

Planning & Real Estate Consultants

November 12, 2021

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

**RE: Application: 21-07Z
Preliminary and Final Site Plan Approval With Bulk Variance Relief
and "D(3)" Conditional Use Variance
Applicant: DOAR, LLC
645 Valley Road, Gillette
Block 10801 Lot 1.01
B-1-20 Village Business District.**

Dear Chairperson Gerecht and Members of the Board:

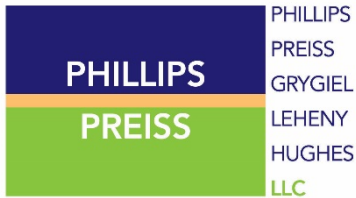
Introduction

The following is a review letter for the above-referenced development application on Block 13204 Lot 20, otherwise known as 645 Valley Road in Gillette. The Applicant ("DOAR, LLC") is seeking Preliminary and Final Site Plan approval with bulk variance relief and "d(3)" conditional use relief to permit the construction of one floor containing 2 residential apartments plus an office above an existing single-story restaurant, known as Ancona Bistro, along with related site improvements. The Applicant is also proposing to modify the existing outdoor patio area and add a steel structure with metal roofing over the outdoor patio to improve the outdoor dining area. An outdoor speaker system will be part of the patio construction.

Documents Reviewed

The following documents have been reviewed:

- Letter to Debra Coonce, Planning & Zoning Coordinator "RE: DOAR, LLC, 645 Valley Road, Block 10801, Lot 1.01," signed by Chrisanne Young legal assistant to Derek Orth, Esq. and dated October 11, 2021 with following exhibits:
 - Exhibit A: Affidavit of Service signed by Chrisanne Young and notarized on November 8, 2021.
 - Exhibit B: Notice of Public Hearing and Certified List of Property Owners.
 - Exhibit C: Certified Mail Receipts.
 - Exhibit D: Affidavit of Publication in the local newspaper.
- Application for Development for 645 Valley Road, signed by Arlind Kuci and dated February 22, 2021 with addendum, checklists and checklist waiver forms, and zoning table.
- Application to Morris County Planning Board.
- Application For Soil Erosion and Sediment Control Plan Certification.
- Disclosure Of Corporate Owners or Partners.
- Owners Letter of Consent.



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- Architectural Drawings for DOAR, LLC consisting of 10 sheets, prepared by William Kaufman of Wesketch Architecture, Inc., dated February 24, 2021 with revisions through August 31, 2021.
- Site Survey consisting of 1 sheet, prepared by William Hollows of Murphy & Hollows Associates, LLC, dated March 9, 2021.

Site Description

The subject property is a ± 0.60 acre ($\pm 25,926$ square feet) site located at 645 Valley Road at the southeast corner of Valley Road and Mountain Avenue. The property is currently developed with a single-story restaurant known as Ancona Bistro. The building is located in the northwest portion of the lot with striped surface parking areas located to the east and south of the building. An outdoor patio exists in the northwest portion of the building.

Two-way ingress/egress is provided via a curb cut on Valley Road, as well as on Mountain Avenue. Sidewalks exist along the property's frontages on both Valley Road and Mountain Avenue. There are also sidewalks provided onsite which connections to the street sidewalks, as well as building and patio entrances.

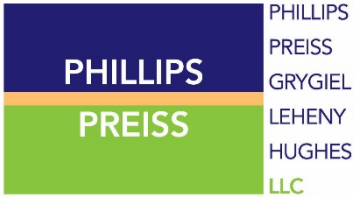
The Valley Road entrance and outdoor patio area are landscaped with a variety of trees, shrubs, grasses and other plantings. There is also landscaping along the Mountain Avenue lot line and landscaping along the site perimeters and within the parking area.

Site Context

Land uses in the immediate vicinity of the subject property along Valley Road are mostly commercial including restaurants, salons, doctors' offices, a Valero gas station, and automotive repair shop. Further east on Valley Road are single-family homes. Further west on the south side of Valley Road is the Sunrise Gillette development and Gillette elementary school; on the north side of Valley Road are mostly single-family homes. To the south of the site on Mountain Avenue are three multi-family developments, and unimproved lands owned by the Passaic River Coalition and NJ American Water Company. One property, 621 Valley Road, located to the east of the subject property (i.e., Block 10801, Lot 3) is in the R-MF-4 Multi-Family Residential Zone 4 which is a site zoned for inclusionary housing as part of the Township's Settlement Agreement with Fair Share Housing Center. Owners of this site are currently before the Planning Board for an application to develop a 62-unit multifamily residential building.

Proposed Project

The Applicant proposes to construct a one-story addition to the existing restaurant which would include two 2-bedroom residential units of ± 977 square feet each. Also on this second floor would be ± 394 square foot office with storage area, bathroom and closet space. The office would be located between the two apartments. The



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facades of the upper story apartments would extend over the ground floor along the eastern elevations.

The second story would be clad in asphalt shingles, as well as a metal seam roof over the stair tower. The facades would be clad in a combination of shaker siding and hardiplank. The second floor would be accessed via a stairwell in a proposed addition to the western portion of the existing restaurant. The addition would consist of large window facing Mountain Avenue. The façade of the stair tower facing Mountain Avenue would be clad in brick the remaining portions would be clad in hardiplank.

In addition to the second story, the Applicant proposes to modify the existing outdoor patio an add a steel structure with metal roof over the patio. Removable windows would be installed between the steel columns of the enclosure. An outdoor speaker/music system for the patio area would also be installed.

The existing entry portico along Valley Road would also be revamped with brick piers, an enlarged pediment, and new signage.

The roof shapes for all of the additions would be cross gables which is similar to the roofline of the existing restaurant.

The Applicant also proposes new signage including two wall signs externally lit by gooseneck lighting. Both signs would read "Ancona Bistro." One sign would be located in the pediment of the main entry portico along Valley Road. The sign would be 4.5 square feet. The other sign would be at located below the pitched roof line of the proposed stairwell. This sign would be 16 square feet.

Zoning Compliance

Use

The property is located within the B-1-20 Village Business zone. Restaurants are a permitted principal use in the zone. Outdoor dining is a permitted conditional use to restaurants. The conditional use standards are provided in §124.13. These standards include the following:

- 1. The outdoor dining facility shall be part of a permitted restaurant use located on the same lot.*
- 2. The outdoor dining use will not involve any outdoor speaker systems or outdoor music playing of any kind.*
- 3. If outdoor dining is on a sidewalk, a four-foot sidewalk clearance must be provided.*
- 4. In Village Business zones (B-1-5, B-1-20, MH and M) outdoor dining shall be permitted between the hours of 6:00 a.m. and 10:00 p.m.*
- 5. A sketch showing the proposed location of tables, chairs and umbrellas shall be prepared and submitted to the Zoning Officer for approval prior to the use of the outdoor area.*
 - b. An outdoor dining facility does not have to be located along a sidewalk that is contiguous to a building.*
 - c. The outdoor dining facility must obtain all applicable Board of Health and other required permits.*
 - d. If all of the above criteria are met, no Board appearance shall be required.*

The Applicant is seeking relief from §124.13(2.) to permit an outdoor speaker/music system.

Apartments are also a permitted use in the zone subject to the requirements of §124.1 which states that the apartments must not be on the ground floor, must be at least 500 square feet in gross floor area but no more than 1,000 square feet, and the gross density of all the apartments shall not exceed five acres. The Applicant proposes apartments that are ±977 square feet on a proposed second story. The Applicant is proposing 2 units on the ± 0.60 acre unit site which equates to a density of approximately 3.3 dwelling units per acre. As such, the Applicant meets all of the requirements of §124.1.

Bulk Requirements

The bulk standards for the B-1-20 Village Business zone are provided in the table below:

B-1-20 Village Business

Bulk Requirements	Required/Permitted	Existing	Proposed	Relief Needed
Min. Lot Area (sf.)	20,000	25,926	25,926	---
Min. Lot Width (ft.)	100	166.53	166.53	---
Min. Floor Area (sf.)	800 (ground floor)	2,409	2,409	---
Min. Building Width (ft.)	20	30	30	---
Max. Height of Building (stories/feet)	2.5/35	1/17.5	2/28.9	---
Min. Front Yard (ft.)	50	32.1 (Valley Rd.) 32.3 (Mountain Ave.)	TBD ¹	V
Min. Side Yard (ft.) of one yard ²	20	77.2 (southern lot line) 61.2 (eastern lot line)	77.2 (southern lot line) 61.08 (eastern lot line)	---
Min. Side Yard (ft.) of both yards ³	50	138.4	138.28	---
Min. Rear Yard (ft.) ⁴	25	N/A	N/A	---
Max. Building Coverage (%)	20 (±5,185 SF)	9.4 (±2,430 SF)	10.3 (±2,677 SF)	---
Max. Lot Coverage (%)	40 (±10,370 SF)	64.28 (±16,665 SF)	64.84 (±16,811 SF)	V
Max. Floor Area Ratio	0.40 (10,370 SF)	0.09 (±2,409 SF) ⁵	0.19 (±5,024 SF)	---
Min. Buffer (ft.) ⁶	25	N/A	N/A	---

EN= Existing Non-Conformity

V= Variance

¹ This number should be provided. The main restaurant building will remain at 32.1 feet from Valley Road and will be decreased to 27.58 feet from Mountain Avenue. However, the MLUL, and the Township Ordinance at §LU-111, defines building as “a combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy and having a roof.” The patio (with the proposed roof) meets this definition. The setbacks along both Valley Road and Mountain Avenue should be taken from the patio. These calculations should be reflected in the Zoning table (Sheet G-101.01) and on the site plan (C-101.01).

² The required side yard is 20 feet not 50 feet as is indicated in the Zone Table.

³ The minimum requirement for both side yards should be provided in the Zone Table. This lot does not abut a residential zone so the requirement is 50 feet.

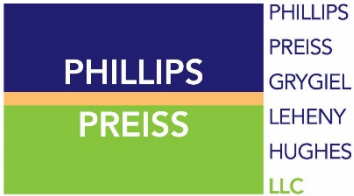
⁴ This is a corner lot and has two front yards and two side yards but no rear yard.

⁵ The Applicant should provide testimony explaining the difference between the existing floor area of 2,409 SF and the existing building coverage calculation which states the existing building is 2,430 SF.

⁶ The requirement for buffers can be removed from the Zone Table as a buffer is required when property abuts or is located across a street from a residential use or zone. The subject lot does not abut or located across the street from a residential use or zone.

Off-Street Parking

The existing parking lot has 31 parking spaces. Per §LU-151.1, restaurants and catering halls shall provide parking according to the following ratio: 1 per 2.5 seats or 1 per 60 square feet of floor area devoted to seating, whichever is greater. The Applicant indicates on Sheet 101.01, that ±858 square feet is devoted to seating at the restaurant which requires 14.3 parking spaces (i.e., 858 SF/60 SF = 14.3 spaces). The Applicant should indicate whether the patio area is included in the 858



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square feet. The Applicant does not indicate how many seats are provided at the restaurant to ensure conformance with this provision. We note that the public notice for the application indicates a deficiency in three spaces based on the number of restaurant seats. However, the number of seats is not provided.

Per the NJ Residential Site Improvement Standards (“RSIS”), a 2-bedroom garden apartment unit requires 2 parking spaces. As such, the proposed second floor apartments require 4 parking spaces total. The Applicant indicates that approximately 19 parking spaces are required at the proposed project, and the site currently provides 31 spaces. However, the Applicant should confirm the number of seats to ensure compliance with the parking standard.

Signage

Below are the signage standards for the B-1-20 zone listed in §LU-155.7:

Sign Standard	Proposed Signage	Relief Needed
§LU-155.7a. Each permitted use may have one wall sign an only one face of a building may be used as a principal face	Applicant is proposing a wall sign on the Valley Road frontage and the Mountain Avenue frontage	Design waiver for two signs
§LU-155.7a Wall signs shall have an area equal to 5% of the area of the façade upon which it is erected, or 50 SF, whichever is smaller.	The wall sign facing Mountain Avenue is proposed to be 16 SF. The wall sign facing Valley Road is proposed to be 4.5 SF.	---
§LU-155.7b For all permitted uses providing at least a fifteen foot principal building setback, one ground sign is permitted per lot	The Applicant has 1 existing ground sign.	Applicant should provide testimony as to whether this ground sign will remain.
§LU-155.7b Ground signs shall not exceeding 16 square feet in area and eight feet in height the permitted wall sign area in Subsection a is reduced to 2 1/2% of the facade area, or 25 square feet, whichever is smaller.	The dimensions of existing ground signs are not provided.	Applicant should provide testimony as to whether this ground sign will remain.
§LU-155.7b The ground sign shall not be placed within any required sight triangle and shall be a minimum of 10 feet from any property line.	The setbacks of existing signs is not provide.	Applicant should provide testimony as to whether this ground sign will remain.

Planning Review Comments

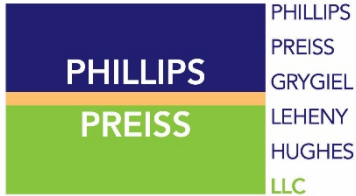
1. The Applicant requires a “d(3)” use variance for relief from conditional use standards. Specifically, The Applicant is seeking relief from §124.13(2.) to permit an outdoor speaker system.

The Board has the power to grant “d(3)” conditional use variances pursuant to N.J.S.A. 40:55D-70d(3) “in particular cases and for special reasons,” i.e., the “positive criteria.” However, for “d(3)” variance, the Board’s focus must be on whether the site remains appropriate for the conditional use despite the failure to conform to all of the ordinance’s conditions. Coventry Square v. Westwood Board of Adjustment, 138 N.J. 285, 298-299 (1994). The standard does not require a finding that the site is particularly suitable for the use, as is the case with a “d(1)” use variance. This is so because the use is permitted (conditionally) and it is the conditions attached to the use from which deviations are sought.

The Applicant must also satisfy the “negative criteria,” i.e., that relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan (i.e., “master plan”) and zoning ordinance.” Per Coventry Square, the strict requirements applicable to “d(1)” use variances do not apply to the first prong of the negative criteria of a “d(3)” variance (whether the variance can be granted without substantial detriment to the public good). Instead, the Board’s focus in a “d(3)” conditional use variance case must be on whether conditions can be imposed in its approval to ensure that the deviations from the conditional use requirements do not cause substantial detriment to the public good.

Additionally, per In TSI East Brunswick v. East Brunswick Board of Adj., 215 N.J. 26, 43-46 (2013), the Court held that the strict requirements applicable to “d(1)” use variances do not apply to the second prong of the negative criteria of a “d(3)” variance (whether granting a variance would substantially impair the intent and purpose of the zone plan and zoning ordinance). Instead, the Board’s focus in a “d(3)” conditional use variance case must be on whether conditions can be imposed in its approval to ensure that the deviations from the conditional use requirements do not cause substantial impairment of the intent and purpose of the master plan and zoning ordinance, i.e., whether the proposal was “reconcilable with the zone.”

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 shall provide testimony on the requested design waivers. The Board may grant these waivers if they find that granting the waivers is



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reasonable and within the general purpose and intent of the site plan review, if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

4. The Applicant should provide testimony as to how many seats are provided in the restaurant to understand the relief requested from the provisions of §LU-151.1 regarding off-street parking requirements.
5. The Applicant should provide testimony regarding proposed signage to ensure compliance with the provisions of §LU-155.7 regarding signage requirements and that no additional design waivers other than those indicated above are required.
6. Renderings included in the architectural plans set show outdoor dining spaces outside the confines of the patio. The Applicant should indicate if outdoor dining is anticipated in these areas and, if so, how many seats are anticipated.
7. The Applicant should make any necessary changes to the Zone Table listed in the footnotes to the B-1-20 table provided above, specifically:
 - Footnote 1: Correct the front setback to reflect setback to the roofed patio.
 - Footnote 2: The required side yard is 20 feet not 50 feet.
 - Footnote 3: The minimum requirement of 50 feet for both side yards should be provided on this lot which does not abut a residential zone.
 - Footnote 5: The Applicant should provide testimony explaining the difference between the existing floor area of 2,409 SF and the existing building coverage calculation which states the existing building is 2,430 SF.
 - Footnote 6: The requirement for buffers can be removed as a buffer is required when property abuts or is located across a street from a residential use or zone. The subject lot does not abut or located across the street from a residential use or zone.
8. The Applicant should provide testimony as to proposed landscaping on the site.
9. The Applicant should provide testimony whether it is anticipated that spaces will be reserved for residents.

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

Respectfully submitted,

Elizabeth Leheny, AICP, PP

cc: Debra Coonce
Mark Kataryniak, PE, PTOE



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Steve Warner, Esq.