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February 18, 2020

Township of South Orange Village Planning Board
76 South Orange Avenue, Suite 302
South Orange, NJ 07079
Attn: Harold Colton-Max, Chairman

RE: Applicant: 320 PC Valley, LLC
Property: 320 Valley Street
Block 2201 Lot 35
PB Application No.: 244
Our File NO.: 3995-1-MMD

Dear Chairman Colton-Max:

Please be advised that this office represents the Applicant, 320 PC Valley, LLC, as same relates to the above referenced matter.

On January 4, 2016, the Board passed a Resolution approving Preliminary and Final Site Plans with "C" Variances, a copy of which is enclosed herewith for your ready access and review. The Resolution set forth in part at paragraph 8 on page 9 that "The commercial space shall be used for office use only. No medical or retail use."

A Temporary Certificate of Occupancy has been issued by the Township of South Orange Village and the Applicant has attempted to lease the commercial space in accordance with the Resolution (i.e.: office use only). Despite these efforts, the Applicant has been unable to secure any interested parties. With this stated, the Applicant has received interest from a yoga studio with related amenities. The Applicant believes that this tenant will enhance the amenities to the building and the surrounding area.

DURKIN & DURKIN, LLC

February 18, 2020

Page 2 of 2

In light of the above, it is respectfully requested that the Resolution be amended so that a yoga studio and its related amenities be permitted as well as any other use as set forth in section Business B-2 of the Township's District Use Regulations.

Upon receipt, can you please advise as to what documentation is required in order to facilitate the above? Should you require any additional information and/or have any questions, please do not hesitate to contact my office. Thank you for your courtesies with regard to this matter.

Very truly yours,
DURKIN & DURKIN, LLC

By:


M. Murphy Durkin

MMD: mma

Enclosures

Cc: Client

Ojetti Davis, Planning Board Secretary (via email only)

Greer Patras, Board Planner/Zoning Officer (via email only)

William Sullivan, Board Attorney (via email only)

RESOLUTION OF THE PLANNING BOARD

TOWNSHIP OF SOUTH ORANGE VILLAGE

Decided: January 4, 2016
Memorialized: February 1, 2016

**320 PC VALLEY LLC
PRELIMINARY AND FINAL SITE PLAN APPROVAL
WITH "C" VARIANCES
320 VALLEY STREET
BLOCK 2201, LOT 35
PB APPLICATION #244**

WHEREAS, 320 PC Valley, LLC ("Applicant") having made application for preliminary and final site plan approval with variances to the Township of South Orange Village Planning Board (Application #244) regarding property located at 320 Valley Street, South Orange, NJ (the "Premises"), and known as Lot 35, Block 2201 on the tax map of the Township of South Orange Village (the "Village"); and

WHEREAS the Board having accepted jurisdiction based upon proof of publication and notices provided in accordance with the Municipal Land Use Law; and

WHEREAS, a public hearing having been conducted on October 8, 2015, December 8, 2015 and January 4, 2016 and the Applicant having appeared by its attorney Elnardo J. Webster, II., Esq., and having heard testimony of the Applicant's witnesses including Michael Lanzafama, PE, PP, Elizabeth Dolan, PE, Lane Blake, RA, Richard Keller, PE, PP, and Christopher Richter and considered the exhibits and expert reports submitted by Applicant and considered the comments and review memos from the Board's planner, Heyer Gruel & Associates dated July 23, 2015 and August 24, 2015 and considered the comments of all members of the public desiring to be heard and deliberated on the merits of the application;

NOW, BE IT RESOLVED AS FOLLOWS:

EVIDENCE SUBMITTED

In summary, the following evidence was submitted in connection with the application and considered by the Board:

1. The Board received the application and the documents submitted therewith, including the following:
 - (i) South Orange Village Planning Board application filed July 9, 2015 with Rider for Variance Justification, Certificate of Ownership;
 - (ii) Certificate of Paid Taxes;

- (iii) 200 ft list;
- (iv) Tax Map showing the property in question;
- (v) Checklist;
- (vi) Color photographs of existing conditions (5);
- (vii) Architectural Floor Plans and Elevations prepared by Rotwein and Blake dated July 9, 2015 (4 sheets);
- (viii) Survey prepared by Control Point Associates, Inc., dated January 26, 2015 (1 sheet);
- (ix) Site Plan Drawings prepared by Casey and Keller, Inc., dated June 26, 2015 (8 sheets);
- (x) Stormwater Management Report prepared by Casey and Keller, Inc., dated June 26, 2015;
- (xi) Color Rendering of the Northwest and Southwest Façade prepared by Rotwein and Blake received July 9, 2015.

2. In addition, after the original submission, the Board received:

- (i) Traffic Impact Assessment prepared by Dolan and Dean dated July 16, 2015;
- (ii) Architectural Drawings prepared by Rotwein and Blake last revised December 11, 2015 (4 sheets);
- (iii) Site Plan Drawings by Casey and Keller, Inc., last revised December 11, 2015 (8 sheets);
- (iv) Area Map prepared by Casey and Keller, Inc., dated June 26, 2015, filed August 4, 2015;
- (v) Color Rendering of the Northwest and Southwest side prepared by Rotwein and Blake received December 17, 2015 (2 pages);
- (vi) Letter from Elnardo J. Webster II, Esq., dated December 17, 2015;
- (vii) Letter from the Township of South Orange Village Historic Preservation Commission dated September 1, 2015;

3. The Board accepted into evidence the following Exhibits:

- A-1 Aerial Photograph
- A-2 Site Photos prepared by Casey and Keller, Inc.
- A-3 Color Rendering of Landscape and Lighting Plan (6);
- A-4 Color Renderings
- A-5 Color Renderings
- A-6 Sample of Exterior Engineer Wood Material
- A-7 Sample of Exterior Brick Material
- A-8 Alternate Site Plan Drawing prepared by Casey and Keller, Inc., dated December 7, 2015
- A-9 Colorized Version of Sheet 6 of Site Plan Drawing prepared by Casey and Keller, last revised December 11, 2015

4. Elnardo J. Webster II, Esq., appeared on behalf of the Applicant.

5. Michael Lanzafama, PE, PP was sworn and qualified as an expert in civil Engineering and Planning. He first testified in his capacity as the Engineer for the Project, and introduced Exhibits A-1 and A-2 and described the lot as being 25,532 sq ft with 100 ft of frontage in the B-2 Zone. He noted that apartments over business uses were permitted in the zone. He described the lot as bounded by residential properties to the North and a multi-family building to the South. He noted that the property is .4 miles from the South Orange Train Station and that Bus Route No. 31 travels up and down Valley Street. He noted that where the Applicant was proposing parking underneath the building, however, was requesting a variance for insufficient spaces and stated that according to the Residential Site Improvement Standards a reduction in parking can be granted when mass transit is available. He stated that the site slopes upward from Valley Street from approximately from 149 ft to 169 ft in elevation, that there are no wetlands on the property and there some mature trees. He introduced Exhibit A-3 which was a color rendering of the Landscape and Lighting plan (Sheet 6 and the Site Plan Drawings) and testified about additional landscaping proposed by Applicant. The proposed structure would be setback 15.16 ft from the street line and 10 ft from the Northern property line which would require a left side yard setback variance (17.04 ft required, 10 ft proposed). The proposed building would be built into the upward grade of the site and the parking garage would be buried underground. The proposed building would have 22 residential units. There would be interior and exterior refuse collection by a private hauler. The parking garage would have 35 spaces sized 8 ft by 18 ft, 2 of them handicapped and would seek a design waiver for the parking stall sizes. Each apartment would be assigned 1 parking space. Eight spaces would be reserved for the office commercial use and 5 spaces would be available for guests and visitors. He noted that on-street parking is also available. He described the rear of the property where a terrace would be constructed as an outdoor space for residents and described the landscaping around it. Because the impervious surface would increase from 5,500 sq ft to 19,000 sq ft Applicant proposes subsurface detention basin to mitigate stormwater runoff. He stated that the detention system would result in a reduction in runoff of 47% for a 100 year storm, 23% for a 10 year storm, and 3% for a 2 year storm. He noted that approval had already been obtained from the Hudson/Essex Soil Conservation District. He described the lighting proposed around the outdoor patio and in the 3 ft knee wall around the patio. Lighting would also be provided along the walkway on the south side of the building. Applicant also proposed a bike rack to be placed on the south side.

Responding to questions by the Board he noted that TWA approval would not be required for sanitary sewer hookup. He acknowledged that although the proposed building foundation was set back 10 ft from the Northern property line that with the 2 ft bump out for bay windows the actual setback would be 8 ft.

6. Elizabeth Dolan, PE was sworn and qualified as an expert in civil engineering. She stated that she has 30 years experience as a traffic engineer and that she authored the Traffic Impact Assessment dated July 16, 2015 which had been submitted to the Board. She noted that the proposed building would have 22 apartments and 2,400 sq ft of office space. Using data published by the Institute of Traffic Engineers (ITE) Trip Generation Manual for uses known as "general office" and "apartments" the projected trip generation of the project during peak hour traffic would be in her opinion "very low" with less than 20 driveway movements estimated at any one peak hour. She noted that these estimates took no credit into account for nearby mass transit. She noted that Valley Street presently operates at a "C" level of service with regard to traffic movement and that level would not change as a result of the proposed project. In her opinion the project would have a minimal traffic impact.

With respect to parking she noted that the ordinance required 49 parking spaces, and 35 are proposed. She noted that with Residential Site Improvement Standards the parking demand could be lessened due to proximity to mass transit. She noted that RSIS Standards encourage shared parking for the spaces on this site which would be needed for residential and commercial uses at different times of the day. She testified that between 1 and 1.5 parking spaces per residential unit had been widely used in transit oriented development and that in her estimation 35 parking spaces is sufficient to meet the demand of the proposed project.

In response to questions by the Board Planner Ms. Dolan stated that 3/8 of a mile is considered a walkable distance for commuting to a nearby train station sufficient to qualify for a reduction in parking in her opinion.

7. When the application resumed on December 7, 2015 Applicant called Lance Blake RA who was sworn and qualified as an expert in architecture. Mr. Blake referred to the architectural drawings and described how the parking garage would be located underground and on the ground floor of the building and that the second and third floors would have 11 units each. The apartment sizes were approximately 1,000 sq ft for the two-bedrooms and 750 to 850 sq ft for the one-bedrooms. The property would be serviced by an elevator. He testified that the front elevation had been modified in accordance with comments by the Board Planner and introduced Exhibit A-4 which were color renderings of the northwest and southwest corner and façades of the building. He testified that the exterior materials for the project would be faux wood and brick and the windows would be aluminum clad and oversized. The building was contemporary in design. He noted that the Applicant had changed the elevations to add a canopy, add cantilever and eliminate small windows, all of which were intended to break up the massing of the building. No changes to the floor plans were made. He stated that there would be a room behind the elevator and a segment on each floor to be used for refuse collection.

Responding to questions from the Board's Planner he described the lighting and agreed that the outside lighting would be down lit and shielded so as not to carry offsite.

Responding to Board questions about "green" initiatives in sustainable design he testified that materials used in construction would include recycled contents but could not define the exact amount. He noted that the aluminum wood to be used on the exterior of the building was a fairly new product and that it was more expensive than wood, but was maintenance free. The exterior brick would be applied on a different plane than the exterior wood siding in order to create differentiating shadows. Originally Applicant had proposed 80 percent brick/20 percent wood but had revised so that it would not be 50 percent brick/50 percent wood. Responding to questions regarding balconies he stated that the Applicant would agree that balconies could not be used for barbeques nor outdoor storage.

8. Michael Lanzafama, PE, PP was recalled to testify in his capacity as a professional planner. He noted that the proposed mixed use was a permitted use in the B-2 Zone. He noted that the building would have 14 one-bedroom and 8 two-bedroom apartments and 2,400 sq ft office space. The building would be set back 15 ft from the street. Applicant is seeking a variance for left side yard setback which is proposed at 10 ft where 17.04 ft is required because of the height of the building. On the south side the setback is 18 ft which complies. Mr. Lanzafama described the lighting and landscaping plan and noted that the Applicant is also seeking a rear yard setback variance (25 ft required, 1.1 ft existing, 5.64 ft proposed). He noted that the north/left side yard setback could be eliminated by placing the driveway on the north rather than the south side of the lot. However, he testified that the driveway for the adjoining multi-family building to the south would be adjacent to the proposed driveway, whereas if it was on the north side of the building it would be much closer to the single-family homes to the north. With respect to the rear yard setback he noted that it was caused not by the building above-ground which was 69.5 ft from the property line, but rather by the underground parking garage which would be unseen but would be within 5.64 ft of the property line. He noted that according to the ordinance "structures" included underground structures. Regarding the parking variance he testified that Applicant also sought a variance because 49 spaces were required but 35 were being proposed, 2 of which would be handicapped and 5 for compact cars. He stated that Applicant would consider changing the parking proposed to reduce the number from 35 to 34 which would allow for 3 of the compact spaces to be changed to full-size. He testified that how the project's proximity to mass transit including the bus line on Valley Street, as well as the less than 1/2 mile distance to the South Orange Train Station could be taken into account in reducing the parking demand for the building. He went on to state that in his opinion the proposal would not be a substantial detriment to the public good, nor substantially impair the intent and purposes of the zone plan and ordinance.

In response to questions by the Board Planner he testified that the parapet wall around the patio would be 42" high and Applicant agreed to provide further details.

In response to questions by the Board he noted that the noise from the garage ventilation system would be minimal.

9. The Board asked for additional information to be provided by the Applicant including more information regarding lighting, location of the bike rack, detail regarding the entranceway into the office, 2-D drawings reflecting the proposed changes to the façade, additional landscaping detail, stating what efforts were made towards sustainable design, copies of Exhibit A-5 in 11x17 format, proposed parking plans for both 34 and 35 spaces, restrictions which could be considered to impose upon tenants regarding storage and barbeques on balconies. Proposal for compliance for the replacement tree ordinance, proposal regarding maximum number of occupants per unit, details regarding the screening of the terrace/patio area, identifying the times for trash pickup, information regarding improving pedestrian safety across Valley Street, detailed lighting on the proposed canopy, detailed parapet wall around the terrace, plans showing distances from the single-family homes, and correct the survey note on Sheet 5.

10. When the hearing resumed on January 4, 2016 Rich Keller, PE, PP was sworn and qualified as an expert in civil engineering and planning. He discussed the letters from the Board Attorney dated December 14, 2015, and response letter from Elnardo J. Webster II, Esq., dated December 17, 2015. Addressing concerns that the outdoor terrace at the rear of the building would be too noisy for the adjoining single-family homes on Academy Street Mr. Keller stated that the patio is 9 ft below the top of the 6 ft fence that Applicant proposes to put at the back property line. He stated that the fence will serve as a buffer and that any sound which carried over to the neighbor's property would be similar to the sound any adjacent rear yard in a residential area. Mr. Keller noted that the bike rack would hold 8 bicycles. He stated that Applicant would comply with the tree replacement by installing 16 new trees on the property and 29 replacement trees to be placed in an off-site location to be determined by the Board. He noted that Applicant was proposing to contribute \$5,000.00 for a study and/or implementation of pedestrian safety crossing Valley Street in the area of the proposed new building. Regarding the sound issue, he stated that Applicant could add evergreens along the rear fence to further buffer the sound.

11. Christopher Richter was called sworn and stated that he is a partner of the Applicant. He testified that the building size and number of units and parking spaces is appropriate for the lot. He stated that the property is in the business zone which permits multi-family and mixed uses. In order to limit disturbance from the rear patio, he stated that Applicant would agree to make 10 p.m. curfew for group gatherings and no amplified music and a maximum of 40 people on the patio.

12. Throughout the hearing several members of the public had questions for Applicant's witnesses and during public comment made statements in opposition to the project. Among their concerns was noise coming from the rear yard patio, the size of the building and the number of units which required parking and setback variances.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

13. The premises are located in the B-2 Zone where mixed-use residential and commercial buildings are permitted.

14. Applicant seeks to build a 22 unit apartment building with 2,400 sq ft of office space along Valley Street.

15. The project would have contemporary architectural features. It would comply with ordinance bulk requirements except for rear yard setback (25 ft required, 1.10 ft existing, 5.64 ft to underground parking proposed); side yard setback (17.04 ft required, 23.42 ft existing, 10 ft proposed); and parking (49 spaces required, 35 spaces proposed).

16. The Board finds that the variance relief requested can be justified pursuant to N.J.S.A. 40:55D-70(c)(2) in that the detriments of the proposed deviations from the ordinance requirements are outweighed by the benefits and the proposal is for a better design than permitted by ordinance. The Board notes that during the hearing process the Applicant revised its plans and agreed to conditions to address concerns raised by the Board, its professional and neighbors. The Board finds that the north side yard setback variance is due in part to the Applicant's decision to locate the building closer to the northern property line in order to allow the driveway access to be adjacent to the neighbor's driveway access on the lot to the south. The lot to the South consists of a multi-family residential complex owned by Seton Hall University. The rear yard setback variance is triggered only by the underground parking garage and not by any above-ground structures. The Board notes that the parking deficiency can be justified by reason of the reduction in parking demand suggested by the Residential Site Improvement Standards in light of the project's proximity to the 31 bus line along Valley Street, as well as its proximity to the South Orange Village Train Station. The Board notes that prior approvals for multi-family residences within the Township have had similar parking ratios as the Applicant proposes and appear to function well without issue. The Board notes that the density of the use for this site is permitted in the zone so that a certain amount of impact upon the neighborhood is anticipated by the ordinance. The Board determines that the proposal with conditions agreed to and imposed by this Resolution will not have a substantial detriment upon the neighbors and/or public good. The Board further finds that the development of this site in accordance with the use permitted by the ordinance and which furthers

the objective for the development along Valley Street would not substantially impair the intent and purposes of the zone plan and ordinance. For all of these reasons the Board determines that the application can be approved.

THE DECISION AND CONDITIONS

WHEREAS, the Board, having reviewed the application for preliminary and final site plan approval with variance relief, and having considered the impact of the proposed application on the Village and its residents and the surrounding property owners, and having considered whether the proposal complies with and furthers the goals of the master plan and zoning ordinances of the Township of South Orange Village and the Municipal Land Use Law; and upon the imposition of specific conditions to be fulfilled, hereby, concludes that good cause has been shown to approve the application of Applicant for preliminary and final site plan approval with variance relief enumerated herein.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of South Orange Village that the application for preliminary and final site plan and variances as set forth in the plans, reports, representations, testimony, stipulations and Exhibits offered by the Applicant is hereby granted with the following conditions:

1. The Applicant shall comply with all applicable Township, County and State laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local and state approvals and/or permits.
2. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its successors or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.
3. All construction, use and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this resolution.
4. The bicycle rack shall have space for 8 bicycles.
5. Applicant to contribute \$5,000.00 to the Village toward a study and/or implementation of pedestrian safety for crossing Valley Street near the project.
6. Applicant to plant 16 new trees on the property and 29 replacement trees on a site to be determined subject to the review and approval of the Board Engineer. Applicant to also add evergreen trees along the rear of the property in front of the fence subject to review and approval of the Board Engineer.

7. The use of the terrace at the rear of the building shall be restricted by the Applicant as follows: no amplified music, maximum of 40 people on the patio at one time, 10 p.m. curfew 7 days per week for group gatherings.

8. The commercial space shall be used for office use only. No medical or retail use.

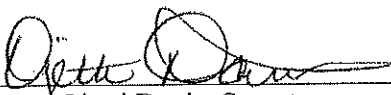
9. The individual apartment patios shall be restricted to preclude use of barbeque grills and storage.

10. Applicant to require trash pick-up to occur between 8 a.m. and 5 p.m.

11. Applicant to comply with all affordable housing obligations imposed by the Village.

12. All conditions of approval shall be noted on the plans.

IN WITNESS WHEREOF, the Board has caused this Resolution to be executed by its Secretary on the 1st day of February, 2016.


Ojetti Davis, Secretary

Vote on Action Taken by the Board

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
ALLEN			X			
CHAMBERS			X			
COLTON-MAX	X		X			
HARRIS (1st Alt.)			X			
LERMAN						
LOEHNER			X			
MILLER				X		
ROSNER			X			
COLLUM						X
WILSON		X	X			

Vote on Memorializing Resolution

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
ALLEN			X			
CHAMBERS						X
COLTON-MAX			X			
HARRIS (1st Alt.)			X			
LERMAN						
LOEHNER	X		X			
MILLER						
ROSNER			X			
COLLUM						
WILSON		X	X			