

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
1099 Wall Street Ventures, LLC - New Building (Hotel) & Variance
FILE #18-442**

I. INTRODUCTION

An application for one bulk variance has been filed with the New Jersey Sports and Exposition Authority (NJSEA) by Richard Bhojani of BDG Hotels at Lyndhurst, LLC, for the premises identified as Block 228, Lots 1.01 & 1.03, in the Township of Lyndhurst, New Jersey. The subject premises are located in the Hackensack Meadowlands District's (District) Commercial Park zone. The variances are sought in connection with the applicant's proposal to construct a 128-room hotel building, with associated site improvements, on the subject property.

Specifically, the applicant is requesting relief from the following:

1. N.J.A.C. 19:4-8.2(b)1, which prohibits vehicular use areas in required front yards. The applicant is proposing a vehicular use area including 18 vehicle parking spaces located at a minimum 15-foot setback from the front lot line adjoining Wall Street West, whereas a minimum 35-foot-wide front yard setback is required.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Record newspaper. No written objections were received. A public hearing was held in the Office of the NJSEA on Tuesday, January 7, 2020. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The subject property is an 8.21-acre parcel containing frontage on Wall Street West to the south, Garland Way to the west, and NJ State Highway Route 17 to the north. The property's Route 17 frontage is not considered a front yard due to the grade separation between the property and the roadway, pursuant to N.J.A.C. 19:4-3.19. The site is currently improved, containing a three-story office building on Lot 1.01, and a vacant one-story former bank branch building on Lot 1.03.

Neighboring properties include the NJ State Highway Route 17 right-of-way (Route 17 ROW) and public utility infrastructure to the north, the Union multi-family residential complex to the east beyond a wooded area that is part of the Route 17 ROW, and a warehouse/office building to the west across Garland Way. Properties located to the south of the site include office uses and a satellite branch of Bergen Community College.

The applicant proposes to construct a 128-room hotel building with associated site improvements over an existing parking field and the area containing the former bank building in the easterly portion of the subject property. The existing office building, identified as 1099 Wall Street West, will be retained in the westerly portion of the site, and the former bank building on Lot 1.03 is proposed to be demolished. As part of this proposal, a bulk variance is requested to install a vehicular use area including 18 parallel parking spaces in the required front yard along Wall Street West.

B. Response to the Public Notice

No written comments were submitted to this Office prior to the public hearing.

III. PUBLIC HEARING (January 7, 2020)

A public hearing was held on Tuesday, January 7, 2020. NJSEA staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, P.P., AICP, CFM, Principal Planner; and William Moran, P.E., P.P., AICP, Senior Engineer.

A. Exhibits

The following is a list of the exhibits submitted by the applicant at the public hearing and marked for identification as follows:

<u>Number</u>	<u>Description</u>
A-1	"Minor Subdivision Plat," Sheet 1 of 1, prepared by Control Point Associates, last revised December 13, 2019.
A-2	"Aerial Exhibit," Sheet 2 of 2, prepared by Bohler Engineering, dated December 17, 2019.
A-3	"Overall Site Layout Plan/Open Space Plan," Sheet C-02 of 27, prepared by Bohler Engineering, last revised November 27, 2019.
A-4	"Exterior Rendering," colorized, prepared by S & P Architectural Studio, dated January 7, 2020.
A-5	"Site Layout Plan (A)," Sheet C-05 of 27, prepared by Bohler Engineering, last revised November 27, 2019.

B. Testimony

William Sullivan, Esq. of the firm Scarinci Hollenbeck represented BDG Hotels at Lyndhurst, LLC at the hearing. The following witnesses testified in support of the application:

1. Tung To Lam, P.E., Bohler Engineering; and
2. Deborah Lawlor, P.P., FAICP, Maser Consulting; and

3. David Iacobucci, Senior Investment Officer, Bergman Real Estate Group; and
4. James Kirkos, President, Meadowlands Chamber of Commerce.

Staff findings and recommendations are based on the entire record. A transcript of the public hearing was prepared and transcribed by Beth Calderone, Certified Shorthand Reporter.

C. Public Comment

No members of the public were present at the public hearing.

IV. RECOMMENDATIONS

- A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.2(b)1, which prohibits vehicular use areas in required front yards; whereas the applicant is proposing a vehicular use area with 18 vehicle parking spaces located at a minimum 15-foot setback from the front lot line adjoining West Wall Street, where a minimum 35-foot-wide front yard setback is required.

The District Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. *Concerning bulk variances:*

- i. *The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

The requested variance to permit vehicle parking and circulation areas at a minimum setback of 15 feet within the required front yard along Wall Street West arises from conditions that are unique

to the site. The subject property is an irregularly-shaped lot, as its southerly lot line angles toward the northwest following the angle of Wall Street West as it intersects with Clay Avenue, and its northerly lot line is formed by the curve of the Route 17 ROW. The curved northerly lot line results in a narrowing of the lot width at the location of the proposed hotel building. The site also contains a significant amount of frontage in relation to its lot depth, having approximately 1,155 feet of frontage along Wall Street West and 520 feet along Garland Way. The property's lot depth is reduced by more than half at its easterly point, where the hotel is proposed to be located.

In addition, the site is encumbered by an existing triangularly-shaped U.S. Army Corps of Engineers-delineated wetlands area in the northeasterly portion of the site, which limits the placement of improvements on the site. The existing office site to remain also contains existing nonconforming ninety-degree parking spaces located at a minimum four-foot-wide setback, within the required front yard setback of 35 feet in the Commercial Park zone in which the property is located.

This combination of characteristics creates a unique condition that affects the ability of the property owner to accommodate site development in a fully compliant and functional manner. Based on the site's particular characteristics, the applicant proposes to combine the two lots comprising the property within a single zoning lot of record and construct the hotel building on the easterly portion of the site, while retaining the existing office building. The location and configuration of the proposed improvements on the

site result from the unique circumstances on the property, where the only remaining area where a functional parking layout can be configured for 18 parking spaces is within the site's required front yard along Wall Street West.

- ii. The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The granting of the requested variance to provide parking and circulation areas in the required front yard along Wall Street West will not adversely affect the rights of neighboring property owners. Ninety-degree parking spaces currently exist adjacent to Wall Street West on Lot 1.01, at a minimum setback of approximately four feet from the property line, as an existing nonconformity. The applicant proposes to increase the distance from the property line to the proposed parallel parking spaces from the existing 4-foot-wide setback to a 15-foot-wide setback, approximately four times the distance than currently exists. Furthermore, landscaped screening will be provided to shield the view of the parking and vehicular use areas from adjoining properties and streets, and to attenuate headlight glare for public safety purposes. A wooded area within the Route 17 ROW also exists between the subject property and the Union multi-family residence, providing additional screening to area residents. Therefore, there will be no adverse impacts to the neighboring properties as a result of the requested variance.

iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

The strict application of the regulations will result in practical difficulties and undue hardship upon the property owner. The property's unique characteristics, as documented in section *i.* above, results in significant practical difficulties in the ability of the property owner to develop the proposed hotel in a manner conforming to all of the bulk requirements of the Commercial Park zone. The property's irregular shape results in a narrowing of the lot in the easterly portion of the site, which is further constrained by the presence of wetlands. In addition, the site is required to maintain minimum, unobstructed front yard setbacks of 35 feet in width along its southerly and westerly frontages, totaling 1,675 feet. This combination of factors affects the placement and configuration of building on the site, and given these unique conditions and physical characteristics, practical difficulties are evident in the effort to provide functional and compliant parking and circulation areas on the site.

iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

There will be no substantial detriment to the public good and no adverse effects on the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance to construct parking areas at a minimum 15-foot

setback from Wall Street West, whereas a minimum of 35 feet is required. The location of the parking within the required Wall Street West front yard is necessary to achieve a functional site layout, and is not the result of site overdevelopment. The proposed hotel does not exceed maximum lot coverage or FAR requirements in the Commercial Park zone, and a minimum 56.8-foot front yard setback is proposed to the hotel structure.

Ninety-degree parking spaces adjacent to Wall Street West currently exist for the office building at a minimum setback of approximately four feet from the property line. The applicant's proposed parking setback of 15 feet will enable the applicant to provide the total amount of required parking spaces for the hotel and to design functional circulation aisles in accordance with the required minimum dimensions. Of the site's 128 parking spaces designated for the hotel building, 18 of the proposed parking spaces are located within the required front yard, parallel to the front lot line along Wall Street West. All vehicle movements will be conducted on the site, and headlight glare will not be directed toward motorists traveling along Wall Street West. The proposed setback will be sufficient to accommodate landscaping to screen the parking at its proposed location. Therefore, public safety, order, convenience, and general welfare will not be compromised by the requested variance.

v. The variance will not have a substantial adverse environmental impact.

The granting of the requested variance to locate vehicular use areas within the required front yard will not result in substantial adverse

environmental impacts. The delineated wetland area located on the site will remain preserved in the proposed condition.

In addition, the area's aesthetics will not be adversely impacted by the proposed location of parking in the required front yard. A landscape hedge and street trees will be provided within the proposed 15-foot setback area between the property line and the proposed parallel parking. Overall, the proposal will provide a three percent increase in open space on the site over current conditions (from 19.8 to 22.8 percent open space), as well as site drainage improvements.

The proposed parking spaces within the required front yard are aligned parallel to the front lot line, and will not result in glare directed toward vehicles traveling on Wall Street West, nor to neighboring properties. Furthermore, District performance standards will be met for noise, vibration, airborne emissions, hazardous and radioactive materials, and wastewater.

vi. The variance represents the minimum deviation from the regulations that will afford relief.

The requested variance to permit a vehicular use area and parking within the required front yard setback arises from the specific site conditions that result in practical difficulties in the development of a conforming site plan. Alternative parking configurations on the subject property are not practicable based on the particular characteristics of the property that affect the site's development. These characteristics include its irregular shape and the presence of

a triangularly-shaped swath of wetlands in the northeasterly portion of the site that constrain site development. The proposed hotel complies with lot coverage and FAR requirements, evidencing that the practical difficulties associated with the provision of parking are not the result of site overdevelopment that would generate additional parking demand.

The proposed development will increase open space on the premises and provide additional parking setback and landscaping along Wall Street West over current conditions. In addition, the variance enables the applicant to provide the 128 parking spaces required to serve the proposed use of the property, as well as the adjacent office building under a shared parking/cross access agreement between the two users of the site. Of the total number of parking spaces provided, 18 spaces are proposed within the Wall Street West required front yard due to the lack of practicable alternative locations to achieve a conforming parking layout. The proposed parking configuration on this particular property balances the applicable zoning requirements with the site constraints. Therefore, the requested variance represents the minimum deviation from the regulations that will afford relief.

vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

Specific purposes of the Hackensack Meadowlands District Zoning Regulations include providing sufficient space in appropriate locations for a variety of uses, and ensuring that such uses are suitably sited and placed in order to relate buildings and uses to each other and to the environment so that aesthetics and use values are maximized. The proposal for the location of vehicular use areas within the required front yard setback will not substantially impair the intent and purpose of the regulations. Public safety will not be compromised, as adequate drive aisle widths are provided to accommodate vehicle movements on-site.

The principal intent and purpose of setback regulations includes the provision of sufficient light, air, and open space to the subject property and adjoining properties. The intrusion into the front yard setback is due to proposed vehicle parking areas, and is not a direct result of the placement of structures. The proposal balances the provision of sufficient parking with the constraints arising from particular site conditions. Therefore, the intent and purpose of the regulations will not be significantly impaired by the requested variance.

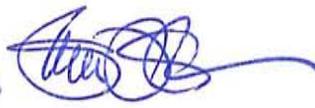
V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.2(b)1, which prohibits vehicular use areas in required front yards. The applicant is proposing a vehicular use area including 18 vehicle parking spaces located at a minimum 15-foot setback from the front lot line adjoining Wall Street West, whereas a minimum 35-foot-wide front yard setback is required.

Based on the record in this matter, the bulk variance application to permit a minimum front yard setback of 15 feet to a vehicular use area including 18 vehicle parking spaces in the required front yard along Wall Street West, is hereby recommended for APPROVAL.

APPROVAL
Recommendation on
Variance Request

3/6/2020
Date



Sara J. Sundell, P.E., P.P.
Director of Land Use Management

APPROVAL
Recommendation on
Variance Request

3/6/2020
Date



Frank Leanza, Esq.
Senior Vice President
Chief of Legal & Regulatory Affairs