Resolution
Township of South Orange Village Planning Board
In the Matter of JBH Holding, LLC
Application #261
Decided on May 7, 2018
Memorialized on June 4, 2018
Bulk Variances and Preliminary and Final Site Plan Approval

WHEREAS, JBH Holding, LLC, (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 combine two lots and construct a single story, metal-clad building for an expanded auto body repair shop with an area for parts storage on property located at 362, 366, 370 Lackawanna Place, also known as Block 2302, Lots 23 – 25 in the B-3 General Business District; and

WHEREAS, a public hearing was conducted on May 7, 2018, resulting in a finding of completeness of the application, followed by a public hearing on the application held on May 7, 2018; and

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

WHEREAS, the Applicant was represented by David Stern, Esq.; and

WHEREAS, the Applicant provided testimony by Jack Haberman, managing member of the Applicant; Michael Lanzafama, a professional engineer who was accepted by the Board as an expert in engineering; and Stephen Majewski, an architect who was accepted by the Board as an expert in architecture; and

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

A-1 Sheet 3 of the site plan package, colorized;

A-2 A modified Grading Plan dated May 5, 2018; and

A-3 A Streetscape exhibit with photos of elevations; and

WHEREAS, the Board reviewed and considered the application and documents submitted therewith; and

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

1. Memorandum prepared by Eric L Keller PE, PP of Bowman Consulting dated May 2, 2018; and

2. Memoranda prepared by Philip Abramson, P.P. and Chris Kok, P.P., of Topology dated February 2, 2018 and March 29, 2018

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

1. The Applicant proposes to combine two lots (Block 2302 Lots 24 and 25) and construct a single story, metal-clad building for an expanded auto body repair shop with an area for parts storage. The Applicant proposes to demolish one of two concrete buildings currently on the site and construct a new parking lot, on Lots 23 and 24, with curbing, lighting, and driveway re-surfacing and striping for 15 parking spaces. The Applicant will add a lawn area and landscaping, which will result in less impervious coverage than in the current condition (22,218 ft.^{2} existing impervious coverage and 21,029 ft.^{2} of proposed impervious coverage). The Applicant will retain the structure on Lot 23 and use it as a part of the Modern Auto Body business. The use consists of the auto body shop, including auto parts stacking area, and a body shop with work bays and detailing area.

2. The B-3 General Business District permits commercial garages, but, prior to a recent Ordinance amendment, the fact that repair facilities were proposed instead of a showroom meant that the facility was not a "commercial garage." By virtue of the adoption of Ordinance 2018 – 03, this proposed use is now permitted.

3. The lots are undersized and narrow. The current site conditions include a number of nonconformities, particularly on Lot 23, many of which will be eliminated or reduced by consolidating the lots and demolishing one of the buildings.

4. The Applicant requests preliminary and final site plan approval and the following variances:

    a. Ordinance Section 185, Schedule 2, in that the Ordinance provides for a minimum front yard setback of 15 feet, whereas a 10 foot front yard setback is proposed on Lots 24 and 25;

    b. Ordinance Section 185, Schedule 2, in that the Ordinance provides for a minimum rear yard setback of 25 feet whereas a rear yard setback of 14.93 feet is proposed;

    c. Ordinance Section 185, Schedule 2, in that the Ordinance provides for a maximum lot coverage of 35%, whereas, on Lot 23, the Applicant proposes impervious coverage of 96% (100% existing), and on Lots 24 and 25, the Applicant proposes impervious coverage of 93.4% (99% existing);

    d. Ordinance Section 185-174A, Schedule A, in that 18 parking spaces are required and 15 spaces are proposed;

    e. Ordinance Section 92 – 177, in that the Ordinance requires one loading space whereas none are proposed.

5. The property in question is located across Lackawanna Place from the New Jersey Transit rail line. There are several similar uses in the area. The property adjoins other

lots with similar uses, some of them owned by the Applicant. One existing building in the northeast corner will be retained. Another building, formerly occupied by a towing service, will be demolished. A new building will be constructed with a setback of 10 feet. That building will accommodate the repair of approximately 15 vehicles weekly. In the setback, the Applicant proposes hedges, lawn and sidewalk access.

6. The existing impervious area consists of a significant amount of area covered by gravel but it is compacted gravel and hence is being treated as impervious. The project will result in approximately 1100 ft.^{2} of additional pervious coverage/green space in the rear.

7. Deliveries are made and trash pickup is accomplished through a driveway on the property. Parts deliveries are made 5 to 7 times per day. Because trucks back into the driveway, the Applicant agreed, as a condition of approval, to provide a truck turning template to be reviewed by the Board engineer to confirm that the truck movements can be conducted safely.

8. Access to the building is provided from the East side. Fifteen cars can park on the site, so the Applicant requires a three-car parking variance. The Applicant is adding a new handicapped parking space.

9. The Applicant proposes a 46 ft.^{2} wall sign, although the design is not yet complete. The Applicant agreed to comply with the sign requirements in the Ordinance or seek supplemental relief.

10. The Applicant is installing a storm water collection system and tying that system into the municipal system on Lackawanna Place. The application includes lighting in addition to an existing pole light. The lighting will include LED fixtures, cast downward.

11. In response to a concern raised by the Board engineer, the Applicant's engineer testified that there would be no grading on Lot 26. A step was added and grading changed to avoid any changes to Lot 26. That Lot's condition would not be altered as a result of this application.

12. Refuse and recycling is handled within the building. No painting is proposed in the proposed building.

13. Hours of operation will be 7:30 AM to 5 PM Monday through Friday and 8 AM to 12 PM on Saturdays. Because employees sometimes arrive early or stay late, the Applicant agreed that no work would begin before 7 AM or after 6 PM.

14. The facility is inspected and audited every three months by a consultant to ensure OSHA compliance. There are no existing violations from OSHA or any environmental regulatory agencies. Contamination on the property has previously been remediated.

15. All operations are fully contained indoors. However, they sometimes crack the doors open in hot weather. Auto body work does not use many automatic tools and therefore it is not as noisy as auto mechanic work. The Applicant has not received any complaints from residents, who are located at least 150 feet from the doors of the new structure. The Applicant agreed to request the adjoining property owner that a man-door would open inward from the building on Lot 26 to the adjacent driveway. The Applicant also agreed that if air-conditioning is provided in the building, they will install interior units or, if they are ground-mounted, the plans will have to be revised to reflect same.

16. The Applicant agreed to add landscaping, including evergreens, to mitigate the impact on the residential uses, along the north and east sides of Lot 23, and also some shade trees along the East side.

17. A fence along the sidewalk will be removed and tied off to the building.

18. The building does not require sprinklers. The buildings are configured to provide sufficient fire suppression access, including a 10 foot separation between structures.

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. This application requires the following variances, as well as preliminary and final site plan approval;

a. Ordinance Section 185, Schedule 2, in that the Ordinance provides for a minimum front yard setback of 15 feet, whereas a 10 foot front yard setback is proposed on Lots 24 and 25;

b. Ordinance Section 185, Schedule 2, in that the Ordinance provides for a minimum rear yard setback of 25 feet whereas a rear yard setback of 14.93 feet is proposed;

c. Ordinance Section 185, Schedule 2, in that the Ordinance provides for a maximum lot coverage of 35%, whereas, on Lot 23, the Applicant proposes impervious coverage of 96% (100% existing), and on Lots 24 and 25, the Applicant proposes impervious coverage of 93.4% (99% existing);

d. Ordinance Section 185-174A, Schedule A, in that 18 parking spaces are required and 15 spaces are proposed;

e. Ordinance Section 92 – 177, in that the Ordinance requires one loading space whereas none are proposed.

7. With respect to the front yard setback variance, although the proposed setback is not greater than the existing condition, there is still a five foot setback, which is greater than the setbacks of buildings on adjacent properties. The lot is undersized, and the request for front yard setback relief is justified under subsection (C)(1), as it relates to the unique size and configuration of these lots.

8. In terms of the rear yard setback, the existing setback was only 1'4". Therefore the Applicant is proposing an improvement over the existing condition. Thus, the benefits of granting this relief, pursuant to subsection (C)(2), outweigh any detriments as the Applicant is moving the property closer to compliance.

9. With respect to the impervious coverage variance, the Applicant is improving the site over the existing condition and it is providing stormwater improvements.

10. With respect to the parking variance, the Applicant has demonstrated that 15 spaces will be adequate for the proposed use. With respect to the variance for loading space, the Applicant has demonstrated that the use does not require a designated loading space.

11. Therefore, the Board finds that the variances requested can be granted for front yard setback and rear yard setback under subsection (C)(1) and that the remaining variances can be granted under subsection C(2). The Board also finds that this relief can be granted without substantial detriment to the public good and without substantial interference with the intent and purpose of the Ordinance and zone plan. 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 JBH Holding, LLC for property located at 362, 366 and 370 Lackawanna Place., in the B-3 General Business District is determined as follows:

1. Front yard setback variance is approved pursuant to N.J.S.A. 40:55D – 70(c)(1};
2. Rear yard setback variance is approved pursuant to N.J.S.A. 40:55D – 70(c)(1);
3. Impervious coverage variance is granted pursuant to N.J.S.A. 40:55D – 70(c)(2);
4. Parking variance is approved pursuant to N.J.S.A. 40:55D – 70(c)(2);
5. Loading space variance is granted pursuant to N.J.S.A. 40:55D – 70(c)(2);
6. Preliminary and final site plan approval is granted pursuant to N.J.S.A. 40:55D – 46 and 50.

AND 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 dated February 2, 2018 and March 29, 2018 and Bowman Consulting dated May 2, 2018.
3. The Applicant will reduce peak runoff rates with improvements to be approved by the Board engineer.
4. Three evergreen trees will be added on the north and east sides of Lot 23 and a shade tree will be added in the block wall area of Lot 25.
5. Trash and recyclables will be stored inside the building.
6. Turning templates will be provided for trucks accessing the site for trash pick up and for deliveries, to be approved by the Board engineer
7. No work in the facility will be commenced before 7 AM and no work will be conducted after 6 PM.
8. The Applicant will remove the fence from the front of the building and connect it on the side.
9. The Applicant will request the owner of lot 26 to allow a man-door that opens into the driveway on lot 25 to open inward instead.

IN WITNESS WHEREOF, the Board has caused this Resolution to be executed by its Secretary on the 4th day of June, 2018.

Ojetti Davis, Secretary

Vote on Action Taken by the Board:

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

Vote on Memorializing Board:

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