RESOLUTION
Township of South Orange Village
Planning Board
In the Matter of The Y Group, LLC
Application #259
Decided on April 2, 2018
Memorialized on May 7, 2018
Bulk Variances and Preliminary and Final Site Plan Approval

WHEREAS, The Y Group, Inc. (hereinafter the "Applicant") has made an application to the Township of South Orange Village Planning Board for bulk variances and preliminary and final site plan approval to construct a four-story mixed-use building consisting of retail space and parking on the ground floor and eight residential units on the upper floors, on property located at 14 Second Street, Block 1905, Lot 2 in the B-1 Business Zone; and

WHEREAS, a public hearing was conducted on June 6, 2017, resulting in a finding of completeness of the application, followed by public hearings on the application held on September 7, 2017, October 2, 2017, November 29, 2017, and April 2, 2018; and

WHEREAS, the application was also reviewed by the Village Design Review Board and by the Historic Preservation Commission; and

WHEREAS, the Applicant was represented by Allyson Kasetta, Es. and then by Ryan Benson, Esq.; and

WHEREAS, the Applicant provided testimony by Gerard Gesario, a professional engineer; Frederick Kincaid, a professional architect, and Keenan Hughes, a professional planner, all of whom were accepted as expert witnesses by the Board in their respective fields; and

WHEREAS, the Applicant presented and introduced the following exhibits, in addition to all documents presented to the Board in the form of the application package:

A-1. Aerial location exhibit, 9/7/17;
A-2. Colorized site plan, 9/7/17;
A-3. Color rendering front elevation, 10/2/17;
A-4. Color materials board, 10/2/17;
A-5. Site photos, 10/2/17;
A-6. Revised garage floor plan;
A-7. Memo of design changes, prepared by F. Kincaid;
A-8. Colorized revised site plan, 11/29/17;
A-9. Turning movement plan, 11/29/17; and

WHEREAS, the Board reviewed and considered the application and documents submitted therewith, and subsequent submissions by the Applicant, including the following:

1. Planning and Zoning Board Application Form dated May 15, 2017, signed by Menassie Taddese;
2. Land Development Application Checklist dated May 15, 2017;
3. Preliminary and Final Site Plan package, signed and sealed by Gerard Gesario, P.E., dated April 10, 2017 and revised August 23, 2017, September 20, 2017; and November 17, 2017;
4. Architectural Drawings, signed and sealed by Matthew Jarmel, MBA, AIA, dated August 16, 2017;
5. Revised Concept Plans, signed and sealed by Matthew Jarmel, MBA, AIA, dated August 24, 2017; and November 17, 2017;
6. Revised Concept Plans, signed and sealed by Frederick Kinkaid, AIA, dated November 17, 2017;
7. Rendering entitled "Perspective View 1," undated and unsigned, prepared by Jarmel Kizel;
8. Survey signed and sealed by James M. Helb, P.E., P.L.S., P.P., dated September 30, 2016;
9. Stormwater Drainage Calculations signed by Gerard Gesario, P.E. dated March 30, 2017, revised November 16, 2017;
10. Response Letters from Jarmel Kizel dated November 17, 2017 and March 21, 2018; and

WHEREAS, the Board also considered the input of its professionals, both at the hearings and in written reports including the following:

1. Memoranda prepared by Phillip Abramson, P.P. and Chris Kok, P.P. of Topology dated May, 26, 2017, August 11, 2017, August 31, 2017, September 29, 2017, November 28, 2017, and April 2, 2018; and

2. Memoranda prepared by Eric L. Keller, P.E., P.P. of Bowman Consulting dated August 31, 2017, September 29, 2017, and November 26, 2017.

NOW THEREFORE, the Planning Board makes the following findings of fact, based upon the evidence presented at its public hearings, at which a record was made.

1. The Applicant proposes to construct a mixed-use building in the B-1 Business Zone, where mixed-use structures are permitted uses. The structure would include ground floor retail space totaling 706 square feet and residential units on the second, third and fourth floors including four two-bedroom units and four three-bedroom units. Four two-bedroom units would be located on the second floor and have areas of approximately 1069 to 1429 square feet each. The third and fourth floors include the four three-bedroom units which are two-level units. Parking will be provided in a ground floor garage that will include twelve parking spaces, including one ADA-accessible space.

2. The property in question is currently a vacant lot with a garage in the rear. The home that was formerly on the site was demolished. The garage that is still standing will be demolished as a part of this project.

3. The proposed structure will have a footprint of approximately 7300 square feet. The garage will be accessed by a driveway off of Second Street that is twenty-four feet wide at the entrance but narrows inside the garage. The garage door will be a solid overhead door with transparency, thereby reducing light and glare from the garage. There will be a manual backup for the garage door opener, which will be activated by remote and keypad access.

4. The aisle width in the garage will be 22 feet except a small area where it will be 19 feet wide. All regular parking spaces will be 9 feet wide. The ADA-complaint space will be 8 feet wide with an 8-foot striped aisle adjacent to it, which satisfies the applicable code. The Applicant presented turning templates that showed that all movements can be accomplished successfully without "K" turns. Even with a roll-up door attached to the garage ceiling, there will be sufficient clearance for an ADA-compatible van to drive in and out of the garage and park.

5. The garage door is set back 25 feet off of the curb to allow a car to pull off the street while waiting for the garage door to open.

6. The pavement pattern in the sidewalk between the garage door and the curb will be altered by providing for brick pavers, a stop bar, a sign and a flashing light so as to provide safe access to and from the garage and to provide for pedestrian safety.

7. Each of the eight residential units will be assigned one space in the garage. The four additional spaces in the garage will be leased to tenants. Parking spaces in the garage will be limited to use by the residential tenants. A bike rack will be provided for at least eight bicycles.

8. Traffic volumes on Second Street in the morning and afternoon peak periods are relatively low and the traffic generated by the proposed small retail use and eight apartments will not significantly contribute to any traffic delay or loss in Levels of Service in the immediate vicinity.

9. Approximately 90% of the site will be occupied by the building. There is some limited landscaping provided by the Applicant, consisting of a new street tree in the front and a low-maintenance ground cover around the rest of the building. Three to four trees will need to be removed in the rear although those trees appear to be in poor condition.

10. With respect to storm water, the project will increase impervious coverage and therefore the Applicant proposes a small detention structure below ground, under the garage, to be connected to drainage structures in the street. All roof drains will be routed through the building internally and connect to the detention system below the parking area.

11. A loading zone is not required on-site for a project of this size. Delivery vehicles will park on the street. Deliveries from large trucks are not expected for either the residents or the small retail use.

12. The enclosure used to store trash and recycling for collection will not be visible from the street. The garage door will need to be opened for the trash to be collected by the hauler.

13. The entrance to the building, other than the retail entrance, will be secured such that visitors will need to use a telecom system and be buzzed in. There will be a walkway on the east side for emergency access to the street. A gate will be provided at the entrance to that walkway because it is intended for egress only. Utility meters will be located in the parking area, screened from public view.

14. Building-mounted lighting will be installed only on the east side of the building, not on the west side. All fixtures will be installed at a height of 10 feet to provide proper illumination without off-site spillage, while also being located below the first floor windows on the house to the east. Lighting will be provided on the east side walkway only enough for safe emergency egress. All lighting will comply with the applicable ordinance provisions.

15. The building facade will consist of veneer brick, Hardie plank, black shingle roofing, and storefront paneling with cast water stone base. The stair tower facade will consist primarily of Hardie plank. The facades include large windows. Grill work around the parking area will enclose it. Balconies are provided along the south or rear facade which protrude to some extent. Juliet balconies are provided along the north or front facade. A whole brick facade is provided on the retail portion of the structure. The Hardie plank siding will be deep blue. The building will have a mansard roof and the structure includes a tower element. It is that tower element that triggers the need for the height variance because the structure, at four stories, complies with the Ordinance but, with the tower element, a height of 51.8 feet is proposed, in excess of the 48 feet maximum permitted by the Ordinance. The mansard roof will hide the rooftop mechanicals. The shingles on the roof will be dark black and made of asphalt.

16. The Applicant has addressed its affordable housing obligation by designating one of the two-bedroom units as an affordable unit, specifically, the approximately 1069 square foot unit in the location shown on the final plans. The Applicant has taken this action consistent with the approval of the Village Trustees pursuant to Resolution No. 2018-041.

17. To address an issue raised by the Board, the Applicant moved the rear balconies out of the rear yard setback while retaining a column-supported canopy over the two parking spaces at the rear of the property. The Applicant still requires a rear yard setback for the canopy, but granting that relief would protect two parking spaces from the elements and improve drainage site-wide. The retaining wall in the rear is eleven feet from the property line. The building wall and the balconies are not located in the setback. A six-foot fence will be installed in the rear around the parking spaces. It will be an aluminum fence with pickets and it will be opaque, preventing headlights from the parked cars from spilling over onto adjacent property.

18. To address another issue that concerned the Board, the Applicant agreed that on the east side of the property, all windows will be located in an alcove such that none of those windows will be within ten feet of the property line. To avoid the appearance of a blank

wall on the east side, the Applicant will wrap around the front facade materials and carry them sixteen to eighteen feet along the east side. The building setback on that side will be five feet, parallel to the property line.

NOW THEREFORE, the Planning Board makes the following conclusions of law, based upon the foregoing findings of fact. Based upon the application, plans, reports and testimony placed before the Board, the Board finds that the Applicant has met the requirements of the Municipal Land Use Law, case law and Village ordinances so as to grant the relief requested.

1. The Municipal Land Use Law, at N.J.S.A. 40:55D-70(c) provides Boards with the power to grant variances from bulk and other Ordinance requirements when the Applicant satisfies certain specific proofs which are enunciated in the Statute.
2. Under the (c)(1) criteria, the applicant must demonstrate that by reason of exceptional dimensions or topographic conditions or other extraordinary and exceptional situation uniquely affecting the subject property, the strict application of the Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the Applicant.
3. Under the (c)(2) criteria, the Applicant must demonstrate that in a particular instance relating to a specific piece of property, the purposes of the Act would be advanced by allowing a deviation from the Zoning Ordinance requirements and that the benefits of any deviation will substantially outweigh any detriment.
4. These tests specifically enumerated above constitute the affirmative proofs necessary in order to obtain "bulk" or (c) variance relief.
5. Also, an applicant for these variances must show that the proposed relief sought will not cause a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The burden of proof is upon the applicant to establish that these criteria have been met.
6. The property in question is in a transitional area between the Village downtown and the new transit-oriented development to the south. The property is located 150 feet from the train station entrance, an ideal location for transit-oriented development. The property is on the edge of the B-1 zone. The Wells Fargo Bank and properties to the south are in the CBD Redevelopment area. The project conforms with the density requirements and is a permitted use.
7. This application requires the following variances and waivers:

    a) Minimum side yard setback: 10 feet required when doors or windows are present on the side wall, whereas Applicant proposes a setback of 0.25 feet at the narrowest point, where the covered walkway exists;
    b) Minimum rear yard variance, in that the Ordinance provides for a minimum of 10 feet whereas the Applicant proposes a setback of 3.5 feet to the canopy over the parking;
    c) Maximum building height, in that the Ordinance provides for a maximum of four stories and 48 feet whereas the Applicant proposes four stories and 51.8 feet;
    d) Parking, in that the Ordinance requires 18 spaces whereas the Applicant proposes 12 spaces.
    e) Design waiver to permit use of PVC pipe for sanitary sewer instead of iron.

8. With respect to the side yard setback variance, although the proposed setback is 0.25 feet at the narrowest point, for the covered walkway, most of the building is set back further. The plan calls for a five-foot continuous wall parallel to the property line. The variance is triggered in part by the shape of the lot. Furthermore, the Applicant has demonstrated that it is not possible to provide ten feet of side yard setback on both sides and the back and provide adequate parking for a quality building with the amenities proposed here. The ten- foot setbacks are required because the Applicant wants to provide windows in this residential building. The Applicant has made a concerted effort to address both the need for windows and the need for an adequate setback by locating the windows in an alcove on the east side so that windows can be provided to the residents without having the windows at close proximity to the residential building to the east. The Board finds that the current proposal is a reasonable attempt to mitigate the impact of the building being located closer than ten feet to the property line. The proposal provides sufficient width for access for fire suppression. It is not unusual in downtown areas to have access for fire personnel only in the front and rear. In this instance, at least three sides of the building and perhaps four sides will be accessible in the event of emergencies. Therefore, the side yard setback variance satisfies the criteria of both (c)(2) and (c)(1) in that the benefits of this transit-oriented development in close proximity to the train station outweigh any potential negative impacts, particularly as mitigated by the Applicant; and the need for the variance is triggered in part by the shape of the lot.

9. With respect to the rear yard variance, the Board finds that enclosing the parking is a better alternative than providing no roof, which would avoid a rear yard setback variance, but having no cover over the parking area. The Board finds there will be no impact to properties to the rear, which consist of only parking and drive-through lanes for the banks. The Board finds there will still be adequate light and air even with the canopy intruding into the setback.

10. With respect to the height variance, the Board notes that the building complies with respect to the requirement for stories. The variance is required by the tower element. The Board finds that this is a minimal deviation and will provide a more attractive building.

11. With respect to parking, the Ordinance requires two spaces per unit, more than the number of spaces needed in this transit-oriented location. The Board notes that two recent redevelopment plans adopted by the Village provide significantly less stringent parking requirements. At the Third and Valley project, 1.2 spaces per unit were required and at Fourth and Valley, one space per unit was required. The Board takes note of the fact that overnight residential parking (for tenants) can be provided in nearby lots including the firehouse lot directly across the street and at the Third Street garage. Daytime parking permits are also available in the Third Street garage. Visitors can use metered spaces in the firehouse lot and the Third Street lot. Two-hour on-street parking may be available on Second Street. Overnight parking can be accomplished through permits from the Parking Authority for parking in the firehouse lot.

12. Therefore, based upon these findings of fact and conclusions of law, the Board finds that the application satisfies the statutory criteria for the variances requested.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of South Orange Village that the application of the Y Group LLC for property located at 14 Second Street, in the B-1 Business Zone, is determined as follows:

1. Height variance is approved pursuant to N.J.S.A. 40:55D-70(c);
2. Rear yard setback variance is approved pursuant to N.J.S.A. 40:55D-70(c);
3. Side yard setback variance is approved pursuant to N.J.S.A. 40:55D-70(c);
4. Parking variance is approved pursuant to N.J.S.A. 40:55D-70(c);
5. Preliminary and final site plan approval is granted pursuant to N.J.S.A. 40:55D-46 and 50.

IT IS FURTHER RESOLVED that the above approval is subject to the following terms and conditions:

1. The development of this parcel shall be implemented in accordance with the plans submitted and approved.
2. The Applicant shall comply with all requirements set forth in the reports of Topology (the most recent report being dated April 2, 2018) and Bowman Consulting (the most recent report being dated November 26, 2017).
3. Lease agreements with the retail tenant will include a requirement that the retail tenant purchase parking permits for employees;
4. Lease agreements with residential tenants will provide that barbeques will not be allowed on balconies;
5. Residential lease agreements will provide that tenants will ensure that visitors park in legal spaces;
6. Bicycle racks for a minimum of eight bicycles will be provided;
7. A visual strobe warning system will be included along with the other precautions included in the plans with respect to the entrance and exit from the driveway for the garage;
8. The Applicant will provide a fence detail showing that the fence in the rear of the property will be opaque to avoid light from cars parking in the rear affecting adjacent properties;
9. The Applicant will provide a form of deed restriction to the Board Counsel with respect to the affordable unit for a term of a minimum of thirty years, to be recorded prior to issuance of a temporary certificate of occupancy;
10. The Applicant will work with the Board Engineer to identify and install the appropriate low-maintenance ground cover;
11. The Applicant will retain an administrative agent to address its affordable housing compliance with respect to the one designated affordable unit;
12. The Applicant will pay all fees, costs and escrows due or to become due within twenty days of request by the Board Secretary;
13. The Applicant will obtain all approvals required by all other governmental agencies having jurisdiction.

IN WITNESS WHEREOF, the Board has caused this Resolution to be executed by its Secretary on the 7th day of May, 2018.

Ojetti Davis, Secretary

Vote on Action Taken by the Board

BOARD MEMBER	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
BUSCH-VOGEL	X		X			
COLTON-MAX (Ch.)						
FREEMAN						
HARRIS						
KRAIKER						
LERMAN (V.Ch)			X			
LOEHNER		X	X			
MILLER			X			
RICHARDSON (2nd Alt.)						
ROSNER			X			
SLEVIN (1ST Alt.)						

Vote on Memorializing Board

BOARD MEMBER	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
BUSCH-VOGEL	X		X			
COLTON-MAX (Ch.)						
FREEMAN						
HARRIS						
KRAIKER						
LERMAN (V.Ch)			X			
LOEHNER			X			
MILLER				X		
RICHARDSON (2nd Alt.)						
ROSNER		X	X			
SLEVIN (1st Alt.)						