



COMMUNITY PLANNING
LAND DEVELOPMENT AND DESIGN
LANDSCAPE ARCHITECTURE

B U R G I S
ASSOCIATES, INC.

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MEMORANDUM

To: Borough of Tenafly Planning Board
Valerie Nicolosi, MLUL Officer

From: David Novak PP, AICP

Subject: 95 Tenafly, LLC
Site Plan and "c" Variance Relief
Block 1005 Lot 8
95 County Road

Date: May 1, 2020

BA#: 3572.05

PB#: 1-19-06

Introduction

The following planning review memorandum is intended to update and supplement our prior review memos dated September 30, 2019, October 25, 2019, December 11, 2019, January 20, 2020, and February 24, 2020.

The applicant, 95 Tenafly, LLC, has submitted an application seeking preliminary and final site plan approval as well as "c" variance relief to demolish an existing Kia automotive dealership and to construct a new Bottle King Liquor retail store. The site, which is identified by municipal tax records as Block 1005 Lot 8, is located at 95 County Road in the B-2 Business District. Our office is in receipt of and has reviewed the following documents:

1. Application and site plan checklist
2. Site plan (14 sheets) entitled "Preliminary and Final Site Plan for 95 Tenafly LLC Proposed Bottle King," prepared by Dynamic Engineering, and dated August 22, 2019 (last revised March 10, 2020).
3. ALTA/NSPS Land Title Survey (1 sheet), prepared by Dynamic Engineering, and dated July 15, 2019 (last revised January 8, 2020).
4. Architectural plan (5 sheets), prepared by SWS Architects, and dated August 16, 2019 (last revised January 6, 2020).
5. Traffic Impact Study, prepared by Dynamic Engineering, and dated August 21, 2019 (last revised February 11, 2020).
6. Letter from Dynamic Engineering, dated January 9, 2020.
7. Letter from Dynamic Engineering, dated February 13, 2020.
8. Drainage Statement prepared by Dynamic Engineering, dated August 28, 2019 (last revised November 26, 2019)
9. Letter from SWS Architects, dated October 17, 2019.
10. Updated List of Variances and/or Waivers.

Proposed Development and Planning Review

The applicant is seeking preliminary and final site plan approval as well as "c" variance relief to demolish the existing Kia automotive dealership and to construct a new Bottle King Liquor Store. Please note the following pertinent changes regarding the site plan layout. The applicant should provide testimony regarding how site plan has been revised since the last submission.

1. Freestanding Signs. The applicant has reduced the height of the proposed freestanding signs from twelve (12) feet to seven (7) feet. This has subsequently reduced the area of the signs to approximately forty-seven (47) square feet.
2. Stop Signs. The applicant proposes to provide stop signs on separate posts at the exit driveways.
3. Shade Trees. The applicant has removed four (4) shade trees which were previously proposed to be located in the parking lot. Testimony should address the removal of these trees.
4. Bergen County Intersection Site Distance. The applicant has provided a proposed intersection site distance delineation per Bergen County's standards along County Road.

Master Plan

As per the Borough's 2013 Land Use Plan, the subject site is located in the General Business Area land use category which corresponds to the B-2 Business District. The Plan notes that this area was originally established as an auto-oriented business area as well as for retail uses that have functioned independently of the Borough's downtown area. In order to enhance the aesthetics and cohesiveness of the areas designated for this land use category, the Plan recommends that future development and redevelopment integrate landscaping and pedestrian amenities along the frontage of sites. It further recommends that buildings, signage, and streetscape elements be designed with a unifying theme.

In addition to the above, the following relevant goals and objectives are identified:

Goal 4: *To encourage and provide buffer zones to separate incompatible land uses.*

Policy Statement: *The Borough recognizes the need to reinforce the delineation of boundaries separating residential and non-residential uses, as well as those separating residential uses of significantly differing intensities. This Plan encourages the use of buffer and screening devices utilizing suitable planting elements (incorporating such elements as multiple rows of plant material, planting clusters, etc.) with supplemental aesthetically pleasing fencing where appropriate. This should be accomplished primarily within the framework of appropriate open space buffers. In addition to the physical elements noted above, it is appropriate to provide suitable distances between on-site activity on non-residential lots and adjoining residential lots in instances where it can be provided.*

Zoning

The site is located in the B-2 Business District, wherein retail stores and shops are permitted. Compliance with the District's regulations is established in the table below.

Table 1: B-2 Business District Bulk Standards

Requirements	B-2 District	Existing	Proposed
Min. Lot Area (sf)	5,000	58,544.00	58,544.00
Min. Lot Width (ft)	50	100.15	100.15
Min. Front Yard: Piermont Rd (ft)	15	172.90	44.80
Min. Front Yard: Piermont Rd (ft)	15	77.90	186.40
Min. Side Yard (ft)	0 or 13	(ex) 2.98	0.00
Max. Building Cov. (%)	40	13.30	23.50
Max. Impervious Cov. (%)	N/A	91.10	82.60
Max. Height (st/ft)	3/40	2/24	2/33.8

"C" Variance Relief

The applicant has requested "c" variance relief from the following items. Please see the statutory criteria section of this review memorandum for additional information.

1. Side Yard Setback. Our prior memorandums questioned the side yard setback of the proposed building. The B-2 District establishes a required side yard setback of zero (0) feet or a minimum of thirteen (13) feet if provided. The applicant subsequently indicated that a conforming side yard setback of zero (0) feet is proposed, which is a result of the proposed canopy. The Board's engineering consultant agreed with this interpretation.
2. Signage, Freestanding. Our prior memorandums questioned whether variance relief is required from Section 14-1.11.b.2 which does not specifically permit freestanding signs.

Specifically, Section 14-1.11 only identifies freestanding signs as being permitted in conjunction with private and public schools, nonprofit organizations and facilities, and public buildings and uses. The applicant has previously indicated that the "ordinance does not specify whether or not freestanding signs are permitted," and that additional testimony will be provided.

The applicant proposes two (2) freestanding signs, both of which have a maximum height of seven (7) feet and a length of seven (7) feet. For reference, Section 14-1.11.a.1. establishes that freestanding signs for private and public schools, nonprofit organizations and facilities, and public buildings and uses shall have maximum area of thirty-two (32) square feet and a maximum height of five (5) feet.

3. Signage, Building Mounted. The following variances are required for the proposed building-mounted signage:
 - a. Size of Sign. Variance relief is required from Section 14-1.11.b.1.(c) which establishes a maximum sign size of thirty-two (32) square feet for attached signs, whereas the proposed area of the easterly façade sign is one hundred and fifty (150) square feet.
 - b. Height of Sign. Variance relief is required from Section 14-1.11.b.1.(c) which establishes a height of three (3) feet for attached signs, whereas the proposed height of the easterly façade sign is four (4) feet.
 - c. Letter Height. Variance relief is required from Section 14-1.11.b.1.(f) which establishes a maximum letter height of fifteen (15) inches for attached signs, whereas the proposed letter height of the easterly façade sign is forty-eight (48) inches.
4. Flagpole. The following variances are required for the proposed flag pole.
 - a. Flag Area. Variance relief is required from Section 14-1.9a which establishes that “the flag of the United States of America and/or the flag of the State of New Jersey may be displayed, and such flags shall not require a sign permit, provided that such flags are not greater than thirty (30) square feet in area.” The area of the proposed sign is two hundred and sixteen (216) square feet.
 - b. Height. Variance relief is requested from Section 35-802.20 which establishes a maximum height of twenty-five (25) feet for flagpoles, whereas the applicant has proposed a height of fifty (50) feet.
5. Required Parking. Variance relief is required from Section 35-Schedule C which requires one (1) parking space per every two hundred and fifty (250) square feet of gross floor area. Due to the inclusion of the mezzanine, the applicant requires sixty-six (66) parking spaces whereas fifty-five (55) are proposed.
6. Location of Parking Spaces in a Front Yard. Variance relief is requested from Section 35-804.4.a.2 which establishes that off-street parking facilities shall not be located in any front yard, whereas the proposed easterly parking area is in fact located in a front yard.

Design Waivers

The applicant requires design waivers from the following items:

1. Parking Space: Dimensions. A design waiver is required from Section 35-723.2.g which establishes that parking spaces shall have dimensions of nine and one-half (9.5) feet in width and eighteen (18) feet in length, except that on-site parking spaces for retail uses which provide shopping carts to customers shall be ten (10) feet wide. The parking spaces for this use are therefore required to have dimensions of ten (10) feet in width and eighteen (18) feet in length, whereas the applicant has proposed dimensions of nine and one-half (9.5) feet in width and eighteen (18) feet in length.
2. Dumpster Location. A design waiver is required from Section 35-723.3.a for the location of the dumpster, which is facing a street.

Statutory Criteria

The applicant is seeking variance relief pursuant to NJSA 40:55D-70(c)(1) and/or (2). The statute provides two approaches to 'c' variance relief, commonly referred to as the 'physical features' test and the 'public benefits' test. These are identified as follows:

1. Physical Features Test. An applicant may be granted c(1) variance relief when it is demonstrated that the noncompliant condition is caused by: 1) an exceptional narrowness, shallowness, or shape of the property; 2) exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or; 3) by reason of extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.
2. Public Benefits Test. An applicant may be granted c(2) variance relief where it can prove the following: 1) that the granting of the variance will advance the intents and purposes of the Municipal Land Use Law; 2) that the benefits of granting the variance substantially outweigh any potential detriments. The benefits are required to be public benefits rather than a benefit that simply accrues to the property owner.

In addition to the above, the applicant must address the Negative Criteria of the statute. To meet the negative criteria, an applicant must demonstrate the variance can be granted without substantial detriment to the public good and that it will not substantially impair the intent and purpose of the master plan and zoning ordinance.