

RECOMMENDATION ON THE VARIANCE APPLICATION OF

Bucciarelli/Bylada Foods - 2nd Fl. Office Addition

FILE # 14-233

I. INTRODUCTION

An application for one (1) bulk variance has been filed with the New Jersey Meadowlands Commission (NJMC) by Ira E. Weiner of the firm Beattie Padovano, LLC, on behalf of Ellva, Inc., for the premises identified as 140 West Commercial Avenue, Block 60, Lot 8, in the Borough of Moonachie, Bergen County, New Jersey. Said premises are located in the Commission's Light Industrial B zone. The applicant is requesting a bulk variance to construct a 2,264-square foot second-story office building addition with associated site improvements on the subject property in the front yard facing Gotham Parkway.

Specifically, the applicant is requesting relief from the following:

1. N.J.A.C. 19:4-5.84(a)3i, which requires a minimum front yard setback of 35 feet. The applicant is proposing to construct a second floor addition that will provide a minimum front yard setback of 20.2 feet along Gotham Parkway.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Record. A public hearing was held in the Office of the Commission on Tuesday, February 3, 2015. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation. Comment letters were received during the public comment period from the Moonachie Superintendent of Public Works, Mary Ellen Lyons, dated February 2, 2015, and Michael J. Maguire, Moonachie Chief of Police, dated January 30, 2015. In a letter dated February 12,

2015, the municipality was contacted regarding their concerns over lot coverage, parking, line of sight, number of employees and stormwater runoff rates.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The property in question consists of approximately 0.807 acres, whereas a minimum lot area of one acre is required in the Light Industrial B zone. The site has two front yards, with frontage along West Commercial Avenue to the north and Gotham Parkway to the west. There are no existing easements on the subject property. Properties within the immediate vicinity are developed with a mix of light industrial and warehouse/distribution uses. Direct access to the site is provided from Gotham Parkway and from West Commercial Avenue via a common driveway that also serves 120 West Commercial Avenue to the east.

The subject property is currently developed with a one-story light industrial building and associated parking. The existing building covers 52.6 percent of the lot, whereas a maximum lot coverage of 50 percent is permitted. In addition to lot area and coverage, several other pre-existing nonconforming conditions exist on the site. A rear yard setback of 7.8 feet is provided from the existing building to the southerly property line, whereas a minimum setback of 30 feet is required. Existing employee parking spaces, which back out directly into the street, are located in the required front yard along Gotham Parkway. Loading areas are located in both front yards facing Gotham Parkway and West Commercial Avenue.

The applicant is proposing to construct a 2,264-square foot second-story office addition with associated site improvements on the subject property in the front yard along Gotham Parkway. The employee parking area on the westerly portion of the site will be restriped to accommodate 11 parking spaces, including one van-accessible Barrier-Free parking space. Eight parking stalls will be installed on the east side of the building. An access easement is proposed to serve both the subject premises and the adjoining property at 120 West

Commercial Avenue to allow vehicles parked on the east side of the building adequate room for maneuvering. No new impervious surfaces are proposed, maintaining open space at its pre-existing level of 12 percent.

B. Response to the Public Notice

Comment letters were received during the public comment period from the Moonachie Superintendent of Public Works, Mary Ellen Lyons, dated February 2, 2015, and Michael J. Maguire, Moonachie Chief of Police, dated January 30, 2015.

III. PUBLIC HEARING (February 3, 2015)

A public hearing was held on Tuesday, February 3, 2015. NJMC 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	Cross-Access Parking-Area Agreement, dated November 12, 2014.
A-2	"First Floor Demo & Floor Plan," Drawing Number A-1, prepared by Jon Fellgraff, AIA, Architect, dated April 1, 2014, revised through June 17, 2014.

- A-3 "Mezzanine Plan & 1st Floor Refl. Clg. Plan," Drawing Number A-2, prepared by Jon Fellgraff, AIA, Architect, dated April 1, 2014, revised May 27, 2014.
- A-4 "Elevations & Mezzanine Reflected Ceiling Plan," Drawing Number A-3, prepared by Jon Fellgraff, AIA, Architect, dated April 1, 2014, revised May 27, 2014.
- A-5 "Site Plan," Drawing Number SP-1, prepared by McNally Engineering, LLC, dated July 8, 2014.

B. Testimony

Ira E. Weiner, of the firm Beattie Padovano, LLC, represented Ellva, Inc. at the hearing. The following four witnesses testified in support of the application:

1. Larry Bucciarelli, Ellva, Inc.
2. Matthew Greco, P.E., McNally Engineering, LLC
3. Jon Fellgraff, AIA, Architect.
4. Eric Sullivan, Bylada Foods.

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. 19:4-5.84(a)3i, which requires a minimum front yard setback of 35 feet. The applicant is proposing to construct a second floor

addition that will provide a minimum front yard setback of 20.2 feet along Gotham Parkway.

The NJMC Zoning Regulations at N.I.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 a corner lot with two front yards, having frontage along West Commercial Avenue to the north and Gotham Parkway to the west, and is generally square in shape. The existing building on the subject property has a pre-existing nonconforming westerly front yard setback along Gotham Parkway of 20.2 feet. The location and size of the existing building in relation to the overall lot places constraints on further development of the subject premises.

The existing one-story light industrial facility has a footprint of 18,500 square feet, which covers 52.6 percent of the site. A maximum lot coverage of 50 percent is permitted in the Light Industrial B zone. A rear yard setback of 7.8 feet is provided from the building to the southerly property line, whereas a minimum setback of 30 feet is required. Compliant front and side yard setbacks are provided on the northerly and easterly portions of the subject property. However, any expansion to the north towards West Commercial would encroach into the required front yard and any expansion to the east would encroach into the area available for facility parking.

Therefore, compared with other properties in the same zone, there is significantly less area on the site available to accommodate an expansion of the building's footprint in a compliant manner. As a result, the applicant's office area expansion is proposed as a second level across the northern portion of the building, of which approximately 360 square feet extends into the required front yard along Gotham Parkway.

These pre-existing, nonconforming and unique conditions were not created by the property owner or applicant.

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

The granting of the bulk variance to construct a second-story office addition over an existing structure with a front yard setback of 20.2 feet from Gotham Parkway will not adversely affect the rights of neighboring property owners. This application proposes the construction of a 2,264-square-foot second-story office addition that will extend approximately 15 feet into the required front yard facing Gotham Parkway. However, the proposed expansion is situated above a portion of the existing first floor building line and will not extend any further into said required front yard than the westerly façade of the existing building. Façade improvements are also proposed at the property, which is located at a prominent intersection in an industrial neighborhood, which will have a positive impact to the aesthetics of the area.

The proposed addition will not be obtrusive and will not affect the ability of adjacent property owners to continue their existing operations. The purpose of the proposed addition is to improve working conditions for the six existing office employees. There is no proposed expansion of the existing employment levels, and, therefore, no increase in parking demand or traffic concerns that would result from the proposed expansion. All required parking is provided on the site. The portion of the proposed addition located within the required front yard setback will not limit sight distance into and out of existing driveways.

The provision of light and air will not be adversely affected by the approximately 360 square feet of the addition that is proposed to be located within the Gotham Parkway required front yard. Site conditions, such as the visual appearance resulting from the proposed addition, will not be degraded.

Finally, there are no residential properties located proximate to the site that would be affected by the proposed variance.

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 minimum front yard setback regulation will result in peculiar and exceptional practical difficulties and undue hardship upon the applicant. This application proposes the construction of a 2,264-square-foot second-story office addition directly above a portion of the existing structure. As a result of the

pre-existing non-conforming building setback of 20.2 feet along Gotham Parkway, approximately 360 square feet of the proposed addition will be located within the required front yard with the same minimum 20.2-foot setback from Gotham Parkway as the existing structure. The location and configuration of the existing building and parking areas presents challenges in providing a conforming and functional building addition.

In order to maintain a functional floor plan, the proposed office expansion must be located within proximity of the existing office space. Constructing the new office space adjacent to the existing office area located on the facility's floor would result in either the loss of manufacturing space or loading facilities. Construction of the proposed office space on the second level in a compliant location would locate the proposed addition above existing industrial space on the ground floor. This location would require significant structural modifications to accommodate the proposed addition, as well as the relocation of existing rooftop mechanical equipment, to the extent that it would render the proposed addition impracticable in a compliant location. Additionally, the existing office space has a lower roof line than the industrial portion of the building. Thus, locating the second story office area above the existing office space will result in less visual impact than if the proposed office expansion were to be located above the industrial portion of the building.

The only possible functional location available for the proposed second floor office expansion is along the northern façade of the structure along West Commercial Avenue and extending, in small

part, into the front yard facing Gotham Parkway. Alternative locations to construct the proposed office expansion are restricted by current site conditions. The existing building is currently located at the minimum required setback of 35 feet along West Commercial Avenue. Any development in the southerly rear yard is restricted by the existing nonconforming setback of only 7.8 feet. Constructing the proposed addition on the easterly side of the existing building would restrict access to a paved vehicular use area, where the applicant proposes the installation of eight parking stalls to bring the subject property into compliance with the site's required number of parking spaces.

Therefore, the existing site and building configurations preclude the construction of the proposed office expansion at any other location on the subject property due to the particular conditions of the building and the site.

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.

The granting of the requested variance to construct a second floor addition over an existing structure with a front yard setback of 20.2 feet along Gotham Parkway will not result in substantial detriment to the public good or adversely affect the general welfare or public safety. The public will benefit from the restriping of the easterly and westerly vehicular use areas, resulting in conformance with the regulations governing the provision of the required minimum number of parking spaces. Four wall-mounted light fixtures will

be installed on the easterly building façade providing illumination to the common access drive. Sight distance into and out of existing driveways will be maintained, and the provision of light and air in the neighborhood will not be negatively impacted. Line of sight at the intersection of Gotham Parkway and West Commercial Avenue will remain unchanged.

The proposed second-story addition will not negatively impact the visual appearance of the area and will not result in a decrease in the amount of open space currently provided. Stormwater runoff generated by the proposed addition will be collected by internal roof drain pipes that will discharge into an existing storm sewer. Finally, construction of the proposed addition will allow Bylada Foods to remain at its current location, thereby promoting neighborhood stability and prosperity.

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

The granting of the requested variance to construct a second floor addition over an existing structure with a front yard setback of 20.2 feet along Gotham Parkway will not result in any adverse environmental impacts. No environmentally sensitive areas will be disturbed. No new impervious surfaces are proposed and open space will remain at its current level. Roof runoff from the proposed addition will be collected by internal drains and discharged into an existing storm sewer system. The proposed addition will not exceed the Category B performance standards in regard to noise, vibrations, glare, air emissions, hazardous or radioactive materials, wastewater or traffic.

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

The proposed second floor addition within the front yard facing Gotham Parkway will not project beyond the existing building façade, thereby maintaining the existing westerly front yard setback of 20.2 feet. Site improvements associated with the proposed expansion will provide Barrier-Free access to the building, while façade upgrades will add visually-pleasing architectural elements to the aesthetics of the subject property.

The existing building configuration and site conditions contain numerous constraints limiting the possible locations where the addition can be constructed. In order to maintain a functional floor plan, the proposed office expansion must be located within proximity of the existing office space. Constructing the new office space adjacent to the existing office area would result in either the loss of manufacturing space or loading facilities. Also, the ability to construct the proposed office expansion within the existing building footprint is not feasible due to the significant structural modifications that would be required. Further, the existing building on the site has two different roof heights. The addition is proposed to be located over the existing office space, which is the portion of the building having the lower roof height, thereby minimizing the visual appearance of the building expansion.

The only possible functional location available for the proposed second floor office expansion is along the northern façade of the

structure along West Commercial Avenue and extending, in small part, within the westerly front yard facing Gotham Parkway. Expansion in the remaining yards would also place the proposed addition with a required yard setback and/or result in the loss of parking or loading areas on the site.

Finally, construction of the proposed second-story office addition will require the removal of two existing nonconforming canopies located in the required front yards along West Commercial Avenue and Gotham Parkway. Removal of both canopies, which have an approximate plan area of 160 square feet and 108 square feet respectively, would decrease the subject property's degree of nonconformity with respect to the location of improvements within required front yards. Therefore, the requested variance represents the minimum deviation from regulations that will afford relief.

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

The requested variance to construct a second-story office addition within the required front yard facing Gotham Parkway will not substantially impair the intent and purpose of these regulations. By granting the requested variance for the proposed building addition, the site's visual appearance will be improved, having a positive impact on neighborhood aesthetics. The proposed location of the addition in the required front yard, as proposed, is the most feasible location where office space can be constructed due to the particular characteristics of the building and the site. Therefore, by balancing the proposed development with the building and site

constraints, this proposal supports the purpose of the zoning regulations to “promote development in accordance with good planning practices that relates to the type, design and layout of such development to both the particular site and surrounding environs.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.84(a)3i, which requires a minimum front yard setback of 35 feet. The applicant is proposing to construct a second floor addition that will provide a minimum front yard setback of 20.2 feet along Gotham Parkway.

Based on the record in this matter, the bulk variance application for the construction of a second floor building addition with a minimum front yard setback of 20.2 feet along Gotham Parkway on the subject properties is hereby recommended for APPROVAL.

APPROVAL

Recommendation on
Variance Request

4/1/15

Date



Sara J. Sundell, P.E., P.P.
Director of Land Use Management and
Chief Engineer

Approval

Recommendation on
Variance Request

4/2/15

Date



Marcia A. Karrow
Executive Director