

RECOMMENDATION ON THE VARIANCE APPLICATION OF
Impex/New Building
FILE # 08-757

I. INTRODUCTION

Pursuant to Public Law 2015, Chapter 19, The New Jersey Meadowlands Commission (NJMC) has become part of the New Jersey Sports and Exposition Authority (NJSEA), effective February 5, 2015.

An application for one bulk variance has been filed with the NJSEA by Thomas J. O'Connor, Esq., of the firm, Waters, McPherson, McNeill, P.C., on behalf of St. Paul's Properties, LLC, for the premises located at 438 St. Paul's Avenue, Block 6201, Lot 12, in the City of Jersey City, New Jersey. Said premises is located in the Hackensack Meadowlands District's Heavy Industrial zone. The variance is sought in connection with the applicant's construction of two (2) loading areas on the subject property in the front yard facing St. Paul's Avenue.

Specifically, the applicant is requesting relief from the following:

1. N.J.A.C. 19:4-8.3(b)1, which does not permit loading in any front yard. Two (2) loading areas have been constructed in the front yard facing St. Paul's Avenue.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Jersey Journal newspaper. No written objections were received. A public hearing was held in the NJSEA Office on Tuesday, April 7, 2015. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The property in question is approximately 1.59 acres in area. The site is currently developed with a 38,652-square-foot building for the manufacturing, processing and storage of frozen foods, with associated parking and loading areas. The applicant had previously received variance approval from the NJMC on May 27, 2009, for relief from N.J.A.C. 19:4-5.105(a)3i to construct the addition to the existing industrial building at a setback of 10 feet from the westerly front lot line along James Avenue, and from N.J.A.C. 19:4-5.105(a)3iii to construct the addition to the existing industrial building at 10 feet from the easterly rear lot line. The applicant now seeks a variance for two loading areas that have been constructed in the front yard facing St. Paul's Avenue without the benefit of approvals. The site is a corner "through" lot containing three front yards, with approximately 520 feet of frontage along James Avenue, 125 feet along Lewis Avenue and 150 feet along St. Paul's Avenue. The site is encumbered with a 25-foot-wide PSE&G utility easement that traverses east to west across the northern portion of the site.

Neighboring properties primarily contain public utilities, truck terminals and warehousing, and light and heavy industrial uses, with mixed-use residential and commercial space also present. The PSE&G Jersey City Gas Business Unit Headquarters complex is located to the west across James Avenue. Several trucking facilities exist to the north along James Avenue. Also accessed via James Avenue to the north is the PSE&G Hudson Generating Station. To the southeast, and sharing frontage along St. Paul's Avenue, is a four-story mixed-use building with residential uses on the upper floors. A variety of industrial and residential uses front on Lewis Avenue at a grade of approximately 10 feet higher than the subject property.

The applicant has constructed two loading areas in the front yard facing St. Paul's Avenue. The dimension of each loading space is 8 feet by 20 feet, which

have been designed for use by smaller vehicles such as vans. No tractor trailer activity is anticipated at these loading doors. Large deliveries and shipments of food product occur at three 12-foot by 60-foot loading spaces located on the north side of the building. There is also a grade difference between the site and St.Paul's Avenue.

B. Response to the Public Notice

No written comments were submitted to this Office prior to the public hearing.

III. PUBLIC HEARING (April 7, 2015)

A public hearing was held on Tuesday, April 7, 2015. NJSEA staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, P.P., AICP, Senior Planner; and Ronald Seelogy, P.E., P.P., Senior Engineer.

A. Exhibits

The following is a list of the exhibits submitted by the applicant at the public hearing and marked for identification as follows:

<u>Number</u>	<u>Description</u>
A-1	"Front Loading Variance Exhibit," Sheet 1 of 1, Drawing Number FLE-1, prepared by McNally Engineering, L.L.C., dated April 6, 2015.
A-2(a)	Photo exhibit entitled, "Impex - Former Building Front Loading," undated.
A-2(b)	Photo exhibit entitled, "Impex - Former Building Front Loading," undated.

- A-3(a) Photo exhibit entitled, "Impex - Neighborhood Front Loading Photo A,"undated.
- A-3(b) Photo exhibit entitled, "Impex - Neighborhood Front Loading Photo B,"undated.
- A-3(c) Photo exhibit entitled, "Impex - Neighborhood Front Loading Photo C,"undated.
- A-3(d) Photo exhibit entitled, "Impex - Neighborhood Front Loading Photo D,"undated.
- A-3(e) Photo exhibit entitled, "Impex - Neighborhood Front Loading Photo E,"undated.
- A-3(f) Photo exhibit entitled, "Impex - Neighborhood Front Loading Photo F,"undated.
- A-3(g) Photo exhibit entitled, "Impex - Neighborhood Front Loading Photo G,"undated.
- A-4 "Site Plan," Sheet No. 3 of 8, Drawing Number SP-1, prepared by McNally Engineering, L.L.C., dated October 30, 2008, revised through January 29, 2015.
- A-5 "As-Built - First Floor Fire Travel Plan with Pallet Racking Layout," Sheet No. G-003, prepared by Concept Design Group, LLC, dated September 23, 2014.

B. Testimony

Thomas J. O'Connor, Esq., of the firm, Waters, McPherson, McNeill, P.C., represented St. Paul's Properties, LLC at the hearing. The following witness testified in support of the application:

1. Perry Frenzel, P.E., P.P.

Staff findings and recommendations are based on the entire record. A transcript of the public hearing was prepared and transcribed by Beth Calderone, Certified Shorthand Reporter.

C. Public Comment

No members of the public were present at the public hearing.

IV. RECOMMENDATION(S)

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.3(b)1, which does not permit loading in any front yard. Two (2) loading areas have been constructed in the front yard facing St. Paul's Avenue.

The Hackensack Meadowlands District Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. Concerning bulk variances:

- i. The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

The subject property is currently improved with a 38,652-square-foot building for the manufacturing, processing and storage of frozen foods with associated parking and loading. The property has a shape that is not characteristic of other properties in the Heavy Industrial zone and predates the inception of the District Zoning Regulations. The subject property is a corner "through" lot with three front yards - St. Paul's Avenue to the south, James Avenue to the west, and Lewis Avenue to the east. The existing

grade of the site is lower than the elevation of both the St. Paul's and Lewis Avenues rights-of-way (ROWs). This combination of characteristics uniquely affects the ability of the property owner to accommodate loading areas on the property in a conforming location, i.e., not within a front yard.

The zoning regulations require that loading doors and facilities be located in rear and side yards. The site is configured with existing loading areas provided in the northerly side yard. However, the configuration of the existing building on the site limits the provision of new loading areas with adequate and appropriate building access and vehicle circulation that would be in conformance with the regulations.

Two loading areas have been constructed in the front yard facing St. Paul's Avenue. Possible locations for conforming loading areas are limited to the northerly side yard and a portion of the easterly property line classified as the rear yard. However, the provision of new loading spaces in the northerly side yard would cause site circulation conflicts with adjacent vehicle parking and loading areas. Due to the location of the building, which is set back 10 feet from the rear lot line, there is no possibility of providing a conforming loading space on the east side of the subject property. No property can be acquired to the east from the property located at 19-23 Lewis Avenue (Block 6201, Lot 7) due to an existing masonry retaining wall and structure on this lot that is located within close proximity to the common property line.

- ii. *The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The granting of the requested variance will not adversely affect the rights of neighboring property owners or residents. The loading areas in the front yard facing St. Paul's Avenue will not affect the ability of adjacent properties to continue with their existing operations. The residential properties in the general vicinity are located at a higher elevation than the subject premises, and are adjacent to other existing industrial uses. Neighborhood aesthetics will not be degraded by the new loading areas, as their visibility is minimized by the site's grade separation from St. Paul's Avenue.

Site circulation will not be significantly impacted by the proposed loading area and will not result in any off-site impacts. Vehicles will continue to enter the site from the southerly of two site driveways located on James Avenue and drive through the parking lot into the loading area to utilize the new loading doors. In accordance with the applicant's testimony, the new loading areas will only be utilized by vehicles with a maximum length of 20 feet. All loading operations will occur on-site and will not require maneuvering within adjacent ROWs or neighboring properties to access the new loading areas.

iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

The strict application of the regulations that prohibit front yard loading will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. Alternative site layouts, such as constructing the loading spaces on the northerly side of the building, would create site circulation conflicts with adjacent parking and loading areas. Due to the location of the existing building, which is set back only 10 feet from the rear lot line, there is no possibility of providing a conforming loading space on the east side of the subject property. Likewise, the construction of the new loading areas in the front yards facing James Avenue and Lewis Avenue would require maneuvering within the right of way and also require variance relief.

According to the testimony provided by the applicant, deliveries to the new loading doors will be limited to vehicles with a maximum length of 20 feet. Adequate maneuvering area is available on site for vehicles of this size accessing the new loading areas. Therefore, the strict application of the zoning regulations results in practical difficulties in the functionality of the subject property.

iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

There will be no substantial detriment to the public good and no adverse impact to the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. The placement of the loading areas within the front yard facing St. Paul's Avenue will have no adverse impact on public safety or health as adequate light, air and open space will continue to be supplied.

The applicant provided testimony that vehicles utilizing the new loading areas will not exceed 20 feet in length. The location of the new loading areas permits such vehicles to safely maneuver both on and off the site. As such, vehicles utilizing the new loading areas will not have to back into the site from James Avenue, and direct access to the site is maintained from the existing southerly-most of the two site driveways located on James Avenue. In addition, excess noise, odor, vibration or glare will not be generated as a result of the new loading areas. It is anticipated that the number of vehicle trips generated by the new loading areas will not cause significant changes to current traffic patterns.

v. The variance will not have a substantial adverse environmental impact.

The granting of the requested variance will not have any adverse environmental impacts. No additional paved areas have been proposed and, consequently, the amount of open space will remain

the same. No environmentally sensitive areas, such as wetlands or stormwater facilities, will be disturbed. No new light fixtures will be installed. Therefore, the requested variance to locate the new loading areas within the front yard facing St. Paul's Avenue will not cause the NJSEA's environmental performance standards for noise, glare, vibrations, airborne emissions or hazardous materials to be exceeded.

vi. The variance represents the minimum deviation from the regulations that will afford relief.

The requested variance represents the minimum deviation from the regulations that will afford relief. Potential locations to provide alternative loading areas outside of the front yard facing St. Paul's Avenue are not available due to the existing building floor plan, site layout, and property configuration. The ability to accommodate conforming loading areas on the site is significantly constrained by its three front yards. The new loading areas have been situated to ensure safe and efficient operation of the food processing facility, necessitating their location facing St. Paul's Avenue. The visibility of the loading areas is minimized as they are at a lower elevation than the adjacent St. Paul's Avenue ROW.

vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

The new loading areas facing St. Paul's Avenue will not substantially impair the intent and purpose of these regulations. The intent and purpose of front yard loading regulations are rooted

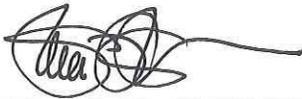
in the promotion of public safety and aesthetics. Although this proposal locates loading areas in the front yard, public safety is not adversely impacted. All maneuvering to access the loading areas will occur entirely within the vehicular use area on site, will not impede on-site or off-site circulation, and will not occur within the St. Paul's Avenue or James Avenue rights of way. The applicant proposes to limit vehicle sizes at the new loading areas to 20 feet in length in order to ensure on-site circulation continues to function safely and efficiently. The new loading areas will not be a significant detriment to area aesthetics, as the two new loading areas are located within an existing paved vehicular use area that is located at a lower elevation than the St. Paul's Avenue right of way. The placement of the new loading areas within the front yard facing St. Paul's Avenue will provide appropriate and functional access for vehicles, including emergency equipment. The site will, therefore, be utilized in a safe and orderly manner.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.3(b)1, which does not permit loading in any front yard. Two (2) loading areas have been constructed in the front yard facing St. Paul's Avenue.

Based on the record in this matter, the bulk variance application to permit two loading areas in the front yard facing St. Paul's Avenue, whereas loading is not permitted in any front yard, is hereby recommended for APPROVAL SUBJECT TO THE FOLLOWING CONDITION:

1. Vehicles utilizing the two loading areas in the front yard facing St. Paul's Avenue shall be limited to a maximum length of 20 feet.

CONDITIONAL APPROVAL 6/3/15 
Recommendation on Variance Request Date Sara J. Sundell, P.E., P.P.
Director of Land Use Management

conditional approval 6/4/15 
Recommendation on Variance Request Date Marcia A. Karrow
Executive Director