

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
450 MHP/ Drive-In Loading Doors (Variance)**

FILE # 12-623

I. INTRODUCTION

An application for one bulk variance has been filed with the New Jersey Meadowlands Commission (NJMC) by Philip D. Neuer, Esq. on behalf of 450 Murray Hill Corporation, for the premises identified as 450 Murray Hill Parkway, Block 106.03, Lot 3, in the Borough of East Rutherford, New Jersey. Said premises are located in the Commission's Light Industrial A zone. The variance is sought in connection with the applicant's proposal to provide two drive-in loading doors in the front yard facing Madison Circle Drive in connection with an existing warehouse facility on the subject premises.

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.

The applicant is proposing to provide two drive-in loading doors in the front yard facing Madison Circle Drive.

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 submitted to the Division of Land Use Management. A public hearing was held in the Office of the Commission on Tuesday, December 11, 2012. 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 contains approximately 10.14 acres. It is a corner lot with frontage on Murray Hill Parkway and Madison Circle Drive. The site is currently developed with a two-story 330,599-square-foot multi-tenanted warehouse and office building. The building contains numerous separate tenant entrances and loading areas around its perimeter. Properties within the immediate vicinity are developed with a mix of light manufacturing, warehouse/distribution, and office uses. Properties containing wetlands are present on the easterly side of Madison Circle Drive. The applicant is proposing to provide two new drive-in loading doors to serve two new tenant spaces along the Madison Circle Drive frontage. Vehicles will enter the site from the existing driveway along Madison Circle Drive to access the proposed loading doors. A total of 263 spaces are required, whereas 264 parking spaces will be provided on-site. Although seven existing parking spaces will be removed to provide access to the proposed loading doors, the total number of required parking spaces will continue to be provided.

B. Response to the Public Notice

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

III. PUBLIC HEARING (December 11, 2012)

A public hearing was held on Tuesday, December 11, 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; and Christina Barile, 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 Alterations," Sheet 1 of 1, prepared by Gerald Donnelly, P.E., dated December 8, 2012
A-2	"Site Plan Variance for Loading Doors," Drawing Number 1 of 2, prepared by Joseph S. Mianecki, Jr., P.E., Mianecki Consulting Engineers, dated September 27, 2012.
A-3	"Enlarged Section Plan," Drawing Number 2 of 2, prepared by Joseph S. Mianecki, Jr., P.E., Mianecki Consulting Engineers, dated September 27, 2012.
A-4	"Bulk Variance Planning Report," prepared by Joseph S. Mianecki, Jr., P.E., Mianecki Consulting Engineers, dated December 11, 2012.

B. Testimony

Philip D. Neuer, Esq. of 450 Murray Hill Corporation, represented the applicant at the hearing. The following two (2) witnesses testified in support of the application:

1. Joseph S. Mianecki, Jr., P.E., P.P., Mianecki Consulting Engineers; and
2. Gerald R. Donnelly, P.E., Safer Development and Management Corporation.

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.

C. Public Comment

There were no members of the public present at the hearing.

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 drive-in loading doors are proposed in the front yard facing Madison Circle Drive.

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 is an irregularly-shaped corner lot. The site has 530 feet of frontage along Murray Hill Parkway to the west and 1,047 feet of frontage along Madison Circle Drive to the south, and contains property lines with multiple angles, contributing to its irregular shape. The property is developed with a 330,599-square-foot warehouse/distribution and office building that is centrally located on the site.

The subject property contains pre-existing nonconforming conditions related to the size and location of the existing building. The existing building rear yard setback is 27.8 feet, whereas a minimum rear yard setback of 75 feet is required in the Light Industrial A zone. A side yard setback of 20.3 feet is provided along the northerly lot lines, whereas a minimum side yard setback of 30 feet is required. Additionally, the site is currently configured

with front yard loading areas facing Madison Circle Drive. These pre-existing non-conforming conditions affect the development of the property in question and were not created by any action of the applicant or property owner.

Due to the existing building's configuration, the provision of new loading spaces in the conforming northerly yards would not provide loading areas to access the two proposed tenant spaces, since they can only be accessed from the southerly building face. Therefore 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.

- 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 in nature; however, vacant land located in the NJMC's Environmental Conservation zone is located across Madison Circle Drive to the south. There are no residences located nearby. Vehicles will enter the site from the existing driveway on Madison Circle Drive to utilize the proposed loading doors. All loading operations and truck maneuvering will occur within the site. The proposed size of delivery vehicles will be limited to single axle box trucks and panel vans, which will not result in maneuvering within public rights-of-way or on neighboring properties to access the proposed loading area.

The proposed loading doors will be installed with metal roll up doors to match the existing loading doors installed on the southerly building façade facing Madison Circle Drive. The proposed improvements will not create any negative visual impacts to neighboring properties, which are primarily developed with industrial uses. The proposed loading doors will be located across the street from property located in the NJMC's Environmental Conservation zone, which permits public access to water features, scientific and ecological studies, and wetland enhancement uses. The proposed loading areas will not impede the ability of neighboring properties to function 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 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.

One proposed loading doors will be constructed for each of the two newly configured tenant spaces, which can be accessed only from the southerly building elevation facing Madison Circle Drive. NJMC zoning regulations require that conforming loading areas be located in the rear and side yards; however, constructing the loading areas along the northerly or easterly sides of the building would not provide access to the units in question. The configuration of the existing building on the site limits the ability to

provide new, conforming loading spaces for tenants whose access is limited to the southerly portion of the building.

The proposed variance represents a balanced approach to the application of the NJMC's loading regulations to the particular characteristics of the property. The proposed loading doors will be drive-in loading doors that will accommodate smaller vehicles than tailboard loading docks, thereby preventing any negative impacts to site circulation resulting from larger vehicles and minimizing the visual impact of loading activities in the front yard.

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 configuration of the proposed loading area will permit vehicles to safely maneuver both on and off the site. Direct access to the site is maintained from the existing driveway on Madison Circle Drive. In addition, excess noise, odor, vibration, or glare will not be generated as a result of the proposed loading area. There are presently loading docks and doors along the subject property's Madison Circle Drive frontage. The two additional drive-in loading doors will serve existing warehouse space, which will be reconfigured to accommodate two additional tenants.

In order to ensure that the drive aisle be kept clear to accommodate site circulation and emergency vehicle access and not be obstructed by larger vehicles parked in the proposed loading area, it is recommended that the variance contain a condition that vehicles, inclusive of any attached trailer or container, be driven into the building through the drive-in doors to the extent necessary to maintain a minimum 24 foot clear width within the adjacent drive aisle.

With the above condition, 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.

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 additional paved surfaces have been proposed. No environmentally sensitive areas, such as wetlands or stormwater facilities, will be disturbed. The new loading area will not significantly increase the amount of trucks entering the site as the new drive in doors will serve existing warehouse floor area. Additionally, the requested variance to locate the proposed loading area within the front yard facing Madison Circle Drive 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 applicant provided testimony that the two additional drive-in loading doors, one per proposed unit, are the minimum required to accommodate business operations. Potential locations to provide an alternative loading area outside of the front yard facing Madison Circle Drive are limited since the two tenant units in question front only along Madison Circle Drive and cannot be accessed from loading areas in the conforming northerly yards due to the site and building configuration. Therefore, the requested 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 proposed loading area facing Madison Circle Drive 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 a loading area in the front yard, public safety is not adversely impacted. By including the condition that vehicles, inclusive of any attached trailer or container, be driven into the building through the drive-in doors to the extent necessary to maintain a minimum 24 foot clear width within the adjacent drive aisle, neither on-site nor off-site circulation will be impeded by vehicles maneuvering to access the proposed loading doors. The proposed loading areas will not be a significant detriment to area aesthetics, as the proposed loading doors are to be drive-in loading

doors that allow loading and unloading operations to occur inside the building, and are located within a front yard with existing loading areas.

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 drive-in loading doors are proposed in the front yard facing Madison Circle Drive.

Based on the record in this matter, the bulk variance application to construct two drive-in loading doors in the front yard facing Madison Circle Drive is hereby recommended for approval subject to the following condition:

1. Vehicles, inclusive of any attached trailer or container, shall be driven into the building through the drive-in loading doors to the extent necessary to maintain a minimum 24 foot clear width within the adjacent drive aisle.

CONDITIONAL APPROVAL
RECOMMENDATION ON
VARIANCE REQUEST

2-1-13
Date


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

Conditional Approval
RECOMMENDATION ON
VARIANCE REQUEST

2/4/13
Date


Marcia A. Karrow
Executive Director