

RECOMMENDATION ON THE VARIANCE APPLICATION OF

Fraternity Meadows/Building A - Signage Variance

FILE: #11-432

I. INTRODUCTION

An application for one bulk variance has been filed by Thomas J. O'Connor, Esq., of the firm Waters, McPherson, McNeill, P.C., on behalf of East Riverside Station, LLC, for the premises identified as 100 County Road Extension, Block 5.04, Lot 3.06 in the Town of Secaucus, New Jersey. Said premises is located in the Riverfront Landing zone of the Commission's Secaucus Transit Village Redevelopment Area. The variance is sought in connection with the applicant's proposal to construct one double-faced, 268 square-foot identification pole sign on the subject premises fronting New County Road. Specifically, the applicant is requesting relief as follows:

1. N.J.A.C. 19:4-8.14(h), Table 8-5, requires that the minimum setback of any sign shall be 15 feet from any property line. The identification pole sign is proposed to be set back 1.4 feet from the southerly property line fronting New County Road.

Notice was given to the public and all interested parties as required by law. The public notice was published in the Jersey Journal and the Secaucus Home News. 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 4.29 acres. It contains frontage on New County Road to the south and County Road Extension to the east.

The subject property contains a four-story mixed-use building and an associated parking structure, and includes 178 residential units and 27,934 square feet of retail space on the first floor. Presently, all but two of the retail tenant spaces are occupied. The lot is accessed by a driveway off of New County Road.

The development on the subject property is part of the larger Xchange at Secaucus Junction development, consisting of residential and commercial uses. A 318-unit, four-story residential building with an associated parking structure is located north of the site. The lot to the west of the site is currently vacant and will be utilized for future residential and commercial development and open space.

The site's existing signage consists of signs that identify the brand name of the development and the tenants currently occupying retail space in the building. The applicant is proposing to construct one double-faced, 268-square foot identification pole sign along New County Road. This application proposes no site improvements or changes in use to the building.

B. Response to Public Notice

No written or verbal comments were submitted to this Office regarding this application prior to the public hearing.

III. PUBLIC HEARING (February 28, 2012)

A public hearing was held on Tuesday, February 28, 2012. NJMC staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management & Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management & Deputy Chief Engineer; Mia Petrou, P.P., AICP, Senior Planner; and Ronald Seelogy, P.E., 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	"Proposed Pylon Sign - Building A," Sheet 1 of 1, prepared by George D. Cascino, P.E., P.P., dated December 7, 2009, revised through February 2, 2012;
A-2	Photograph location map, prepared by George D. Cascino, P.E., P.P., undated; and
A-3	Photograph exhibit of a series of photos of the property identified as 100 County Road Extension - Secaucus, indicating the location of the proposed identification pole sign, prepared by George D. Cascino, P.E., P.P., undated.

B. Testimony

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

1. George 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 Darlene Kulesa, Certified Court Reporter.

IV. RECOMMENDATION

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h), Table 8-5, which requires that the minimum setback of any sign shall be 15 feet from any property line. The identification pole sign is proposed to be set back 1.4 feet from the southerly property line fronting New County 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 variance requested arises from conditions that are unique to the property in question and are not ordinarily found in the same zone. The subject property is a corner lot, fronting New County Road to the south and County Road Extension to the east. The property is currently developed with a four-story mixed-use building that includes 27,934 square feet of retail space on the first floor, which is a permitted use in the Riverfront Landing zone. The ground floor retail is a unique condition, as the neighborhood in which the Xchange development is located is primarily industrial in nature, with no other retail uses located nearby.

Adequate identification and visibility are important considerations in ensuring the continued viability of the retail uses. The ability to provide adequate identification for retail uses on this site is

constrained due to the particular configuration of the retail uses on the ground floor within a central courtyard of the U-shaped building and the vertical roadway geometry approaching the site from the east. This location is set back from New County Road and is recessed beyond the main building walls as the site is approached from the east and west, consistent with the staggered building setbacks permitted by Section IV.C.3.a.i of the Secaucus Transit Village Redevelopment Plan. The site and building configurations, therefore, limit the possible locations where the proposed sign can be installed at the required setback and still be visible.

- 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 residents, which are located wholly within the Xchange at Secaucus development, of which this property is a part. The sign will only be visible to those residential units located along New County Road on the south side of Building A, which contains the retail uses, and will not be visible to the other buildings in the development. The proposed setback of 1.4 feet from the southerly lot line fronting New County Road will not have an adverse effect on those residential units in the vicinity of the proposed sign, and actually provides greater distance from the units to the sign than would otherwise be provided by the required 15-foot setback. In accordance with NJMC regulations at N.J.A.C. 19:4-8.14(g)⁵ and testimony provided by the applicant, the proposed sign, which will be illuminated without a white

background, will not be lit between the hours of 10:00 P.M. and 6:00 A.M. The proposed sign is appropriately placed and consistent with the scale of the development.

The granting of the requested variance will not adversely affect the rights of neighboring property owners or residents. The surrounding area is primarily industrial in nature, but also contains public parklands. The requested variance for a proposed pole sign within the required setback will not have a negative impact on the area and will not prevent the use and function of neighboring properties as intended.

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 Secaucus Transit Village Redevelopment Plan classifies New County Road as the primary circulation route that connects the redevelopment area to downtown Secaucus via County Avenue. The proposed sign is needed to both identify the site from pedestrians and motorists on New County Road and direct consumers to the retail businesses on the site. Adequate identification of a use located at the terminus of New County Road, whose visibility is further obscured due to the vertical geometry of New County Road above the NJ Transit Main Line, is essential to promote the economic viability of businesses, particularly those located in a redevelopment area. The proposed sign would be ineffective as an identification tool if constructed at a setback of 15 feet from the property line, which would place it 30 feet from the

curb line, since its view would be substantially obscured by the eastern leg of the U-shaped building.

Installation of the proposed sign at the required setback would obstruct visibility of the sign by passing motorists due to the existing site configuration and U-shaped building design, and would require the relocation of an existing wall and landscaping. Staggered building setbacks, as permitted by Section IV.C.3.a.i of the Secaucus Transit Village Redevelopment Plan, limit the possible locations where the proposed sign can be installed at the required setback and still be visible. Visibility to the portion of the existing retail space set back furthest from New County Road is limited by a day care facility located in the southeasterly wing of the U-shaped building and an adjacent pergola structure that supports some of the development's identification signage. Installing the proposed sign at an alternate location along New County Road is also not effective, as the location would conflict with existing parking and loading areas, as well as underground and aboveground utilities.

Therefore, the strict application of the sign setback regulations will result in peculiar and exceptional practical difficulties and exceptional and undue hardship for the property owner.

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 variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general

welfare. The proposed sign is not located within the required sight triangle of motorists exiting onto New County Road. Public safety, order and convenience will be promoted by the proposed sign as it will allow passing motorists to safely identify and access the site from New County Road.

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

There will be no substantial adverse environmental impacts resulting from the granting of the requested variance. The placement of the proposed sign will not disturb any environmentally sensitive areas. There will not be any noise, vibrations, glare, airborne emissions, or hazardous materials generated by the proposed sign. The applicant testified that any landscaping removed by the installation of the proposed sign will be replaced on the site.

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

Potential locations for identification signage are limited due to the existing site configuration. The visibility of the proposed sign installed at a minimum setback of 15 feet from the New County Road right-of-way would require the relocation of an existing wall and landscaping, although the visibility of the sign from New County Road would still be limited due to the configuration of the existing U-shaped building. Constructing the proposed sign on the easterly side of the ingress/egress driveway off New County Road at the minimum required setback would be restricted by an

electrical transformer and an adjacent parking area. Installing the proposed sign on the westerly side of the driveway would require the relocation of landscaping and would conflict with an adjacent loading space.

Alternatively, the applicant could construct a ground sign, or a number of directory signs 10 square feet or less in area, exempt from NJMC regulations, rather than install the proposed identification pole sign within the required property line setback. However, the directory or ground signs would not allow passing motorists to safely and adequately identify the site from New County Road due to its elevation above area rail lines.

Furthermore, the property line is located approximately 15 feet from the curb line along New County Road, resulting in a total proposed sign setback of 16.4 feet from the New County Road cartway. The proposed sign has been placed in a location that balances the need to safely identify the uses on the site for passing motorists with the existing site conditions. Therefore, the requested variance represents the minimum deviation from NJMC regulations that will afford relief.

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

Although Section IV.C.15.a.i(b) of the Secaucus Transit Village Redevelopment Plan discourages freestanding signs, the proposed sign constructed at the requested 1.4-foot setback will help promote the purposes of the Riverfront Landing zone by attracting

consumers to the site and, thereby, promoting the viability of existing commercial establishments. The proposed sign will not be obtrusive to residential units within the development or neighboring industrial uses, and will not result in visual clutter. Rather, public safety will be promoted by allowing identification of the development for motorists and pedestrians in advance of the site. Therefore, the granting of the variance 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. 19:4-8.14(h), Table 8-5, which requires that the minimum setback of any sign shall be 15 feet from any property line. The identification pole sign is proposed to be set back 1.4 feet from the southerly property line fronting New County Road.

Based on the record in this matter, the bulk variance application to provide a minimum setback of 1.4 feet from the property line for the proposed identification pole sign, whereas a minimum setback of 15 feet from the property line is required, is hereby recommended for approval subject to the following conditions:

1. The subject sign shall not have a white illuminated background;
2. The subject sign shall not be lit between the hours of 10:00 P.M. and 6:00 A.M; and
3. Additional landscaping of sufficient height and density to screen the poles and base of the subject sign shall be provided.

CONDITIONAL APPROVAL
RECOMMENDATION ON
VARIANCE REQUEST

4-5-12
Date


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

conditional approval
RECOMMENDATION ON
VARIANCE REQUEST

4-5-12
Date


Marcia A. Karrow
Executive Director