

**RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT
OF THE CITY OF JERSEY CITY**

APPLICANT: **35 ORCHARD STREET, LLC**

FOR: **AMENDMENT TO FINAL MAJOR SITE PLAN APPROVAL WITH "D"**
 VARIANCE
 35 ORCHARD STREET (F/K/A 284-294 MONTICELLO AVENUE
 AND 35 ORCHARD STREET)
 JERSEY CITY, NEW JERSEY
 BLOCK 15201, Lot 34.01 (F/K/A LOTS 34-36)

CASE NO. **Z18-087**

WHEREAS, the Applicant, **35 ORCHARD STREET, LLC**, (the "Applicant"), per **CONNELL FOLEY, LLC**, (Thomas P. Leane, Esq., appearing) made application to the Zoning Board of Adjustment of the City of Jersey City, County of Hudson and State of New Jersey, for an Amendment to Final Major Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(d) (6) (height) to wit, Calendar No. Z18-087, to approve amendments to a previously approved mixed use, eight (8) story building containing thirty-five (35) dwelling units, ground floor commercial and six (6) parking spaces, with regard to the property located at 35 Orchard Street (f/k/a 284-294 Monticello Avenue and 35 Orchard Street), Jersey City, New Jersey, which is also identified on the Jersey City tax maps as Block 15201, Lot 34.01 (f/k/a Lots 34-36); and

WHEREAS, due notice of a hearing before the Zoning Board of Adjustment of the City of Jersey City, on December 6, 2018 at 6:30 P.M. was duly published as prescribed in the Jersey City Land Development Ordinance ("JC LDO") of the City of Jersey City; 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, all testimony having been formally heard for this application; and

WHEREAS, after consideration of the application and the testimony presented at the meeting, and the oral and written comments and recommendations of the Division of Planning professional staff, the Zoning Board of Adjustment 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 and civil site plans prepared by Hampton Hill Architecture (Min W. Kil, AIA) dated February 20, 2018 with a final revision date of October 8, 2018, the Applicant's General Development Application and supporting documents (collectively, the "Applicant's Supporting Documents"), and the City planner's testimony and reports, if any, are hereby incorporated by reference.
2. The Applicant, 35 Orchard Street, LLC, filed an application with the Zoning Board of Adjustment an Amendment to Final Major Site Plan Approval with variances pursuant to N.J.S.A. 40:55D-70(d) (6) (height) to wit, Calendar No. Z18-087, to approve amendments to a mixed use, eight (8) story building containing thirty-five (35) dwelling units; ground floor commercial and six (6) parking spaces, with regard to the property located at 35 Orchard Street (f/k/a 284-294 Monticello Avenue and 35 Orchard Street), Jersey City, New Jersey, which is also identified on the Jersey City tax maps as Block 15201, Lot 34.01 (f/k/a Lots 34-36).
3. Of the proposed thirty-five (35) proposed units, five (5) will be set aside as affordable, with three (3) workforce housing units and two (2) moderate income units. Applicant testified that they will comply with the applicable affordable housings ordinances of the City of Jersey City and will enter into a Developer's Agreement with the City to that effect.
4. The proposed amendments include: the addition of penthouse units at the eighth (8th) level, creating a ninth (9th) story; relocation of the garage entrance to account for the extinguishment of a previous driveway easement; two (2) additional parking spaces; reconfiguration of the previously approved commercial space and lobby area to decrease the commercial use and create a larger tenant amenity area; increased property size/building coverage to account for a previously unresolved gore; an amendment to the façade material to utilized an EIFS system; and the removal of one (1) two-bedroom unit to be replaced by one (1) additional three-bedroom unit.
5. The property is located within the R-1 One and Two Family Housing zoning district (the "R-1 Zone") and is rectangular shaped, oversized corner lot (6,011 sq. ft.) in the R-1 Zone where Monticello Avenue and Orchard Street meet at the foot of Jordan Avenue. The

property has approximately 40' of frontage along Orchard Street and approximately 150' of frontage on Monticello Avenue. Presently, the property contains a three (3) story building with five (5) dwelling units which fronts on Orchard Street while the remainder of the property is utilized as a fenced in parking area accessible from Monticello Street.

6. The Applicant requested the following variances, exceptions and/or waivers from the Jersey City Land Development Ordinance:

- a. A variance to permit relief from the maximum permitted height in feet and stories the R-1 Zone.
- b. Any additional approvals, permits, variances, interpretations, waivers or exceptions reflected in the plans and materials filed (as same may be amended or revised from time to time without further notice) or determined to be necessary during the review and processing of this application.

7. In support of the requested approvals, the Applicant provided testimony from two (2) witnesses: Jennifer Palermo of Hampton Hill Architecture and Edward Kolling, PP of Dresdner Robin, both of whom were accepted as experts in their respective fields. The Planning Board accepts and agrees with the testimony and conclusions of the respective experts.

8. Ms. Palermo testified as to the proposed interior and exterior changes to the building including: the new location of the building driveway; the changes to the interior layout of the ground floor including the additional parking spaces, decreased commercial space and the tenant amenities; the roof plan, location of green space, private and public deck areas and the additional usable lofted residential spaces; and the proposed EIFS materials for the façade of the building.

9. Mr. Kolling testified as to the required height variance, a proposed increase from the previous approval for eight-four feet (84') and eight (8) stories to eight-seven feet (87') and nine (9) stories. Specifically, Mr. Kolling testified that the proposed increase is consistent with the existing development in the immediate area. The building will serve as a transition in height from the substantially taller buildings within the McGinley Square East Redevelopment Area and the mid-rise buildings permitted within the Neighborhood Commercial District. Moreover, the Property is particularly suited to the proposed height; both as a buffer location between the two varying zones and because it is an oversized corner lot which can accommodate additional height. Further, the additional height

accommodates parking and commercial spaces are a benefit which exceeds any negatives as a result of the buildings increased height. The number of stories of building should be viewed and considered as it relates to the proposed use of the Property (mixed-use, commercial/multi-family). In that regard, the additional story proposed allows for appropriate large units (family sized), including an additional three-bedroom unit, and accompanying parking as well as neighborhood commercial uses which promotes the general welfare. The height of the building will also not result in any substantial detriments to the zone plan or the immediate area. Accordingly, the variance for the building height is warranted and can be granted.

10. The R-1 requires a 1.0 parking spot/dwelling ratio parking for lots with widths greater than 50 feet. The Property is only 40 feet wide and does not require parking or a parking variance. Nonetheless, the project now provides eight (8) parking spaces on the ground floor of the building as a benefit to the building tenants; an increase from the previously approved six (6) parking spaces. The development makes efficient use of the ground floor by providing multiple uses which serve the building tenants as well as the surrounding neighborhood. The property is also located in close proximity to McGinley Square and Journal Square which both serve as hubs for public transportation. McGinley Square is particularly suited for access to Jersey City and New York City with the nearby Montgomery - Westside Bus which runs from Greenville to Downtown and passes one block from the Property on Montgomery allowing access to the Grove Street Path Station. The #80 New Jersey Transit Bus can also be accessed in McGinley Square for transportation to Journal Square. Further, the #87 New Jersey Transit Bus runs on Monticello Avenue and can be accessed from nearby Fairmount Avenue. The #87 runs to both Journal Square and the Hoboken Train/PATH Station. Journal Square is also walkable at a distance of approximately 0.6 miles from the Property. As such, the Project will not detrimentally impact the parking conditions in the surrounding neighborhood.

11. The project also features a true green roof as well as a rainwater detention tank. The green roof and rainwater detention tank will allow for an efficient storm management to recapture storm water that would relieve stress on the City's sewer system. Additionally, it will help mitigate the heat island effect and improve air quality. The units will contain high efficiency appliances as well as insulated windows.

12. The Applicant also provided testimony as it relates to the proposed affordable housing. The Applicant verified on the record that of the five (5) units, three (3) will be workforce housing units and two (2) will be moderate income units. The terms, specific

units, affordability controls, the length of the affordability control, the income requirements for tenants and the process for leasing the units will be defined by a Developer's Agreement between the Applicant and the City of Jersey City. The Applicant will work with the Jersey City Law Department to prepare and agree upon the terms of the Developer's Agreement of which a minimum terms of 15 years of affordability control and at least one (1) of the three-bedroom units will be subject to affordability control.

13. The project will promote the general welfare by providing affordable housing and green elements within a new mixed construction (N.J.S.A. 40:55D-2.a.). Given the proximity to nearby Redevelopment Areas and higher density zoning districts, the proposed development will promote the establishment of appropriate densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment (N.J.S.A. 40:55D-2.e). The project also promotes a desirable visual environment through creative development techniques and good civic design and arrangement (N.J.S.A. 40:55d-2.i), and the property is also particularly suited for the proposed use and building envelope because of the property's size and configuration as a corner lot. Further, the Project will contain affordable units to serve an area which will begin seeing rapid development within the upcoming years. As such, the granting of the requested variances will be a municipal action that will guide the appropriate use and development this property, and promote the public health, safety, morals, and general welfare by providing affordable housing to a population in need of housing consistent with (N.J.S.A. 40:55D-2.a). Accordingly, the Project is a net benefit to the surrounding area in that it will serve to help revitalize the Monticello Avenue corridor.

14. Since the proposed project will be similar in use, height and density to the surrounding buildings in the neighborhood, the proposed project and uses will also not substantially impair the zone plan, nor the intent and purpose of the zone plan or ordinance, nor will it be a substantial detriment to the public good or immediate neighborhood.

15. In conclusion, based upon review of the development plans, the testimony before the Board, the exhibits presented, the Division of Planning Planner's report, and the reasons set forth on the record, the proposed development of the property is an appropriate development of the property that will benefit the immediate neighborhood and will promote the general welfare, promote the conservation of resources, promote appropriate population densities, and promote a desirable visual environment. The proposed use and the bulk of the project is an appropriate use of the land and an appropriate build out of the land, and the proposed project will not affect any permitted uses in the neighborhood, nor cause any substantial detriments. The proposed variances will not cause a substantial detriment to

the public good, nor impairment to the intent and purpose of the Jersey City Zone Plan and Zoning Ordinance, and can be granted accordingly.

16. The proposed variances will not cause a substantial detriment to the public good, nor impairment to the intent and purpose of the Jersey City Zone Plan and Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Adjustment of the City of 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 variances pursuant to N.J.S.A. 40:55D-70(d)(1) and (6) (use, height) and N.J.S.A. 40:55D-70(c)(2) (minimum parking space dimension width), to wit, Calendar No. Z17-080, to construct a mixed use, eight (8) story building containing thirty-five (35) dwelling units, ground floor commercial and six (6) parking spaces, with regard to the property located at 284-294 Monticello Avenue and 35 Orchard Street, Jersey City, New Jersey, which is also identified on the Jersey City tax maps as Block 15201, Lots 34-36 Lot 50, in accordance with the plans and testimony, submitted to the Jersey City Zoning Board of Adjustment of the City of Jersey City, (subject to the following conditions):

1. The architect of record, Min W. Kil, shall be retained during construction and shall submit a signed and sealed affidavit representing that nothing during site construction was changed and the final construction is consistent with work approved before the issuance of certificate of occupancy. Additionally, the affidavit shall state that the green infrastructure mitigations were installed as approved

2. All materials and color selections shall be shown on final plans. No change to the facade, site design, including materials, can be made without approval by the office of planning.

3. All trees and landscaping will comply with the 2018 Jersey City Forestry Standards.

4. All testimony given by the Applicant and their expert witnesses in accordance with this application shall be binding.

5. 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.

6. Applicant shall provide additional detail for the water detention system within the final signed and sealed site plans. Applicant shall include a detention system with volume that provides 125% of the capacity required by NJDEP Stormwater Management (NJAC 7:8) Rules as if the property exceeds the thresholds and conditions under NJAC 7:8-1.6, and were required to provide a stormwater management system.

7. Applicant will work with City Planning to provide additional landscaping and drainage details for the proposed green roof.

8. Applicant will enter into a Developer's Agreement with the City of Jersey City as it relates to the five (5) onsite affordable units. Of the five (5) units, three (3) will be workforce housing units and two (2) will be moderate income units. The terms, specific units, affordability controls, the length of the affordability control, the income requirements for tenants and the process for leasing the units will be defined by a Developer's Agreement between the Applicant and the City of Jersey City. The Applicant will work with the Jersey City Law Department to prepare and agree upon the terms of the Developer's Agreement of which a minimum terms of 15 years of affordability control and at least one (1) of the three-bedroom units will be subject to affordability control.

APPLICANT: 35 ORCHARD STREET, LLC


FOR: AMENDMENT TO FINAL MAJOR SITE PLAN APPROVAL WITH "D" VARIANCE
35 ORCHARD STREET (F/K/A 284-294 MONTICELLO AVENUE AND 35 ORCHARD STREET)
JERSEY CITY, NEW JERSEY
BLOCK 15201, Lot 34.01 (F/K/A LOTS 34-36)

CASE NO. Z18-087


VOTE: 6-0

COMMISSIONER:	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
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Kate Donnelly, Acting Chairwoman	X
Richard McCormick, Commissioner	X
Chester M. Rothman, Commissioner	X
Matthew Vilardo, Commissioner	X
Ahmed Shedeed, Commissioner	X
Nicholas Jayme, Commissioner	X



KATE DONNELLY, ACTING CHAIRWOMAN
ZONING BOARD OF ADJUSTMENT
OF THE CITY OF JERSEY



TANYA MARIONE, SECRETARY
ZONING BOARD OF ADJUSTMENT
OF THE CITY OF JERSEY CITY

APPROVED AS TO LEGAL FORM:



VINCENT LaPAGLIA, ESQ.

DATE OF HEARING:
DATE OF MEMORIALIZATION:

December 6, 2018
December 20, 2018