

Statement of Principal Points
64-68 Harmon Street and 413-419 Arlington Avenue (Block 18702, Lots 16, 17, 18, and 19)
Jersey City, Hudson County, New Jersey

September 18, 2023

Two applications have been filed with the Jersey City Zoning Board of Adjustment pertaining to Block 184702 Lots 16, 17, 18 and 19; (1) application for approval of a Minor Subdivision with 'd' variance for Expansion of a Non-Conforming Use pursuant to N.J.S.A. 40:55D-70.d(2) and 'c' variance for lot depth pursuant to N.J.S.A. 40:55D-70.c(2); and (1) application for approval of Preliminary and Final Major Site Plan with 'd' variance for Use pursuant to N.J.S.A. 40:55D-70.d(1) and 'c' variances for building height, rear yard setback, side yard setback and stilted building pursuant to N.J.S.A. 40:55D-70.c(2). The Subject properties are all located in the R-1 One-and-Two-Family Housing District.

As referenced above, the subject properties at 64-68 Harmon Street and 413-419 Arlington Avenue consist of four (4) lots located at the corner of Harmon Street and Arlington Avenue. The overall subject property is 17,379 square feet in area with approximately 205 feet of frontage along the north side of Harmon Street and 80 feet of frontage along the west side of Arlington Avenue. The property is currently occupied by a 4-story, 24-unit multi-family building with surface parking.

The purpose of the Minor Subdivision is to subdivide the existing lots 16 and 17 in a manner that will consolidate the existing surface parking area onto one lot and maintain the existing structure on the other, in turn adjusting the current lot areas of both parcels. Lots 18 and 19 are then proposed to be consolidated into Lot 17. The subdivision will result in a reduction to the total area of Lot 16, and accordingly, an increase in lot area to Lot 17. Proposed Lot 16, which is and will remain a corner lot, will have a new lot area of 6,330 square feet (0.14 acres) with 80 feet of frontage along Arlington Avenue and 90 feet of frontage along Harmon Avenue. Proposed Lot 17 will have a lot area of 11,270 square feet (0.26 acres) with 115 feet of frontage along Harmon Street. Additionally, the existing multi-family use will remain located on Lot 16 with no proposed changes to the structure.

The purpose of the Preliminary and Final Major Site Plan application is to construct a new 4-story, 27-unit multi-family development on Lot 17 with frontage along Harmon Street. The building will include (24) market-rate units composed of (4) studio units, (13) one-bedroom units, and (7) two-bedroom units. Additionally, the project proposes (3) affordable units to be made up of one (1) one-bedroom unit, (1) two-bedroom unit, and one (1) three-bedroom unit pursuant to the Division of Affordable Housing's unit/income mix standards under the City's Inclusionary Zoning Ordinance (IZO). There are 36 surface and mechanically stacked parking spaces proposed at the ground level. The project complies with the minimum bicycle parking requirements, providing 18 bicycle spaces where 14 are required by ordinance.

The Zoning Board of Adjustment has the jurisdiction to grant d(1) use variance pursuant to the Municipal Land Use Law N.J.S.A. 40:55D-70.d.(1) *in particular cases and for special reasons*. Under relevant case law (*Medici v. BPR Co.* 107 NJ 1 (1987)), the standard for granting variances with respect to the positive criteria is that the proposed use will promote the general welfare, the property is “particularly suited” to accommodate the proposed use, and the proposed use can be reconciled with the Zoning Ordinance.

▪ **Minor Subdivision :**

Positive Criteria: d(2) Expansion of Non-Conforming Use Variance (Lot 16): In terms of the d(2) variance, it is critical to note that no changes are proposed to the existing non-conforming use or the non-conforming structure from what exists today. The unit count in the multifamily building will remain the same as will the building envelope. It is by the function of the subdivision that the d(2) variance is triggered, as the reduction in lot size intensifies the non-conformity “on paper” without making any physical changes in the field to the principal structure. The reduction of the total lot area results in a new density of 158 units/acre where current lot conditions have a density of 85 units/acre.

Relevant case law (*Burbridge v. Mine Hill Tp*, 117 N.J. 376 (1990)) recognizes that aesthetic improvements alone can be a sufficient special reason to justify expansion of the non-conforming use as the visual compatibility of the use is “inextricably entwined with notions of the general welfare” and can be a tool for facilitating “better conformity with the existing use within the surrounding area.”

Negative Criteria: d(2) Expansion of Non-Conforming Use Variance (Lot 16): Regarding the negative criteria, the existing non-conformity has been legally recorded as a 4-story multifamily structure for several decades.

c(2) Variances: The Minor Subdivision as proposed necessitates a ‘c’ variance for Lot Depth for both Lots 16 and 17 where the R-1 requires 100 feet and the proposed parcels would have a varying depth of 63 feet at the most shallow point and 90 feet at the deepest point (Lot 16) and 90 feet (Lot 17).

Pertaining to Lot 16, the 90-foot depth occurs along the Harmon Street frontage whereas the 63-foot depth occurs from the Arlington Avenue frontage at the interior-most portion of the lot. Given that the lot is a corner parcel it is typical for this configuration to host lots that are undersized/irregularly sized in terms of depth as the parcel is burdened with addressing two street frontages as primary frontages and maintaining compatible/sensible massing along both thoroughfares while also typically meeting multiple lots at the rear/interior point with varying orientations and depths. The proposed subdivision maintains that Lot 16 is still well oversized in terms of the lot-area requirements of the R-1 district (6,330 square feet where 2,500 square feet is required) and does not impact the existing structure in any way - continuing functionality and capacity of the site in a manner that is nearly

identical to its current operations today. Additionally, both the lot coverage and building coverage aspects of the existing property will remain compliant with R-1 requirements after the subdivision.

Pertaining to Lot 17, the deficient Lot depth matches the deficiency that exists today, as the 90-foot depth is an existing dimension/condition that is being expanded to the southern portion of the rear lot line. The variance does not have a significant impact on adjacent properties and in ways improves the site conditions of the adjacent parcels as it re-orienta a portion the abutting site to have a rear-yard-to-rear-yard relationship where the current parcel orientations provide a side-yard-to-rear-yard configuration at the interior of the block, which is atypical.

In terms of negative criteria, the lot depth variance for both parcels can be granted as the subdivision as proposed relates to the unique physical characteristics of the parcels at hand and the benefits / streamlined configuration of the new lots outweigh the detriments of the metric deficiencies from the R-1 standards. Additionally, there is no substantial impact on the public welfare or the intent of the zone plan as both lots are well in excess (more than 250%) of R-1 lot area minimums and maintain two functional, developable parcels that allow for efficient and organized residential utilization of the site from a land use perspective.

▪ ***Preliminary and Final Major Site Plan:***

Positive Criteria : d(1) Use Variance (Lot 17): In terms of the use variance, the property is particularly well-suited for the proposed 27-unit residential building. Lot 17 is significantly oversized for the One-Two Family Housing District with an area of 11,270 square feet (0.26 acres), a lot width of 115 feet and a lot depth of 90 feet. Utilization of the property for a two-unit structure would be highly inefficient and out of character, particularly in a neighborhood with as dense of an urban context as this area (known as the “Junction”). The project proposes a density of 104 dwelling units per acre which is highly compatible with the surrounding development. Proposed unit sizes are well within market standards, ranging from 607 square feet for studios up to 965 square feet for 2-bedroom units, and a generous 1,076-square-foot 3-bedroom unit designated as affordable, which signifies that the site can easily and comfortably accommodate the multifamily use.

Positive Criteria : d(6) Height Variance (Lot 17): In terms of the height variance, the R-1 District holds a maximum height of 3-stories and 39 feet for properties with a flat-roof design. The project proposes a total height of 4-stories and 44.5 feet, exceeding the maximum by 14% and therefore triggering the d(6) variance. The subject property can accommodate the impacts of the additional height, as the lot is substantially oversized and the project maintains bulk/setbacks consistent with the abutting properties on the block. The floor-to-ceiling heights within the proposed structure are consistent with typical standards and minimums in the R-1 Zone. Case law holds that *Coventry Square v. Westwood Zoning Board of Adjustment* 138 N.J. 285 (1994) and *Grasso v. Spring Lake*, 375 N.J. Super 41 (App. Div. 2004) are the controls for a d(6) height variance and that the necessary proofs and special reasons shall prove the site is particularly well suited for the more intensive development and that the

proposed height will not offend the purpose of the zone's height limitation. While the R-1 maximum applied to the site sits at 39 feet, the R-1 Zone permits a maximum height of 44 feet in a pitched roof design, which can be applied to any property in the district as-of-right regardless of lot size or location. The proposed height surpasses the maximum height contemplated in the ordinance by 6 inches, which is a negligible difference that is indiscernible at the pedestrian scale in the adjacent public realm, and therefore not at all out of character with the zone or the surrounding context. Additionally it was previously addressed that the lot abuts the NC Zone which permits 5 stories and 55 feet, therefore a 4 story, 44.5-foot structure is both appropriate and compatible with the northern context of the block as well.

Negative Criteria : d(1) and d(6) Variances (Lot 17): In terms of negative criteria, the proposed project is consistent with the existing character of the surrounding area; there are multi-family residential buildings on Block 18702 including at, 547-551 Communipaw Avenue (Lot 2) with 8 units and an approximate density of 55 units per acre, 90 Harmon Street (Lot 24) with 13 units and an approximate density of 156 units per acre, 98 Harmon Street (Lot 27) with 7 units and an approximate density of 100 units per acre, 102 Harmon Street (Lot 28) with 7 units and an approximate density of 100 units per acre, 106 Harmon Street (Lot 29) with 7 units and an approximate density of 130 units per acre, and 503-509 Communipaw Avenue across the street (Block 18703) with 40 units and a density of approximately 235 units per acre. The back-side of Block 18702 adjacent to this property is zoned as NC which permits 5 stories, 55 feet in maximum height and "density by envelope", meaning the proposed 4 story 44.5-foot structure with 27 comfortably sized units is well aligned with the adjacent context and nearby intent of the City's zoning ordinance for the larger neighborhood. Additionally, the subject property can accommodate the proposed use and density without having significant impacts in terms of light and air at the core of the block and will propose compliant parking at 1.33 off-street parking space per unit, total 36 parking spaces for future residents. Therefore, in the granting of the variances the Board would be promoting the highest and best use of the site at an appropriate intensity in terms of bulk and density in which the benefits of multifamily use on the oversized lot outweigh the detriments.

Negative Criteria : 'c' variances

Bulk variances for Lot 17: The project as proposed requires 5 bulk variances; minimum side-yard setback, minimum rear-yard setback, maximum curb cut/driveway width, and stilted building, which may be approved pursuant to N.J.S.A. 40:55D-70.c.(2) where the benefits of the proposed project would substantially outweigh any detriments.

Minimum side-yard setback: The project proposes a side yard setback of 0.12 feet on the western property line where a setback of 2 feet is required for one side. A side yard setback of 5 feet is proposed from the east side of

the property which meets the 2 feet requirement and joint minimum 5-foot 1-inch requirement for both side yards. The current conditions on the lot west to the site are such that no negative impact will occur with the granting of the variance as the lot is vacant and was formerly the Harmon Street community pool. While future development potential for the site is unknown at this time, the project proposes no windows on the western façade and therefore will not infringe on the privacy or utilization of the site in spite of the setback variance.

Minimum rear-yard setback: The project proposes a rear-yard setback of 15 feet where the zone calls for a 20-foot minimum and 35 feet combined front/rear yard. As noted, the site abuts the NC zone at the rear property line which currently calls for a 15-foot rear yard setback. The proposed structure is below the maximum height of NC zoning standards and respects the same rear-yard scale, ensuring that adequate light and air is preserved at the rear of the property as is the intent of the setback requirement. Additionally, the site has a deficient lot depth of 90 feet and therefore the 15-foot setback on the 90-foot depth at the rear is favorably proportional when considering the ordinance calls for 20 feet on a 100-foot depth.

Maximum curb-cut/driveway width: The project proposes a curb cut/driveway width of 16 feet each, where a maximum width of 10 feet is permitted for each. The project proposes 2-way vehicle access to and from the ground-floor off-street parking on the subject property, therefore, the additional width of 6 feet is required. The proposed width will provide safer, direct, and seamless access for each car to enter and exit out of the proposed parking area. As noted in the Division of Traffic's review memo dated April 14, 2023, the City saw no impairment to general safety or welfare with the curb-cut and driveway as proposed and identified that the proposed condition would in fact streamline and improve safety on the block at the point of egress as compared to existing conditions for the surface lot today.

Stilted building: The Jersey City Land Development Ordinance prohibits stilted buildings as part of its design standards due to aesthetic implications. The proposed design is such that the building does not read as stilted from the street, and a continuous wall/garage door is provided for access to the site along the Harmon Street frontage. The ground level of the building along the front property line is enclosed and programmed with interior programming such as the residential lobby and residential recreation space. The rear of the building's ground floor opens to a stilted configuration over the rear-yard parking, which again is not discernible from the public right-of-way. The upper floors of the project cantilever over the stilted portion of the ground level. The design solutions provided create a continuous façade along Harmon Street that is consistent with building design throughout the city and mitigate any negative visual impacts that may have resulted from the stilted configuration in the rear of the property.

Overall, the benefits of the project on Lot 17 outweigh the detriments. The project will restore a (multifamily) residential use to the site more in-line with uses contemplated in the R-1 Zone, whereas the existing site is also

non-conforming with surface parking as a principal use. The construction of the new building will promote MLUL 40:55D-2.c: *“promote a desirable visual environment through creative development techniques and good civic design”* in that it will improve streetscape conditions by bringing new and expanded sidewalk with pedestrian bump-out at the corner of Harmon and Arlington as well as six (6) new street trees, and the proposed lot configuration and new structure will reclaim a significant stretch of the Harmon Street frontage as a primary frontage with a principal structure addressing the street and activating the street wall, whereas the site currently treats this frontage as a side property line with highly exposed “back-of-house” operations dominating the block.

The granting of the variances will likewise not result in a substantial impairment to the intent and purpose of the zone plan and zoning ordinance. The property can accommodate the proposed use and associated bulk conditions. The proposed new residential use will provide new housing options on a vacant lot. The requested building will be in scale with existing multi-family dwellings along in the surrounding area.

The proposed project also advances the Jersey City Master Plan by enhancing residential neighborhoods and creating a balanced housing supply that *“promotes in-fill development of diverse housing types”* by bringing a healthy unit mix including three (3) affordable units under the IZO.

The requested variances necessary for the proposed project can be granted in that both the negative and positive criteria have been met pursuant to N.J.S.A. 40:55D-70.d. and N.J.S.A. 40:55D-70.c.

The Applicant reserves the right to supplement the foregoing reasons with expert testimony at the Zoning Board of Adjustment hearing.