RECOMMENDATION ON THE VARIANCE APPLICATION OF
LBA OR Development Co I, LLC/Bank of Montreal dba BMO - Fence
(Variances)
FILE #26-241

I. INTRODUCTION

An application for two bulk variances has been filed with the New Jersey Sports and Exposition Authority (NJSEA) by Liam Conboy of RC Anderson on behalf of Bank of Montreal (BMO), a Canadian Federal Corporation, for the premises identified as 100 Anderson Avenue, Block 65, Lots 6 & 10, in the Borough of Moonachie, New Jersey. The subject premises is located in the Light Industrial B zone of the Hackensack Meadowlands District (District). The bulk variances are sought in connection with the applicant's proposal to install security fencing, two pivot gates, and anchor-bolted security guards at existing headwalls at the subject premises. Specifically, variance relief is requested from the following:

1. N.J.A.C. 19:4-8.10(a)1, which prohibits fences in required front yards, whereas fencing is proposed at a minimum setback of 9.25 feet within the 35-foot required front yard along Anderson Avenue.
2. N.J.A.C. 19:4-8.10(a)2, which does not permit fences in excess of eight feet, whereas 10-foot-high mesh fencing and 10-foot-high decorative steel fencing are proposed, along with two pivot gates having a maximum height of 24 feet in the upright position.

Notice was given to the public and all interested parties as required by law. Public notice of this hearing was published in the digital edition of the Star-Ledger on September 3, 2026. The public notice was also posted to nj.com under Legal Notices, on the New Jersey Press Association's website at njpublicnotices.com, and on the NJSEA's website. A public hearing was held on Tuesday, September 15,

2026. 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, identified as 100 Anderson Avenue, Block 65, Lots 6 & 10, consists of approximately 2.993 acres and is located in the District's Light Industrial B zone. The property is subject to a zoning lot of record in accordance with N.J.A.C. 19:4-3.22, which was filed with the Bergen County Clerk on August 17, 2021, in Book 4423, Pages 401-407. The site is currently developed with an existing 60,856-square-foot warehouse in the center of the property. The site is a corner property that contains frontage along Anderson Avenue, with access for trucks and employees provided to the roadway by a full movement stop-controlled driveway on the eastern side of the property, and frontage along Romeo Street, with access for visitors and employees provided to the roadway by a full movement stop-controlled driveway. A total of 48 parking spaces have been previously approved on the site, including 7 spaces in the front yard along Romeo Street and a total of 41 spaces in the northerly rear and easterly side yards.

The site is bordered by FlightSafety, a flight training facility, to the north of the site along Romeo Street and by a variety of industrial and commercial uses to the east, south, and west of the site along Anderson Avenue and Romeo Street.

The applicant proposes to install security fencing around the employee parking and truck loading areas in the northerly and easterly rear and side yards and in front of the building along Anderson Avenue, with a section of the fence proposed within the front yard. In addition, two pivot gates are proposed at each end of a sallyport along the easterly driveway to control entry to the site. The public notice stated that the proposed gates were to be vertical lift gates with a maximum height of 29 feet and at the public meeting Mr. Bohler provided testimony that due to

concerns over the constructability of the foundations and the operation of the vertical gates, the proposed gate are to be pivot gates with a maximum height of 24 feet. (T-14, T-48) The nature of the relief requested has not been intensified by the change of gate style. The site improvements are proposed to provide required security for the high value merchandise to be stored by BMO within the building at the site.

A bulk variance is requested for the construction of a fence at a minimum setback of 9.25 feet within the 35-foot required front yard along Anderson Avenue. A bulk variance is also requested for the construction of 10-foot-high mesh fencing and 10-foot-high decorative steel fencing, along with two pivot gates having a maximum height of 24 feet in the upright position.

B. Response to the Public Notice

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

III. PUBLIC HEARING (September 15, 2026)

A public hearing was held in the Board Meeting Room of the NJSEA, One DeKorte Park Plaza, Lyndhurst, New Jersey, on Tuesday, September 15, 2026. NJSEA staff in attendance were Sara J. Sundell, P.E., P.P., Senior Director of Land Use Management and Chief Engineer; Sharon A. Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; Mia A. Petrou, P.P., AICP, CFM, Supervising Planner; and Anthony Albano, P.E., 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:

Number	Description

A-1 Colorized "Variance Site Plans", Sheets 1 through 4, prepared by Bohler, LLC, dated February 6, 2026, and last revised September 4, 2026.

A-2 "Variance Site Plans", Sheets 1 through 4, prepared by Bohler, LLC, dated February 6, 2026, and last revised September 4, 2026.

A-3 "Planning Exhibits for Bank of Montreal, a Canadian Corporation c/o RC Anderson", prepared by John McDonough Associates, dated September 14, 2026.

B. Testimony

Sydney B. Pleasic, Esq., of the firm Frieri Law Group, LLC Waters, McPherson, McNeill, P.C., represented the applicant, Bank of Montreal, a Canadian Federal Corporation, at the hearing. The following witnesses testified in support of the application:

1. Liam Conboy, RC Anderson, on behalf of Bank of Montreal;
2. Brad Bohler, P.E., Bohler, LLC;
3. Mark McKevitt, Director of Employee Safety and Special Events, Bank of Montreal; and
4. John McDonough, P.P., AICP, John McDonough Associates.

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

The following member of the public was present and commented on the application:

1. John Joo, 100 Anderson Avenue, Moonachie.

IV. RECOMMENDATION(S)

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.10(a)1, which prohibits fences in required front yards, whereas fencing is proposed at a minimum setback of 9.25 feet within the 35-foot required front yard along Anderson Avenue.

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 subject property is currently improved with a 60,856-square-foot warehouse building, with associated parking areas located around the building perimeter in the westerly front yard, northerly rear yard and easterly side yard. The loading areas for the warehouse building are located within the northeast corner of the property. The proposed site improvements include 10-foot-high security fencing, two pivot gates at each end of a sallyport along the easterly driveway, and anchor-bolted security guards at existing headwalls. The proposed decorative fencing is located at a minimum setback of 9.25 feet within the 35-foot required front yard along Anderson Avenue.

The placement and configuration of the fencing and gates on the site is dictated by the location of the existing building and associated loading areas, employee parking, and access driveway. Therefore, the variance request to place a fence within the required front yard arises from conditions that are unique to the property in question and were not created by any action of the property owner.

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 permit a 10-foot-high decorative fence at a minimum setback of 9.25 feet within the 35-foot required front yard along Anderson Avenue, will not adversely affect the rights of neighboring property owners or residents. There are no residents located proximate to the subject property. Anderson Avenue and Romeo Street properties are primarily developed with industrial and commercial uses. The adjacent properties that abut the proposed fencing include the flight training facility to the north at 100 Moonachie Avenue and the garment distributor to the east at 150 Anderson Avenue, which will not be negatively affected by the installation of the decorative fence at a 9.25-foot setback.

The proposed installation of the 10-foot-high decorative fence at a minimum 9.25-foot front yard setback will provide additional security for the building and on-site facilities and will not impact the ability of neighboring properties to function as intended. The design of the decorative fence will promote area aesthetics and will not impose on the existing streetscape.

Therefore, there will be no adverse impact on the rights of neighboring property owners or residents by the proposed location of the fence within the required front yard along Anderson Avenue.

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 35-foot minimum required front yard setback will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. If the variance was not granted to permit the installation of the fencing at the proposed setback the applicant's tenant, BMO, would not be able to adequately safeguard the valuable contents intended to be stored in the building on the site to minimum industry security standards.

The siting of the existing building and loading areas dictate the areas that need to be secured. The location of the existing transformer and stormwater basin in the front yard of the site necessitate that the proposed fencing be installed at a setback of 9.25 feet from the Anderson Avenue right of way.

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

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 to the public health, safety, morals, order, convenience, prosperity or general welfare by granting the requested variance to permit the installation of the proposed decorative fence at a 9.25-foot setback in the required front yard of Anderson Avenue. The proposed fence location is due to the need to adequately and safely secure the valuable contents intended to be stored by BMO in the building on the site to the minimum industry security standards. The location of a Knock-box at the sallyport and emergency egress locations have been coordinated with the Moonachie fire department to allow for emergency access by public safety resources and safe egress in an emergency by occupants on site. The proposed fence is decorative in nature and will promote area aesthetics and deter intruders and trespassers from the accessing the site.

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

There will be no adverse environmental impacts resulting from the granting of the requested variance to erect a fence at a 9.25-foot setback within the required front yard of Anderson Avenue. The proposed 10-foot-high decorative fence will adequately safeguard the valuable contents intended to be stored by BMO on site to minimum industry security standards. Furthermore, the requested variance will not cause the District's environmental performance

standards for noise, glare, vibrations, airborne emissions or hazardous materials to be exceeded.

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

The particular characteristics of the subject property, including the layout of the existing building, loading area, and improvements, result in practical difficulties that affect the ability to reconfigure the site to meet minimum industry security standards and conform to the District Zoning Regulations. The setback of the decorative fence is dictated by the location of the existing transformer and stormwater basin located in the front yard, as well as the existing driveway access to the loading area and building entrances, which need to be adequately secured to minimum industry security standards. The proposed setback is the minimum necessary to accomplish the facility's security mandates without affecting the site's existing operations.

These conditions represent exceptional practical difficulties in the accommodation of security measures associated with the valuable contents to be stored in the building by BMO. The proposed decorative fence will be installed to replace the existing basin fencing along the northern side and tie into the existing fencing along the eastern and northern sides of the basin. Adequate light, air and open space will continue to be provided. As part of the lease agreement with the landlord, if BMO vacates the site the proposed fence within the front yard will be removed and the area would be restored to its current condition. (T-55) Therefore, as a condition of approval, the

proposed 10-foot high fencing and pivot gates shall be removed within 30 days if and when the Bank of Montreal no longer occupies the subject site and prior to issuance of any Occupancy Certification for a new tenant.

Therefore, the variance represents the minimum deviation from the regulations that will afford relief.

vii. G*ranting the variance will not substantially impair the intent and purpose of these regulations.*

The granting of the requested variance to erect a fence at a 9.25-foot setback within the required front yard of Anderson Avenue will not substantially impair the intent and purpose of these regulations. The particular characteristics of the property impact the placement of the fence on the site. An intent of the regulation that prohibits a fence in a required front yard is to minimize visual impacts to neighboring properties. In this case, the decorative fence is proposed for security purposes to act as a deterrent to intruders and will have minimal visual impacts on neighboring properties and the Anderson Avenue right of way. Therefore, the requested variance will promote the purposes of the Hackensack Meadowlands District Zoning Regulations to promote the orderly and comprehensive development of the District in accordance with good planning principles that relate the type, design, and layout of such development to both the particular site and surrounding environs.

B. <u>Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.10(a)2, which prohibits fences in excess of eight feet, whereas 10-foot-high mesh fencing and 10-foot-high decorative steel fencing are proposed, along with two pivot gates having a maximum height of 24 feet in the upright position.</u>

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 subject property is currently improved with a 60,856-square-foot warehouse building, with associated parking areas located around the building perimeter in the westerly front yard, northerly rear yard and easterly side yard. The loading areas for the warehouse building are located within the northeast corner of the property. The proposed site improvements include 10-foot-high security fencing, two pivot gates at each end of the sallyport along the easterly driveway, and anchor-bolted security guards at existing headwalls. The proposed 10-foot-high security fencing is located around the employee parking, truck loading, and sallyport areas in the northerly rear yard and easterly side yard, and in the front of the building along Anderson Avenue, with a section of the fence proposed within the front yard. In addition, the two 10-foot-high pivot gates, which will have a maximum height of 24 feet only in the opened, upright position, are proposed at each end of a sallyport

along the easterly driveway to control entry to the site. The proposed perimeter fencing, gates and sallyport are proposed to provide required security for the high value merchandise to be stored by BMO within the building at the site. The proposed 10-foot-high security fencing will replace the existing eight-foot-high fencing around the perimeter of the employee parking and loading areas.

The height and configuration of the fencing and pivot gates are dictated by the location of the existing building, loading areas, employee parking, and access driveway. The pivot gates will only be in the upright position when vehicles are utilizing the sallyport to enter or exit the loading area and employee parking. Therefore, the variance request to install 10-foot-high security fencing arises from conditions that are unique to the property in question and were not created by any action of the property owner.

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 permit 10-foot-high fencing located around the employee parking, truck loading, and sallyport areas in the northerly rear yard and easterly side yard and in the front of the building along Anderson Avenue, with a section of the fence proposed within the front yard, in addition to the two 10-foot-high pivot gates at each end of the sallyport, which will have a maximum height of 24 feet only in the opened, upright position, will not adversely affect the rights of neighboring property owners or residents. There are no residents located proximate to the subject property. The adjacent properties that abut the proposed fencing

include the flight training facility to the north at 100 Moonachie Avenue and the garment distributor to the east at 150 Anderson Avenue, which will not be negatively affected by the installation of the 10-foot-high fence and pivot gates.

The layout and design of the 10-foot-high security fencing and pivot gates will act as a deterrent to intruders and enhance the security of the area. The pivot gates will be in the closed position and will only be in the upright position when vehicles are utilizing the sallyport along the driveway to enter or exit the loading and employee parking areas. When the pivot gates are in the upright position their 24-foot height will not exceed the 41-foot height of the existing building envelope and will not impact sight lines of the existing streetscape. The decorative and mesh styles of the security fencing will promote area aesthetics by their design and will not be imposing on the existing streetscape.

Therefore, there will be no adverse impact to the rights of neighboring property owners or residents resulting from the proposed height of the fencing on site.

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 maximum eight-foot fence height will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. If the variance were not granted to permit the installation of the fencing

and pivot gates at the proposed heights, the applicant's tenant, BMO would not be able to adequately and safely secure the valuable contents intended to be stored in the building on site to minimum industry security standards.

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

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 to the public health, safety, morals, order, convenience, prosperity or general welfare by granting the requested variance to permit the proposed security fencing at a height of ten feet and the pivot gate at height of ten feet in the closed position and a height of approximately 24 feet in the opened position. The design and configuration of the proposed fencing and pivot gates are due to the need to adequately and safely secure the valuable contents intended to be stored by BMO in the building on site to minimum industry security standards. The location of a Knock-box at the sallyport and emergency egress locations have been coordinated with the Moonachie fire department to allow for emergency access by public safety resources and safe emergency egress by occupants on site. The proposed fencing at a height of ten feet will promote public safety by deterring intruders and trespassers from accessing the valuable contents of the building and

the decorative fence along Anderson Avenue will also promote area aesthetics.

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

There will be no adverse environmental impacts resulting from the granting of the requested variance to erect 10-foot-high security fencing within the front yard along Anderson Avenue, and around the loading, employee parking, and sallyport areas, or by erecting the 10-foot-high pivot gates. The proposed fence location will not adversely impact wetlands or other sensitive environmental features on the site. Furthermore, the requested variance will not cause the District's environmental performance standards for noise, glare, vibrations, airborne emissions or hazardous materials to be exceeded.

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

The particular characteristics of the subject property, including the layout of the existing building and improvements to be secured, result in practical difficulties that affect the ability to reconfigure the site to conform to the District Zoning Regulations. The height of the security fencing and operation of the pivot gates is dictated by the need to provide adequate security for the existing loading, employee parking, and sallyport areas, and building entrances, to ensure that site access meets the minimum industry security standards. The proposed fence and pivot gate heights are the minimum heights

necessary to accomplish the BMO facility's security mandates without impacting the existing site layout.

These conditions represent exceptional practical difficulties in the accommodation of security measures associated with the valuable contents to be stored within the building on the site. The proposed decorative fence will be installed to tie in and replace the existing basin fencing along the eastern and northern sides of the basin and the proposed mesh fence will replace the existing eight-foot high fence around the employee parking and loading areas. Adequate light, air and open space will continue to be provided. As part of the lease agreement with the landlord, if BMO vacates the site the proposed 10-foot-high fencing will be removed and the area would be restored to its current condition. (T-55) Therefore, as a condition of approval, the proposed 10-foot high fencing and pivot gates shall be removed within 30 days if and when the Bank of Montreal no longer occupies the subject site and prior to issuance of any Occupancy Certification for a new tenant.

Therefore, the 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.

The granting of the requested variance to erect security fencing at a height of ten feet and pivot gates at a height of ten feet in the closed position and approximately 24 feet in the opened position, will not substantially impair the intent and purpose of these regulations. The

particular characteristics of BMO's intended end use impact fence height and gate requirements with respect to its security operations. The security fencing and pivot gates are proposed to act as a deterrent to intruders and will have minimal visual impacts on neighboring properties and the Anderson Avenue right of way. Therefore, the requested variance will promote the purposes of the Hackensack Meadowlands District Zoning Regulations to promote the orderly and comprehensive development of the District in accordance with good planning principles that relate the type, design, and layout of such development to both the particular site and surrounding environs.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.10(a)1, which prohibits fences in required front yards, whereas fencing is proposed at a minimum setback of 9.25 feet within the 35-foot required front yard along Anderson Avenue.

Based on the record in this matter, the bulk variance application to permit an 10-foot-high fence at a minimum setback of 9.25 feet in the required 35-foot front yard along Anderson Avenue, whereas fences in the required front yard are not permitted, is hereby recommended for APPROVAL WITH THE FOLLOWING CONDITION:

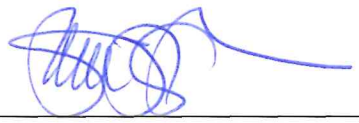
1. The proposed fencing within the front yard shall be removed within 30 days if and when the Bank of Montreal no longer occupies the subject site and prior to issuance of any Occupancy Certification for a new tenant. The fencing may be restored to the fence height and configuration approved under Conditional Zoning Certificate, designated as CZC-25-500, dated March 31, 2026.

CONDITIONAL APPROVAL	11/10/2026	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Senior Director of Land Use Management
CONDITIONAL APPROVAL	11/10/2026	
Recommendation on Variance Request	Date	Robert Davidow, Esq. Senior Vice President Office of Legal & Regulatory Affairs

B. **Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.10(a)2, which does not permit fences in excess of eight feet, whereas 10-foot-high mesh fencing and 10-foot-high decorative steel fencing are proposed, along with two pivot gates having a maximum height of 24 feet in the upright position.**

Based on the record in this matter, the bulk variance application to permit 10-foot-high mesh fencing and 10-foot-high decorative steel fencing are proposed, along with two 10-foot-high pivot gates having a maximum height of 24 feet in the upright position, is hereby recommended for APPROVAL WITH THE FOLLOWING CONDITION:

1. The proposed 10-foot-high fencing and pivot gates shall be removed within 30 days if and when the Bank of Montreal no longer occupies the subject site and prior to issuance of any Occupancy Certification for a new tenant. The fencing may be restored to the fence height and configuration approved under Conditional Zoning Certificate, designated as CZC-25-500, dated March 31, 2026.

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