of sidewalk will be available to pedestrians.

Additionally, the project requires a bulk variance for the combined front and rear yard setback. The project provides compliant front yard setback of 6.6 feet and rear yard setback of 22.9 feet. However, the combined front and rear yard setback of 29.5 feet that is proposed, is less than the required 35 feet. Providing a compliant combined front and rear yard setback would be a hardship as the subject property has a non-conforming lot depth of approximately 85 feet, where 100 feet is a typical lot depth in the R-1 District. The proposed combined setback is proportional to the undersized character of the lot, where if the subject property had a conforming lot depth of 100 feet, then the combined front and rear yard setback would exceed the minimum required.

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 maintain a multi-family use on the subject property which will 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.. 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 variances 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. Renovation of the building façade, new front yard landscaping, removal of the decorative fencing in the sidewalk and bio retention enhancements to the street tree pits will enhance the general welfare. The granting of the variances 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 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.