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November 12, 2021

Edwin F. Gerecht, Jr., Chair
Long Hill Township Zoning Board of Adjustment
915 Valley Road
Gillette, New Jersey 07933

RE: **Application: 21-03Z**
Applicant: 224230MAINSTLLC
224-230 Main Avenue, Stirling, NJ 07980
Block: 11606, Lots: 17 and 18
Preliminary and Final Site Plan Approval with Use and Bulk Variances
B-1-5 Village Business Zone

Dear Chairperson Gerecht and Members of the Board:

Introduction

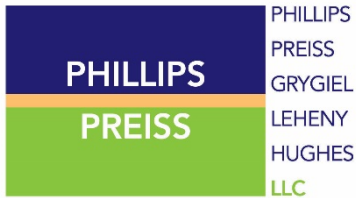
The following is a review letter for the above-referenced development application on Block 11606, Lots 17 and 18, otherwise known as 224-230 Main Avenue in Stirling. The Applicant (“224230MAINSTLLC”) is seeking “d(1)” use and “d(5)” density variances, as well as “c” bulk variances to construct a 3-story mixed use building containing the following:

- Professional office space on the ground level;
- One 3-bedroom affordable and one 2-bedroom affordable residential units on the ground floor;
- Four 2-bedroom market rate residential units on the second floor; and
- Two 2-bedroom market rate residential units on the third floor.

Documents Reviewed

The following documents have been reviewed:

- Application for development.
- “Site Plan for Lots 17 and 18, Block 11606, Main Avenue, Township of Long Hill, Morris County, NJ Area Map;” consisting of 6 sheets; prepared by Murphy & Hollows Associates, LLC; dated January 22, 2021 with revisions through October 21, 2021.
- Color rendering entitled “Preliminary Front Elevation Proposed Mixed-Use Building, Long Hill, NJ 07980,” consisting of 1 sheet, prepared by Architecture Plus, undated.
- “Preliminary Floor Plans and Building Elevations,” consisting of 2 sheets, prepared by Architecture Plus, dated September 20, 2021 with revisions through October 27, 2021.
- “Topographic Survey of Lots 17 & 18, Block 11606, Main Avenue, Township of Long Hill, Morris County, New Jersey,” consisting of 1 sheet, prepared by



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Murphy & Hollows Associates LLC, dated August 15, 2019 with revisions through October 23, 2019.

- Eleven color photographs of existing site.

Site Description

The subject property consists of two lots: 17 and 18 on Block 11606, otherwise known as 224-230 Main Avenue in Stirling south of the Stirling train station. According to the public notice for the application, Lot 17 currently has a building containing six rooming house rooms on the second floor, a residential apartment on the first floor and empty retail space on the first floor. However, site photographs show a half-story extending above the second floor with a dormer window. It is unclear what the space on this half-story is currently used for. There is a single-story frame garage in the northwestern portion of the rear yard. Lot 18 is improved with a vacant single-story commercial building. Lot 17 is 0.206 acres (i.e., 8,960 square feet), and Lot 18 is 0.41 acres (i.e., 17,920 square feet) for a total of 0.62 acres (i.e., 26,880 square feet). There is a gravel driveway and unstriped gravel parking area which provides ingress/egress from Main Avenue and is located partially on both lots.

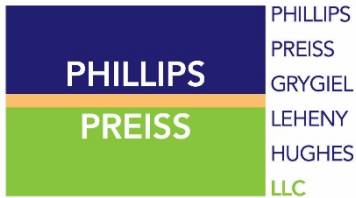
Site Context

The site is located in close proximity to the Stirling train station. Land uses in the immediate vicinity of the subject property along Main Avenue consist primarily of ground floor retail/commercial and office uses with upper level residential uses. The Stirling Hotel is located directly across the street. To the west of the subject property on Somerset Avenue is the Stirling Manor garden apartment complex.

Proposed Project

The Applicant proposes to demolish the existing improvements on both Lots 17 and 18 to construct a 3-story, 35-foot 11-inch, mixed-use building located in the center of both lots. On the ground floor, the building would include 2,466 square feet of professional office space along the Main Avenue frontage, as well as a 1,237 square foot 3-bedroom affordable housing unit and a 987 square foot 2-bedroom affordable housing unit located behind the office space. On the second floor would be four 2-bedroom market-rate units ranging from 997-999 square feet. On the third floor would be two 2-bedroom market rate units, one of which would be 914 square feet and the other would be 994 square feet.

The office space on the ground floor would be slightly elevated above sidewalk level and be accessed via steps leading to a covered porch extending the entire front façade. There would also be an ADA ramp leading to the office space. The residential units would be accessed via a pitched roofed portico and ADA accessible ramp. All of the apartment units would be connected via an interior stairwell.



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The building would include a pitched roof. The front elevation would be broken up by a cross-gable in the center of the roofline and two dormer windows. The roof of the front porch is broken up by 6 pedimented roof-shapes. The exposed foundation of the porch would be clad in stone. The exterior of the structure would be clad in “PTD Composite.” The windows are broken up into 8 over 8 panes. The third floor dormer windows would be broken into 4 over 4 panes.

To the rear of the building would be 21 striped parking spaces which would be accessed from Main Avenue by a driveway along the northern portion of the site. A dumpster with enclosure would be located in the southern portion of the parking area. Landscaping will be provided around the parking area and trash enclosure, as well as along all sides of the building facades.

Zoning Compliance

Use

The property is located within the B-1-5 Village Business zone. Business, medical and professional offices are among the principal permitted uses in the zone. Apartments, in accordance with the provisions of Subsection 124.1 are also permitted principal uses in the zone. Subsection 124.1 permits apartment units in certain zones, including the B-1-5, that are at least 500 square feet in gross floor area and not more than 1,000 square feet. The apartments shall not be located on the ground floor of any building, and the gross density of all apartments on the lot shall not exceed five units per acre.

The proposed building does not meet the requirements for Subsection 124.1 in the following ways requiring “d(1)” use variances:

- Two apartments on the ground floor where none is permitted;
- A 3-bedroom apartment on the ground floor which is in excess of 1,000 gross square feet; and
- Eight apartments on 0.62 acres which equates to 13 units per acres in excess of the 5 units per acre maximum density permitted.

Bulk Requirements

The bulk standards for the B-1-5 Village Business zone are provided in the table below:

B-1-5 Village Business

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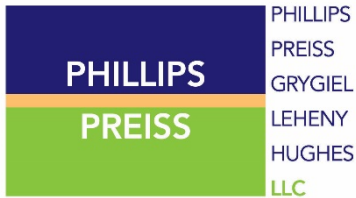
Bulk Requirements	Required/Permitted	Proposed	Relief Needed
Min. Lot Area (sf.)	5,000	26,880	---
Min. Lot Width (ft.)	50	150	---
Min. Floor Area (sf.)	650 (ground floor)	5,580 (Applicant should confirm as this number is different on the Site Plan)	---
Min. Building Width (ft.)	20	87.5	---
Max. Height of Building (stories/feet)	2/35	3/35.92	V*
Min. Front Yard (ft.)	10	11	---
Min. Side Yard (ft.) of one yard	10 (Side yard setback is reduced to 0 feet if property does not abut a residential use or zone)	12	---
Min. Rear Yard (ft.) ⁴	25	91.4	---
Max. Building Coverage (%)	35 (±9,408 SF)	20.75 (±5,580 SF)	---
Max. Lot Coverage (%)	65 (±17,472 SF)	58.9 (±15,839 SF)	---
Max. Floor Area Ratio	1.0 (26,880 SF)	0.47 (±12,633 SF)	---
Min. Buffer (ft.) ⁶	10	12	---

EN= Existing Non-Conformity V= Variance

* The proposed height is less than 10 feet or 10 percent than the maximum height permitted, as such a “c” bulk variance (rather than a “d(6)” height variance) is required for the 11 inches in excess of 35 feet and the one story in excess of the 2 story maximum.

Off-Street Parking

Per the NJ Residential Site Improvement Standards (“RSIS”), a 2-bedroom garden apartment unit requires 2 parking spaces unit, and a 3-bedroom garden apartment requires 2.1 parking space per unit. As such, the proposed seven 2-bedroom units require 14 parking spaces and the one 3-bedroom unit requires 2.1 parking spaces for a total of 16.1 parking spaces. Per Section LU 151.1, professional office requires one parking space per 250 square feet of floor area. For 2,466 square feet of office space requires 9.9 parking space, rounded up to 10 spaces. As such, the proposed project requires 26 parking spaces whereas 23 stalls are provided.



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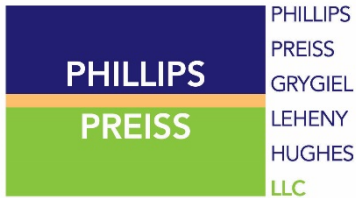
However, per Section 151.1(a)(1) properties along Main Avenue in the B-1-5 Village Business zone only have to provide 50% of the number of off-street parking required by ordinance. As such, only 13 parking spaces are required and no variance for off-street parking is needed.

Planning Review Comments

1. The Applicant requires “d(1)” use variances. Pursuant to N.J.S.A. 40:55D-70d(1) of the Municipal Land Use Law (MLUL), a Zoning Board of Adjustment in “particular cases” and for “special reasons”, may grant a variance to permit a use or principal structure in a zone in which the zoning ordinance does not permit such use or principal structure. In order to obtain a “d(1)” use variance, a licensed professional planner, on behalf of the applicant, must address both the “positive” and “negative” criteria.

The “special reasons” requirement of the statute referenced above is also referred to as the “positive criteria.” In instances where the proposed use is not deemed “inherently beneficial” as defined in N.J.S.A. 40:55D-4 (and the proposed use here is not listed under that definition), it is the applicant’s burden to show “special reasons” in order for the board to exercise its jurisdiction to grant relief under N.J.S.A. 40:55D-70d(1). Generally, there are sufficient “special reasons” for the grant of a “d(1)” use variance under two broad circumstances: (1) when the refusal to allow the project would impose on the applicant an undue hardship and/or (2) when a proposed project promotes the “general welfare” because it carries out a purpose of zoning as defined in N.J.S.A. 40:55D-2 of the MLUL. The Court found in Kohl v. Mayor and Council of Fair Lawn, (1967) that merely demonstrating that a particular use promotes one or more of the purposes of zoning is not enough to satisfy the positive criteria, but the zoning board must find that the general welfare is served because the use is “peculiarly fitted” or “particularly suitable” to the site for which the variance is sought. This is so because nearly all lawful uses of property promote, in greater or lesser degree, the general welfare. In the context of the positive criteria, site suitability is not concerned with ordinance zoning criteria but is instead focused on (1) why the location of the site within the municipality or region is particularly suited to the use despite the zoning and/or (2) what unique characteristics of the site itself make it particularly appropriate for the proposed use rather than a permitted use. It should be emphasized that the site need not be uniquely suited to such use. Or, more specifically, it need not be the only site available for the proposed use. The Supreme Court held in Price v. Himeji, LLC, (2013) that “demonstrating that a property is particularly suitable for use does not require proof that there is no other potential location for the use, nor does it demand evidence that the project must be built in a particular location.” Rather, the test is whether the property is “especially well-suited for the use, in spite of the fact that it is not permitted in the zone.”

In addition to satisfying the positive criteria an applicant seeking a “d(1)” use variance must also address the “negative criteria.” Per N.J.S.A. 40:55D-70 no variance or other relief may be granted without showing that such variance or



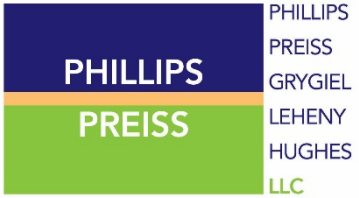
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other relief can be granted without “substantial detriment to the public good” and “will not substantially impair the intent and purpose of the zone plan and zoning ordinance.” The proof required to satisfy the first prong of the negative criteria focuses on the impact of the variance on nearby properties and the determination as to whether or not it will cause such damage to the character of the neighborhood as to constitute “substantial detriment to the public good.”

In *Medici v. BPR Co.*, (1987), the Supreme Court held that the second prong of the negative criteria be demonstrated through an “enhanced quality of proof” defined as “reconciling the proposed use with the Master Plan and zoning ordinance’s omission of the use from those permitted in the zone district.” This requirement came from the court’s recognition that use variances are by their very nature inconsistent with the municipality’s zoning policy embodied in its adopted zoning ordinance and master plan.

2. The Applicant requires “c” bulk variances. The Applicant shall provide testimony justifying the request for such variances. In the case of “c” variances, the MLUL at N.J.S.A. 40:55D-70c allows for two basis of proof: 1) that by reason of exceptional physical, topographic, or other extraordinary condition uniquely affecting the property, the strict application of the regulations would result in practical difficulties or exceptional and undue hardship; or 2) that the purposes of the MLUL would be advanced and the benefits of granting the variance outweigh the detriments. In either case, the Applicant must also address the negative criteria, that the variance(s) can be granted “without substantial detriment to the public good” and “without substantial impairment to the intent and purpose of the zone plan and zoning ordinance” of the municipality.
3. The Applicant should provide testimony regarding any proposed signage to ensure compliance with the provisions of §LU-155.7 regarding signage requirements and that no design waivers other than those indicated above are required.
4. The site plans show an ADA ramp leading to both the front and rear elevations. However, the architectural elevations do not show these ramps and the floorplan for the ground floor does not show a ramp on the front elevation. The Applicant should indicate where ADA ramps are proposed and the site plan drawings and architectural plans should be made consistent.
5. The Applicant should correct the Zone Table with regard to the ground floor area.
6. The Applicant should indicate whether the lots will be merged. If not, the Board should consider any ramifications of placing a building that is located on two lots.

We trust that the above information is responsive to your needs.



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Respectfully submitted,

Elizabeth Leheny, AICP, PP

cc: Debra Coonce
Rich Keller, PE, PTOE
Steve Warner, Esq.