

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
Glomar Realty LLC/Pan American Coffee Company - Addition
FILE # 16-039**

I. INTRODUCTION

An application for two bulk variances has been filed with the New Jersey Sports & Exposition Authority (NJSEA) by Thomas J. O'Connor, Esq., of the firm Waters, McPherson, McNeill, P.C., on behalf of Glomar Realty, LLC, for the premises located at 275 Veterans Boulevard, Block 219.02, Lot 66.06, in the Borough of Rutherford, New Jersey. The subject premises is located in the Hackensack Meadowlands District's (District) Light Industrial A zone. The variances are sought in connection with the applicant's proposal to construct a 15,852-square foot warehouse building addition with associated site improvements on the subject property.

Specifically, the applicant is requesting relief from the following:

1. N.J.A.C. 19:4-5.77(a)3ii, which requires a minimum total side yard setback of 90 feet, whereas a total side yard setback of 61.53 feet will be provided for the proposed building addition.
2. N.J.A.C. 19:4-5.77(a)3iii, which requires a minimum rear yard setback of 75 feet, whereas a minimum rear yard setback of 41.63 feet will be provided for the proposed building addition.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Record newspaper. No written objections were received. A public hearing was held in the NJSEA Offices on Tuesday, May 17, 2016. 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 rectangular in shape, consisting of approximately four acres. It contains frontage on Veterans Boulevard to the south. The site is currently improved with a 60,988-square-foot one-story warehouse building with associated parking, and is occupied by Pan American Coffee Company. The northerly portion of the existing building is situated in the required rear yard at a setback of 41.01 feet. A compliant total side yard setback of 136.01 feet is currently provided. Two ingress/egress driveways provide access to and from Veterans Boulevard.

The site is bordered to the east by the property identified as Lot 66.07 in Block 219.02, upon which is situated a light industrial/warehousing and distribution facility. A stormwater ditch and concrete box culvert are located to the north on Lot 65.07 in Block 219.02. To the west is a vacant lot identified as Lot 3 in Block 219.04. Properties to the north and west of the subject property are located within the Hackensack Meadowlands District's Highland Cross Redevelopment Area. A 20-foot-wide temporary maintenance easement is located on the property along its rear lot line. Properties in the immediate vicinity are developed with a mix of office, light industrial and warehouse/distribution uses.

The applicant is proposing to construct a 15,852-square-foot warehouse addition to the existing warehouse/distribution building, with associated site improvements. No new loading areas are proposed. Three (3) existing loading doors are located behind the front building line on the southerly building elevation facing Veterans Boulevard. Two (2) additional existing loading areas are located on the westerly building elevation parallel to the Veterans Boulevard right of way. All existing loading areas are accessed from the aforementioned ingress/driveways

along Veterans Boulevard. There will be no decrease in the number of parking spaces provided on site.

B. Response to the Public Notice

No written objections were received prior to the public hearing.

III. PUBLIC HEARING (May 17, 2016)

A public hearing was held on Tuesday, May 17, 2016. 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	“Site Plan for Proposed Warehouse Addition,” Sheet 1 of 2, prepared by George D. Cascino, P.E., P.P., Professional Engineer and Planner, dated January 19, 2016, revised through March 22, 2016.
A-2	Aerial photograph exhibit, prepared by George D. Cascino, P.E., P.P., Professional Engineer and Planner, undated.
A-3	“Supplemental Landscape Plan for Proposed Warehouse Addition,” Sheet 1 of 1, prepared by George D. Cascino, P.E., P.P., Professional Engineer and Planner, dated May 13, 2016.

B. Testimony

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

1. George C. Cascino, 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 Susan Bischoff, Certified Shorthand Reporter.

C. Public Comment

Lisa John-Basta, Esq., of the firm Chiesa, Shahinian, Gaintomosi, P.C., attorney for Lincoln Equity, the owner of adjoining properties within the Highland Cross Redevelopment Area to the north and west, testified at the hearing in support of the application.

IV. RECOMMENDATION(S)

- A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.77(a)3ii, which requires a minimum total side yard setback of 90 feet. A total side yard setback of 61.53 feet will be provided for the proposed building addition.**

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 developed with a 60,988-square-foot warehouse/distribution building that occupies 39 percent of the site. The applicant is proposing to construct a 15,852-square-foot warehouse building addition to accommodate their expanding business operations at the site, which they currently own.

The proposed addition will provide a total side yard setback of 61.53 feet, whereas a minimum total side yard setback of 90 feet is required in the Light Industrial A zone. Presently, a conforming total side yard setback of 136.13 feet is provided. The existing building is situated in the required rear yard at a setback of 41.01 feet, which is encumbered by a 20-foot-wide temporary maintenance easement. Also, the existing building is set back 31.53 feet from the easterly side property line, where the minimum required side yard is no less than 30 feet on any one side. The configuration of the existing building on the subject property leaves only the westerly yard as the only practicable location for a warehouse building addition, having an existing side yard of 104.48 feet, in order to align with existing warehouse space and utilize existing loading doors. The requested variance to permit a reduced total side yard setback arises from this condition.

- 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 neighborhood in which the subject property is located is primarily

industrial and commercial in nature; no residences are located nearby. The proposed building addition with a reduced total side yard, but compliant individual side yard setbacks, will border Lot 66.05, which is located west of the subject property and is currently undeveloped. Zoning approval was granted May 22, 2002, for the construction of a 216-room, 10-story hotel with associated parking to be located on neighboring Lot 66.05, which included a side yard setback of approximately 35 feet was approved from the proposed hotel on Lot 66.05 to the common lot line with the subject property. If this adjoining lot is developed in the future, the distance between the proposed warehouse building addition and the hotel would be approximately 65 feet. This distance between structures would allow for the provision of adequate light, air and open space for both properties.

The proposed improvements will not create any negative visual impacts to neighboring properties or impede their ability to function as intended. Landscaping will be installed along the westerly property line. Additionally, in response to concerns by the neighboring property owner, landscaped trellises are proposed to be attached to the westerly building façade to further visually screen the proposed addition from any future development on adjacent Lot 66.05. The proposed building addition will have no loading doors. All loading operations will continue to be conducted from the existing loading doors located along the southeasterly and southwesterly building facades.

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 would require a total side yard setback of 90 feet, whereas 61.53 feet is proposed, will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. In order to comply with District zoning regulations, the footprint of the proposed building addition would have to be reduced by nearly 50 percent. The applicant attested that the additional warehouse space is needed to accommodate their expanding business operations and need for a functional storage configuration.

Alternative locations to construct the proposed addition are limited due to the siting and the internal configuration of the existing building on the subject property. The existing building encroaches into the northerly rear yard, and constructing the proposed addition in the easterly side yard would create the need for an individual side yard setback variance. Similarly, constructing the proposed warehouse building addition on the southerly portion of the site, adjacent to the existing office space, would place the new addition within the required front setback. This location is not practicable, as the existing office space would disrupt the flow of product and materials from one portion of the warehouse space to the other.

In balancing the requirements of the Light Industrial A zone with the particular characteristics of the subject property, the proposed variance is required to provide a functional warehouse building. The proposed warehouse building addition will be constructed adjacent to the warehouse portion of the existing building, which represents a consolidated approach to building configuration and site layout.

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 building addition within the westerly side yard as proposed will have no adverse impact on public safety or health, as adequate light, air and open space will continue to be supplied.

There will be no changes to the current on-site vehicular circulation pattern, and no new loading doors will be provided. Access to the site from Veterans Boulevard will be maintained as it currently exists. In addition, excess noise, odor, vibration, or glare will not be generated as a result of the proposed building addition. Testimony was provided that the proposed addition will not require an increase in staffing levels. Therefore, it is not anticipated that the proposed building addition will cause significant changes to current traffic levels. The granting of the requested variance will

enable the construction of the proposed warehouse building addition to allow Pan American Coffee Company to remain at its current location, where it has been in operation for the past two years, thereby promoting neighborhood stability and economic prosperity.

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

The granting of the requested variance will have no adverse environmental impacts. The location of the proposed building addition in relation to the total side yard will not cause the District's performance standards regarding noise, vibrations, airborne emissions, hazardous materials, glare or water quality to be exceeded. The improved site will maintain 33 percent open space, more than double the minimum open space requirements of the Light Industrial A zone, and adequate drainage will be provided.

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. The applicant attested that the additional warehouse floor space is required to accommodate their expanding business operations. Potential locations to provide a conforming building addition outside of the westerly side yard are not available due to the existing site and building configurations and the presence of an easement.

Although the total side yard required by District regulations will not be attained by this application, the proposed warehouse addition will provide for the minimum required side yard setback on any one side of 30 feet within the westerly side yard. Additionally, the total lot coverage, minimum open space, and parking requirements are met by this application, which are indicators that the subject property is not being overdeveloped.

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

Specific purposes of the District regulations include providing sufficient space in appropriate locations for a variety of uses, and ensuring that such uses are suitably sited and placed in order to relate buildings and uses to each other and to the environment so that aesthetic and use values are maximized. The proposed total side yard is consistent with this intent by allowing the site to be developed and utilized in a safe, orderly, and efficient manner.

Furthermore, the intent of requiring a total side yard setback greater than the sum of individual side yard setbacks is to encourage a creative urban design aesthetic. A total side yard setback requirement allows an offset in building placement between sites in order to promote visual interest through a varied development pattern within the streetscape.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.77(a)3iii, which requires a minimum rear yard setback of 75 feet. A minimum rear yard setback of 41.63 feet will be provided for the proposed building addition along the northerly property line.

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 developed with a 60,988-square-foot warehouse/distribution building that occupies 39 percent of the site. The applicant is proposing to construct a 15,852-square-foot warehouse building addition to accommodate their expanding business operations at the site, which they currently own.

The proposed addition will provide a minimum rear yard setback of 41.63 feet, whereas a minimum rear yard setback of 75 feet is required in the Light Industrial A zone. The existing building is situated in the required rear yard, at a pre-existing nonconforming setback of 41.01 feet, and the site is encumbered by a 20-foot-wide temporary maintenance easement. A 20-foot wide rail siding easement exists in the rear yard, between the rear building line and the aforementioned easement. The footprint of the proposed

addition is designed to align with the existing rear building line and the existing warehouse space in the building.

This combination of conditions, relating to the siting of the existing building and the presence of an existing maintenance easement and railroad siding easement, impact the site in a unique manner. These conditions are not ordinarily found in the Light Industrial A zone and were not created by any action of the property owner.

- 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 neighborhood in which the subject property is located is primarily industrial and commercial in nature; no residences are located nearby. The reduced rear yard setback resulting from the proposed building addition will border a 48-foot-wide drainage easement containing a headwall and drainage ditch within a portion of Lot 65.07. Lot 65.01, to the north of the drainage easement, is currently undeveloped. Zoning approval was granted May 22, 2003, for the construction of two 12-story, 456,000-square foot office towers with associated parking to be located on Lot 65.01. If Lot 65.01 is developed in the future, the distance between the proposed warehouse building addition and the closest office tower will be sufficient to allow for the provision of adequate light, air and open space to both properties.

The proposed improvements will not create any negative visual impacts to neighboring properties or impede their ability to function as intended. The proposed building addition will have no loading doors. All loading operations will continue to be conducted from the existing loading doors located along the southeasterly and southwesterly building facades.

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 requiring a rear yard setback of 75 feet along the northerly property line, whereas 41.63 feet is proposed, will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. Alternative locations to construct the proposed building addition are limited due to the location of the existing building on the site. The existing building currently encroaches into the northerly required rear yard, 41.63 feet from the rear lot line. The proposed addition is proposed to align with the existing rear building line.

Pushing the rear building line in a southerly direction to comply with the required 75-foot rear yard setback would result in the placement of the addition in a location that would eliminate access to the only loading doors on the westerly facade. There would be insufficient area to install a functional loading area in the side yard of a proposed building addition, and front yard loading is prohibited. Furthermore, constructing the proposed addition in

any other location on the site would be impracticable, and would impact the ability to provide a functional loading and parking layout.

Ultimately the proposed variance is required to ensure a functional addition that aligns the warehouse space in the proposed addition with the existing warehouse space.

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. No adverse impacts to public health will result from the proposal, as adequate light, air, and open space will continue to be provided.

There will be no changes to the current on-site vehicle circulation pattern, and no new loading doors will be provided. Access to the site from Veterans Boulevard will be maintained as it currently exists. In addition, excess noise, odor, vibration, or glare will not be generated as a result of the proposed building addition. Testimony was provided that the proposed addition will not require an increase in staffing levels. Therefore, it is not anticipated that the proposed addition will cause significant changes to current traffic levels. The granting of the requested variance will enable the construction of the proposed warehouse building addition to allow

Pan American Coffee Company to remain at its current location, where it has been in operation for the past two years, thereby promoting neighborhood stability and economic prosperity.

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

The granting of the requested variance will not have any adverse environmental impacts. The location of the proposed addition in relation to the rear yard will not cause the District's performance standards regarding noise, vibrations, airborne emissions, hazardous materials, glare or water quality to be exceeded. The improved site will maintain 33 percent open space, more than double the minimum open space requirements of the Light Industrial A zone, and adequate drainage will be provided.

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

The granting of the requested variance to construct a 15,852-square-foot warehouse building addition with a minimum rear yard setback of 41.63 feet represents the minimum deviation from the regulations that will afford relief. The applicant seeks to maintain the existing rear yard setback for the proposed addition to align the existing and proposed warehouse spaces, and thereby ensure a functional building layout. Additionally, the total lot coverage and open space requirements are met by this application, which signifies that the subject property is not being overdeveloped.

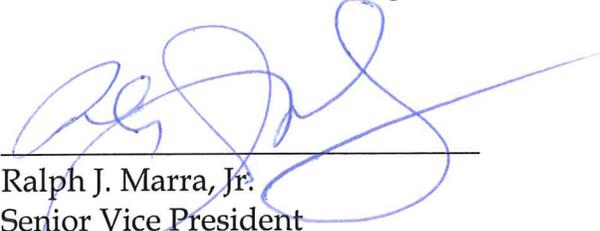
vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

Specific purposes of the District regulations including providing sufficient space in appropriate locations for a variety of uses, and ensuring that such uses are suitably sited and placed in order to relate buildings and uses to each other and to the environment so that aesthetic and use values are maximized. The placement of the building addition effectively balances the zoning requirements for the Light Industrial A zone with the specific characteristics of the site, as detailed above. Granting the requested variance would allow the rear building line to remain consistent with the existing setback of the building. The current warehouse facility will be able to remain at its current location through the development of a functional addition. Therefore, the proposed variance will contribute to and promote this intent by allowing the site to be developed and utilized in a safe, orderly, and efficient manner.

V. SUMMARY OF CONCLUSIONS

- A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.77(a)3ii, which requires a minimum total side yard setback of 90 feet, whereas a total side yard setback of 61.53 feet will be provided for the proposed building addition.

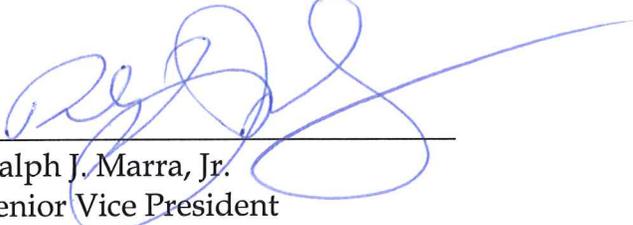
Based on the record in this matter, the bulk variance application to construct a 15,852-square-foot warehouse building addition with a minimum total side yard setback of 61.53 feet, whereas a minimum total side yard setback of 90 feet is required, is hereby recommended for APPROVAL.

<u>APPROVAL</u> Recommendation on Variance Request	<u>7/5/16</u> Date	 Sara J. Sundell, P.E., P.P. Director of Land Use Management
<u>APPROVAL</u> Recommendation on Variance Request	<u>7-5-16</u> Date	 Ralph J. Marra, Jr. Senior Vice President Legal & Governmental Affairs

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.77(a)3iii, which requires a minimum rear yard setback of 75 feet., whereas a minimum rear yard setback of 41.63 feet will be provided for the proposed building addition along the northerly property line.

Based on the record in this matter, the bulk variance application to construct a 15,852-square-foot warehouse building addition with a minimum rear yard setback of 41.63 feet, whereas a minimum rear yard setback of 75 feet is required, is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>7/5/16</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>APPROVAL</u>	<u>7-5-16</u>	
Recommendation on Variance Request	Date	Ralph J. Marra, Jr. Senior Vice President Legal & Governmental Affairs