

RECOMMENDATION ON THE VARIANCE APPLICATION OF

Bonanno/65 Commerce - New Loading Docks

FILE # 14-344

I. INTRODUCTION

An application for one bulk variance has been filed with the New Jersey Meadowlands Commission (NJMC) by Thomas P. Bonanno, III of the Tryon Management Corp. and The Bonanno Real Estate Group, for the premises identified as 65 Commerce Road, Block 127, Lot 7, in the Borough of Carlstadt, New Jersey. Said premises are located in the Commission's Light Industrial B zone. The bulk variance is sought in connection with the applicant's proposal to construct two loading areas on the subject property in the front yard facing Commerce Road. Specifically, the applicant is requesting variance 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 are proposed in the front yard facing Commerce Road.

Notice was given to the public and all interested parties as required by law. No written comments or objections were submitted to the Division of Land Use Management. A public hearing was held in the Office of the Commission on Tuesday, November 18, 2014. All information submitted to the Division of Land Use Management relative to this application was made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The subject property is a 1.48-acre parcel, fronting on Commerce Road in Carlstadt. It is currently improved with a 32,171-square-foot warehouse/distribution and light industrial facility with ancillary office space, with parking located in the easterly and southwest portions of the site. The southeastern portion of the site is comprised of an extension of the building and landscaping with open lawn areas and several trees. The western portion of the property has a fence surrounding a monopole with cell antennas and three cell carrier buildings with cell equipment. The building is located near the rear lot line, having a rear yard setback ranging between 10.9 feet on the western end and 33.15 feet at the eastern end, with an existing 10-foot-wide drainage easement along the rear property line.

The building currently has two (2) loading areas located in the easterly front yard facing Commerce Road. The site's existing front yard loading is a preexisting nonconforming condition within the Light Industrial B Zone. The surrounding area is developed primarily with a mix of warehousing facilities. A warehouse facility with retail is located to the west of the subject property.

The applicant is proposing to install two (2) additional loading doors along the southerly face of the building in the vicinity of the existing loading doors, as part of improvements to the property that include parking area site improvements. Eight parking spaces will be eliminated in order to allow a 30-foot-long single unit truck and smaller vans to maneuver on the site. The required minimum number of parking spaces will continue to be provided on the subject premises.

B. Response to the Public Notice

No written comments or objections were received during the public comment period.

III. PUBLIC HEARING (November 18, 2014)

A public hearing was held on Thursday, November 18, 2014. NJMC staff in attendance were Sara 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; and Mia Petrou, P.P., AICP, Senior Planner.

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	"Site Plan," Sheet No. 1 of 1, prepared by Lapatka Associates, Inc., dated 7/23/14, last revised 9/29/14.
A-2	Aerial Photo of Site
A-3	Elevation Photo of Southern Building Wall

B. Testimony

The applicant was represented at the hearing by Mitchell Abrahams, of Cole, Schotz, Meisel, Forman & Leonard, PA. The following three witnesses testified in support of the application:

1. Andrew Missey, P.E., Lapatka Associates;
2. Hal Simoff, P.E., P.P., Simoff Engineering Associates, Inc.; and
3. Thomas Bonanno, Bonanno Real Estate Group.

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

IV. RECOMMENDATION

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 loading docks are proposed in the front yard facing Commerce Road.

The NJMC 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 currently has two preexisting nonconforming loading docks in the front yard facing Commerce Road. The proposed two additional loading doors in the front yard will be located in close proximity to the existing loading doors on the southerly façade. Alternate locations for loading docks on the property are limited due to the particular characteristics of the site and its existing improvements. The building is located toward the rear of the property, with the site having a narrow rear yard further constrained by a 10-foot-wide easement. A monopole with cell antennas and three cell carrier buildings with cell equipment are

located to the west of the building, and a building setback of 40.9 feet in the easterly portion of the site leaves insufficient area available for functional loading and truck maneuvering on the site. Additionally, the easterly portion of the site contains required parking areas. These are conditions uniquely affecting this property and its ability to provide for conforming loading space.

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

The neighborhood in which the subject property is located is primarily industrial in nature. There are no residences located nearby. There are currently two loading docks located in the front yard facing Commerce Road. Consequently, the two proposed loading doors within an existing loading area will not result in a significant impact. Trucks accessing the site will primarily travel westbound on Commerce Road from Washington Avenue, through industrial neighborhoods. However, to ensure that there are no off-site impacts to the adjacent roadway's circulation, this report recommends that the maximum size of trucks utilizing these doors be limited to 30-foot-long single unit (SU-30) vehicles in order to ensure that truck maneuvering to access the loading doors will not negatively impact the public right-of-way. Therefore, with the recommended condition, the granting of the requested variance will not adversely affect the rights of neighboring property owners or residents.

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.

NJMC zoning regulations require that loading areas be located in rear or side yards. However, the configuration of the existing building, parking and equipment on the site limits the provision of new loading areas with adequate and appropriate building access and vehicle circulation. Testimony was provided that the lack of sufficient loading areas for a building of this size has impacted the ability of the property owner to lease the premises, and it has remained vacant for some time. With the exception of the front yard facing Commerce Road, the remaining yards are not suitable to accommodate expanded loading operations at the subject property due to insufficient area for truck maneuvering, or the presence of other improvements and parking areas.

In balancing the requirements of the Light Industrial B zone with the particular characteristics of the property, the granting of the proposed variance will provide a functional and efficient location for the site's expanded loading operations in order to support the viability of the preexisting-nonconforming building on 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.

There will be no substantial detriment to the public good and no adverse impacts to the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. The placement of the proposed loading areas within the front yard facing Commerce Road, with a limited truck size, will have no adverse impact on public safety or health, and adequate light, air, and open space will continue to be supplied. The applicant provided testimony that trucks utilizing the proposed loading areas will not exceed 30 feet in length, and it is recommended as a condition of this report that the size of the trucks utilizing the proposed loading areas be restricted in accordance with this testimony. This truck size limitation and the location of the proposed loading doors, within an existing loading area, permits such vehicles to safely maneuver both on and off the site. As such, vehicles utilizing the proposed loading areas will not need to back into the site from Commerce Road, and direct access to the site is maintained from the existing western-most driveway on Commerce Road. In addition, excess noise, odor, vibration, or glare will not be generated as a result of the proposed loading areas. It is anticipated that the number of vehicle trips generated by the proposed loading areas will not cause significant changes to current traffic patterns in the neighborhood.

Other improvements proposed as part of this application include the elimination of eight passenger vehicle parking spaces, which

will allow for safe and efficient maneuvering of trucks under 30 feet in length. These vehicles will be able to access the proposed loading docks in a safe manner without negatively effecting Commerce Road. The proposed improvements will have no impact to the public safety and will result in efficient circulation patterns on the site.

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 environmentally sensitive areas, such as wetlands or stormwater facilities, will be disturbed. The proposed loading areas will be located on existing impervious surfaces, and the amount of open space will not be altered. The requested variance to locate the proposed loading areas within the front yard facing Commerce Road will not cause the NJMC'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 southerly front yard facing Commerce Road are limited due to the existing site layout and building configuration. There is no feasible alternative location for loading docks on the property due to a narrow rear yard containing a 10-foot-wide easement, a monopole with cell antennas and

associated equipment located to the west of the building, and a small building setback of 40.9 feet to the east of the building. These physical characteristics leave insufficient area remaining for the creation of functional loading areas on the site. The applicant proposes to remove eight car parking spaces in order to accommodate the proposed loading doors within the existing loading area, while maintain the required minimum number of parking spaces to support the use of the premises. Therefore, the proposed variance represents the minimum deviation from the regulations that will afford relief.

vii. Granting the variance 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 will not be adversely impacted. The applicant proposes to limit vehicle sizes at the proposed loading spaces to a maximum 30 feet in length in order to ensure on-site circulation continues to function safely and efficiently. Therefore, all truck movements to access the loading areas will occur entirely on the site and will not impede on-site or off-site circulation. There will be no impact to the Commerce Road right-of-way. The proposed loading areas will not be a significant detriment to area aesthetics, as the two loading doors are being proposed adjacent to two existing non-conforming loading areas in the Commerce Road front yard. The site will, therefore, be utilized in a safe and orderly manner. Therefore, the proposed loading doors within an existing loading area facing

Commerce Road will not substantially impair the intent and purpose of these regulations.

IV. 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 loading docks are proposed in the front yard facing Commerce Road.

Based on the record in this matter, the bulk variance application to construct two additional loading areas in the front yard facing Commerce Road is hereby recommended for CONDITIONAL APPROVAL subject to the following conditions:

1. The size of the vehicles utilizing the two proposed loading areas shall not exceed 30 feet in length.

CONDITIONAL APPROVAL
RECOMMENDATION ON
VARIANCE REQUEST

1/30/15
Date



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

conditional approval
RECOMMENDATION ON
VARIANCE REQUEST

1/30/15
Date



Marcia A. Karrow
Executive Director