

**RECOMMENDATION ON THE VARIANCE APPLICATION OF  
Lincoln/Custom Bandag, Inc. - New Building & Variance  
File #11-479**

**I. INTRODUCTION**

An application for one bulk variance has been filed with the New Jersey Meadowlands Commission (NJMC) by Thomas J. O'Connor, Esq., of the firm Waters, McPherson, McNeill, P.C., on behalf of Custom Bandag, Inc., for the premises located at 1151 Paterson Plank Road, Block 99, Lot 10, in the Town of Secaucus, New Jersey. Said premises are located in the Commission's Neighborhood Commercial zone. The bulk variance is sought in connection with the applicant's proposal construct a new 28,345-square-foot building with a lot coverage of 45.3 percent.

Specifically, the applicant is requesting bulk variance approval pursuant to:

1. N.J.A.C. 19:4-5.43(a)1, which permits a maximum lot coverage of 40 percent. The applicant is proposing a lot coverage of 45.3 percent.

Notice was given to the public and all interested parties as required by law. Public notice of this application was published in The Jersey Journal newspaper. No written comments regarding this application were received by the Division of Land Use Management during the public comment period. 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 located along Paterson Plank Road in Secaucus and consists of approximately 1.44 acres. It contains a 7,500 square-foot single story brick building, located on the front third of the site. Custom Bandag, Inc. operates a truck tire service at the location, which is considered a "Business Support Service". Custom Bandag has operated on the site for approximately 15 years and provides tire repairs and tire replacements for commercial vehicles owned by various truck fleet operations in the area. Many of their services are provided off-site by a fleet of Custom Bandag repair trucks and the site is primarily used for the storage of tires and tire rims. Custom Bandag is currently utilizing a substantial amount of the side and rear yard for the outdoor storage of tires and tire rims. The existing site is approximately 90 percent impervious, with a small strip of grass in the rear of the lot. The existing drainage sheet flows off of the property from north to southeast, directly onto the adjacent lot. The site is contaminated from leaky storage tanks that were previously located underground on the site.

The proposed business and the proposed use are the same as existing. Custom Bandag will remain on site, and is proposing to demolish the existing building and construct a new building with a lot coverage of approximately 45.3 percent. The proposed building will meet the front, side, and rear yard setback requirements. The larger building will allow for the all of the outdoor tire and tire rim storage to move indoors. While the majority of the servicing will remain off-site, the larger building will also allow for some servicing to take place within the proposed building on site. The proposed landscaping will increase the open space on the site to the required 15 percent. The proposed drainage will be designed to allow runoff to sheet flow off of the property from north to southeast, as is existing. There are no proposed changes to the utilities that are

provided to the site. The demolition of the existing building will allow the ground contamination that is located under the building to be addressed.

**B. Response to the Public Notice**

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

**III. PUBLIC HEARING (November 1, 2011)**

A public hearing was held on Tuesday, February 14, 2012. 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; Mia Petrou, P.P., AICP, Senior Planner; David Liebgold, P.E., P.P., Chief of Transportation; and Gabrielle Gornelli, Engineer.

**A. Exhibits**

The following is a list of the exhibits submitted at the public hearing and marked for identification as follows:

| <u>Number</u> | <u>Description</u>  |
|---------------|---|
| A-1           | "Existing Conditions Exhibit" - Aerial Photograph of Site.  |
| A-2           | "Overall Plan," prepared by Menlo Engineering Associates, Inc., dated December 19, 2011.            |
| A-3           | "Outdoor Storage Exhibit," prepared by Menlo Engineering Associates, Inc., dated February 14, 2012. |
| A-4           | "Ground Floor Plan," prepared by DantasCarrete Architecture, LLC.                                   |
| A-5           | "Building Elevation and Signage," prepared by DantasCarrete Architecture, LLC.                      |

A-6 "Rendering of Building," prepared by DantasCarrete Architecture, LLC.

**B. Testimony**

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

1. Gregory Oman, P.E., Menlo Engineering Associates
2. Paulo Dantas, A.I.A., DantasCarrete Architecture, LLC
3. Elizabeth Strom, P.P., Menlo Engineering Associates
4. Fernando DeJesus, Custom Bandag, Inc.

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

**IV. RECOMMENDATION**

**A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.43(a)1, which permits a maximum lot coverage of 40 percent. The applicant is proposing a lot coverage of 45.3 percent.**

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 property in question is located in the Neighborhood Commercial zone, on Paterson Plank Road in Secaucus, New Jersey. It has served as a tire repair facility for approximately fifteen years, and the particular property, located in proximity to both the Route 3 and New Jersey Turnpike on ramps, is in an optimal location for a truck tire repair facility. The location allows for the tire repair fleet to easily get to any off-site locations within the area. Custom Bandag typically services clients in the Hoboken and Jersey City areas, which are conveniently accessed from both Route 3 and the New Jersey Turnpike. The location also allows for customers' trucks to easily get to the business, should a repair need to be performed on site. Furthermore, the business is currently operating at the site and wants to only improve the quality of the business without having to relocate. For these reasons, the requested variance arises from conditions that are unique to the property in question and are 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 lot coverage will not adversely affect the rights of neighboring property owners or residents. The business is currently using a substantial amount of the side and rear yard as outdoor storage space. Bringing the operation completely indoors can only benefit the surrounding properties as there will no longer be any type of outdoor storage on the property.

The business exists on the site and does not currently affect the ability of the adjacent property owners to continue their current operation. The proposed operation of the building will be consistent with other properties located in the Neighborhood Commercial zone. The increase of landscaping on the site will only benefit the surrounding properties, and there are no changes to the site drainage or utilities that will negatively impact any of the surrounding properties.

- 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 lot coverage regulations will result in peculiar and exceptional practical difficulties to and undue hardship upon the property owner. This application proposes to demolish an existing 7,500 square-foot building, and construct a new 28,345 square-foot building. Custom Bandag will remain on

site, and is attempting to move its mostly outdoor operation entirely indoors. Custom Bandag is currently using – both indoors and outdoors – approximately 21,160 square-feet as storage space. This application will eliminate the outdoor storage and reduce the overall storage space to approximately 17,820 square-feet. Custom Bandag has determined that this is the absolute minimum amount of storage space that is required for their materials. Any further reduction in storage space will not allow the operation of the business to completely move indoors, thus, not allowing Custom Bandag to continue to operate their business on a site where they have been located for fifteen years.

Alternate designs, such as moving some of the storage to a mezzanine level, were considered. This idea was ultimately determined to be an unfeasible option. The heavy weight of tires and tire rims, the primary items being stored, must be stored on the ground level to maintain a safe work environment. Bringing these items to a mezzanine level would be very difficult and if not done carefully, can create a safety hazard. Additionally, the potential of stacking the tires on racks was also determined to be an unfeasible option. Tires and tire rims can get quite heavy as they are stacked, and can create a very dangerous work environment if they are stacked too high. Therefore, the strict application of the regulations will not allow Custom Bandag to eliminate their outdoor storage and successfully move their operation completely indoors in a safe manner.

*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 impact to the public health, safety, morals, order, convenience, prosperity, or general welfare by the granting of the requested variance. The proposed 45.3 percent lot coverage will not negatively impact the general welfare or public safety. The provision of light and air in the neighborhood will not be negatively impacted. The requested variance will eliminate the existing outdoor storage and bring the site more in line with the goals of the Neighborhood Commercial zone. Additionally, the construction of the proposed building will allow Custom Bandag's viable business to remain at its existing location, promoting neighborhood stability and 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 proposed lot coverage will not exceed NJMC category B performance standards in regard to noise, vibrations, glare, air emissions, hazardous or radioactive materials, wastewater, traffic, etc. Additionally, the requested variance will significantly decrease the noise levels and emissions that are currently on site. Deliveries to the site currently take place outdoors and are being proposed to be moved inside, which will reduce noise levels and emissions. Additionally, moving all of the storage indoors will eliminate a mosquito breeding problem that exists on site. The combination of stormwater and the outdoor

storage of tires and tire rims can create puddling, and serves as a breeding location for mosquitos. The removal of the outdoor storage will eliminate the potential for water pooling on site. The requested variance will also allow the property owner to address the existing soil contamination. While remediation of the contaminated soil has already begun, the demolition of the existing building is necessary to complete the cleanup.

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

The proposed lot coverage represents the minimum deviation from the regulations that will afford relief. The requested 45.3 percent lot coverage is a minimum deviation from the Neighborhood Commercial zone's maximum permitted 40 percent lot coverage. The proposed lot coverage is necessary to move the existing business operation indoors. Tires and tire rims can get quite heavy as they are stacked and become a safety hazard when stacked too high. The additional lot coverage is necessary to ensure that all tires and rims that will be stored within the building will not be stored at a height and in a manner that will be dangerous for Custom Bandag's employees. Setbacks, open space, parking, and all other zoning requirements are met. The lot coverage is the only deviation from the regulations that is being sought.

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

The requested variance to allow a 45.3 percent lot coverage will not impair the intent and purpose of these regulations. By granting the requested variance, the site's visual and aesthetic appearance will be greatly improved. The site will be more attractive to the public, and the adjacent properties will no longer have a view of outdoor storage. Additionally, storing the tires inside will provide a safety benefit to Custom Bandag. Custom Bandag has experienced quite a few break-ins on the site that were associated with the existing outdoor storage. Moving the storage indoors will allow the tires to be stored in a safer, more secure environment. The granting of this variance will benefit both Custom Bandag, and all surrounding properties within the community. For these reasons, this proposal supports the purpose of the NJMC zoning regulations to "promote development in accordance with good planning practices that relates the type, design, and layout of such development to both the particular site and surrounding environs."

V. SUMMARY OF CONCLUSIONS

A. N.J.A.C. 19:4-5.43(a)1, which permits a maximum lot coverage of 40 percent. The applicant is proposing a lot coverage of 45.3 percent.

Based on the record in this matter, the bulk variance application to construct a 28,345-square-foot building with a lot coverage of 45.3 percent, whereas a maximum lot coverage of 40 percent is required, is hereby recommended for approval.

APPROVAL  
Recommendation on  
Variance Request

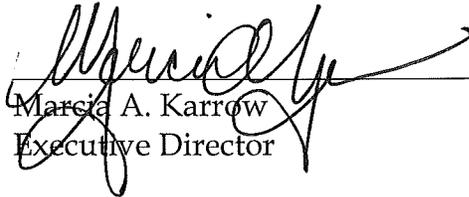
4-5-12  
Date



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

Approval  
Recommendation on  
Variance Request

4-5-12  
Date



Marcia A. Karrow  
Executive Director