

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
420 St. Paul's Ave JC LLC/Ace Limo - C.O.
File #16-577**

I. INTRODUCTION

An application for one use variance has been filed with the New Jersey Sports & Exposition Authority (NJSEA) by 420 St. Paul's Ave JC LLC, on behalf of Ace 1 Limo, Inc., for the premises identified as 420 St. Paul's Avenue, Block 6201, Lot 13, in the City of Jersey City, Hudson County, New Jersey. The subject premises is located in the Hackensack Meadowlands District's Heavy Industrial zone. The applicant is requesting a use variance to allow Ace 1 Limo, Inc., to occupy 1,277 square feet of office space as a principal use on the subject premises. Specifically, the applicant is requesting variance relief from the following:

1. N.J.A.C. 19:4-5.101(a), where office is not listed as a permitted use in the Heavy Industrial zone. The applicant is requesting a use variance to allow Ace 1 Limo, Inc., to occupy 1,277 square feet of office as a principal use.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Jersey Journal. No written objections were received. A public hearing was held in the Office of the NJSEA on Tuesday, September 12, 2017. 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 consists of approximately 2,375 square feet, or 0.05 acres, and is rectangular in configuration. The corner property fronts along Lewis Avenue to the east and St. Paul's Avenue to the south, and is bordered by a three-story residential building to the west. A paved parking lot is located north of the site. Properties within the immediate vicinity are developed with a mix of industrial and residential uses.

The subject property is currently developed with a three-story mixed-use building with a sit-down restaurant on the first floor and, according to tax records, a total of four residential units on the second and third floors. A curb cut along Lewis Avenue provides access to a concrete driveway on the northerly portion of the subject property. No parking is provided on site.

The existing first-floor tenant space is occupied by What's Cooking, a restaurant use consisting of 1,277 square feet of seating area and 339 square feet of kitchen and food preparation space. What's Cooking currently utilizes only the kitchen in support of its food truck service and no longer uses the restaurant seating area. The existing restaurant seating area is proposed to be converted to office space, to be occupied by Ace 1 Limo, Inc. for administrative offices for their business, a taxi and limousine service. The District zoning regulations define "taxi and limousine service" as an establishment offering transport services in passenger automobiles, vans, limousines, or similar motor vehicles, including accessory office and dispatch facilities, areas for the parking of facility vehicles, and accessory maintenance and fueling facilities for facility vehicles only. It is noted that the requested change of use is not for a taxi and limousine service; the application is solely related to occupancy of the premises as office space. Mr. Gabrael, owner of Ace 1 Limo, Inc. testified that his proposed use will be limited to office space for administrative and dispatch staff only, which would include 2 or 3 employees, and

will not be utilized by fleet drivers. No fleet or other vehicles-for-hire will be parked on the subject premises. Mr. Gabrael stated that fleet vehicles will be parked off-site at another location and that he has a mechanic shop on Communipaw Avenue in Jersey City.

A fire-rated demising wall will be constructed to separate the two tenant spaces. No interior alterations to the second- and third-floor residential units are proposed. The proposed change of use in this application would result in the reduction in the number of required parking spaces from 17.9 spaces to 8.5 spaces on the site, thus reducing the degree of preexisting nonconformity with respect to parking.

B. Response to the Public Notice

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

III. PUBLIC HEARING (September 12, 2017)

A public hearing was held on Tuesday, September 12, 2017. NJSEA 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; 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	"Floor Plans & Zoning Notes," Sheet No. A-1, prepared by Min W. Kil, R.A., Hampton Hill Architecture on March 31, 2017, last revised July 7, 2017.

B. Testimony

The applicant was represented at the hearing by Rocco F. Errico, Esq., Attorney at Law. The following witnesses testified in support of the application:

1. Mukti Bajaj, AIA, NCARB, LEEP AP BD+C, Mukti Architecture; and
2. Joseph Gabrael, Ace 1 Limo, Inc.

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

Giglio Banerjee, the owner of the adjoining property to the west identified as 422 St. Paul's Avenue, testified at the hearing in opposition to the application.

IV. RECOMMENDATION

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-5.101(a), where office is not listed as a permitted use in the Heavy Industrial zone. The applicant is requesting a use variance to allow Ace 1 Limo, Inc., to occupy 1,277 square feet of office space as a principal use on the subject property.

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...*

2. *Concerning use variances:*

- i. *The strict application of these 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 governing permitted uses in the Heavy Industrial zone would permit a variety of industrial uses and some limited commercial uses on the site. In addition, the continuation of a restaurant use on the subject premises would be allowed as a preexisting nonconforming use. However, Ace 1 Limo, Inc. proposes to convert a 1,277-sqaure-foot portion of the existing sit-down restaurant use to office use on the first floor of the existing building on the site, and to occupy this office space as a principal use. Office space is not a permitted principal use in the Heavy Industrial zone in which the subject property is located. Therefore, a use variance has been requested.

The subject property is undersized for the Heavy Industrial zone, with a lot area of 0.05 acres compared to the zone's minimum lot area requirement of one acre. The substandard lot size is typical of many of properties along Lewis Avenue, as well as portions of St. Paul's and West Side Avenues, which contain pre-existing nonconforming residential uses interspersed with industrial development in the surrounding area. Single-family residential units are the prevalent type of residential development in the neighborhood, although duplex and multifamily dwellings also exist in the area. Industrial uses constitute the primary land use within Block 6201. The location of housing in close proximity to industrial uses, in conjunction with small lot sizes that provide little

separation between these opposing land uses, is evidence of an older and obsolescent land use pattern.

The subject site is an improved lot of adequate size and configuration that would allow Ace 1 Limo, Inc. the ability to operate its administrative offices efficiently from this property. Ace 1 Limo, Inc. will be occupying the proposed office space, which is relatively small in area at 1,277 square feet. No building additions or substantial interior alterations are proposed. Although no existing on-site parking is provided, the proposed change in use from sit-down restaurant to office space will reduce the number of required parking spaces on the site by half, from 17.9 spaces to 8.5 spaces, thus reducing the preexisting nonconformity with respect to parking. Also, testimony was provided indicating that no fleet vehicles will be parked on-site or in the neighborhood of the subject premises. The strict application of the regulations would prevent the tenancy of the prospective office tenant at the subject location. The particular characteristics of the building, including small size and adjacency to residential uses, and the lack of on-site parking do not lend themselves to be reasonably adapted to accommodate a permitted use. Thus, the strict application of the regulations would result in exceptional or undue hardship upon the applicant or property owner.

- ii. *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 allow Ace 1 Limo, Inc. to occupy the proposed office space on the first floor of the building as a principal use on the subject premises for its administrative and dispatch staff only 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. A 1,277-square-foot office space will be compatible with the character of surrounding uses in the St. Paul's and Lewis Avenues neighborhood, which include industrial, residential and commercial uses.

There are no changes proposed to the exterior of the existing building. Access to the proposed office space is provided from an existing doorway on Lewis Avenue. The applicant has attested that no vehicles-for-hire associated with the Ace 1 Limo, Inc. taxi and limousine service will be parked on, or in the neighborhood of, the subject premises. The proposed office use will serve as an administrative and dispatch office, where administrative employees would field customer phone calls and telephonically dispatch fleet vehicles that are parked at an off-site location for passenger pick-ups. The proposed change of use results in a reduction in the existing nonconformity with respect to parking, wherein the required number of parking spaces was 17.9 spaces for the former uses and is 8.5 spaces for the proposed uses. Therefore, neither parking nor traffic in the surrounding neighborhood will be negatively affected by the proposed office use.

iii. Adequate infrastructure, including storm and sanitary sewers, utilities, access roads, will be provided and shall be so designed to prevent and/or minimize negative impacts upon the existing infrastructure. In addition, the proposed use will not decrease the ability of said infrastructure to perform in a safe and efficient manner.

The granting of the requested variance to permit office space as a principal use on the subject premises will not impact the existing utility infrastructure. As the site is located in a developed area with residential and industrial uses, all required infrastructure, including sanitary and storm sewers, is currently in place. No additions to the existing building are proposed; therefore, no increase in the volume of sanitary sewage is anticipated. No site improvements or new impervious surfaces are proposed as part of this application; thus, existing drainage patterns will be maintained. The proposed use will not decrease the ability of the existing infrastructure to perform in a safe and efficient manner.

No significant impact to traffic in the surrounding area will result from this application. The traffic impact from the proposed principal office use is anticipated to be substantially less than its current impact as a sit-down restaurant.

The owner of the adjacent property, Mr. Banerjee, provided public comment regarding his concerns over whether there is adequate parking in the neighborhood to accommodate the proposed office use. Mr. Banerjee's concerns regarded increased on-street parking demands in the neighborhood for both fleet driver's vehicles and fleet vehicles. He stated that he would not have an objection to the

proposed use if there was not an issue with parking. Mr. Gabrael testified that the Ace 1 Limo, Inc.'s proposed administrative office would have only two to three employees. In order to ensure the proposed use does not result in a negative impact to the neighborhood, this recommendation includes a condition that the proposed office space be used solely for administrative purposes, and shall not be utilized as a taxi and limousine service. Therefore, with this condition, the proposed office use will not produce a noticeable impact on traffic or parking in the area.

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

The granting of the requested variance to permit office as a principal use on the subject premises will not result in any adverse environmental impacts. The proposed use is less intense than the existing nonconforming sit-down restaurant use, as well as most of the permitted uses in the Heavy Industrial zone. District environmental performance standards related to noise, vibration, glare, air emissions, hazardous, or radioactive materials, will not be exceeded by the proposed change in use. There will be no significant environmental impact resulting from vehicular traffic generated by the proposed office use. No environmentally sensitive areas exist on the property.

v. The variance will not substantially impair the intent and purpose of these regulations.

The stated purpose of the Heavy Industrial zone is to accommodate intensive industrial, utility, and commercial uses for which there

are few provisions in other industrial zones. Offices are not included in the list of principal uses allowed in the Heavy Industrial zone. The intent behind the exclusion of office as a principal use is based upon the scarcity of heavy industrial properties in the Hackensack Meadowlands District. The value of properties zoned Heavy Industrial is such that utilizing it principally as office space, which could be located in other zones in the District, would compromise the intent of the zone and jeopardize the ability to provide a location for the heaviest industrial uses to operate.

However, the applicant's utilization of the proposed office area within the mixed-use residential building for a stand-alone business will not unduly monopolize the character of the Heavy Industrial zone in this portion of the District, as the specific characteristics of the subject property, including its small lot size, the reuse of a portion of the existing mixed-use residential structure on the site, and the lack of on-site parking preclude its ability to accommodate a heavy industrial use. As such, the use of the proposed office space in the building as a principal use for Ace 1 Limo, Inc.'s administrative office only will not hinder or impair the operation of the existing uses in the building or in the area and, accordingly, will not impair the intent and purpose of the District regulations.

vi. The variance at the specified location will contribute to and promote the intent of the Hackensack Meadowlands District Master Plan.

The proposed office use on the subject premises will contribute to and promote the intent of the Hackensack Meadowlands District Master Plan. The Master Plan designates the subject premises as a part of the District's Logistics/Intermodal/Industrial planning area. Logistics and intermodal areas are traditionally associated with heavy industrial use in the District, including heavy industry, public service uses, and intermodal rail and truck facilities. While the Master Plan's planning areas do not equate to permitted uses, their descriptions provide the foundation for the District Zoning Regulations.

The District Zoning Regulations reflect the spirit and intent of the Master Plan and are the mechanism by which the policies and principles of the Master Plan are implemented and enforced, in accordance with smart growth policies.

The subject premises is located within the District's Heavy Industrial zone. A total of 26 separate land uses are permitted within the zone. Although office is not permitted as a principal use in the Heavy Industrial zone, office space is permitted as a use that is accessory in nature to support an industrial use. Due to the limited size and scope of the principal office use proposed at the premises, the variance will not result in a substantial detriment to the planning goals of the District Master Plan.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-5.101(a), where office is not listed as a permitted use in the Heavy Industrial zone. The applicant is requesting a use variance to allow Ace 1 Limo, Inc., to occupy 1,277 square feet of office space as a principal use.

Based on the record in this matter, the use variance application to permit the use of 1,277 square feet of office space as a principal use, where office use is not permitted as a principal use in the Heavy Industrial zone in which the subject premises is located, is hereby recommended for APPROVAL SUBJECT TO THE FOLLOWING CONDITION:

1. The 1,277-square-foot office space shall be utilized solely as an office for administrative purposes. Ace 1 Limo, Inc. shall only use the facility as an administrative office for its business and shall not be permitted to utilize the subject property for the other functions of a taxi and limousine service, as defined under N.J.A.C. 19:4-2.1. For example, fleet vehicles and/or other vehicles-for-hire are prohibited from utilizing the subject property for parking or maintenance.

CONDITIONAL APPROVAL
RECOMMENDATION ON
VARIANCE REQUEST

11/2/17
Date



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

Conditional Approval
RECOMMENDATION ON
VARIANCE REQUEST

11/2/17
Date



Ralph J. Marra, Jr.
Senior Vice President
Legal & Governmental Affairs