

**RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE CITY OF
JERSEY CITY**

APPLICANT: JACKSON TOWERS, LLC.

**FOR: PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL
WITH "c" AND "d" VARIANCES
573-577 JACKSON AVENUE, JERSEY CITY, NEW JERSEY
BLOCK 17902, LOTS 15 AND 16**

CASE NO.: Z18-103

WHEREAS, the Applicant, **JACKSON TOWERS, LLC (the Applicant)**, per **Connell Foley, LLC**, (Charles J. Harrington, III, Esq., appearing) made application to the Zoning Board of Adjustment of the City of Jersey City, County of Hudson and State of New Jersey for Preliminary and Final Major Site Plan with "c" and "d" variances pursuant to N.J.S.A 40:55D-70(d) (use; height) and N.J.S.A 40:55D-70(c) (curb cut width; compact parking spaces; drive aisle width), to wit: Calendar No. Z18-103, for the purpose of developing the property with the construction of a new five story residential building containing twenty eight (28) dwelling units and twenty three (23) ground floor interior parking spaces, on the property located at 573-577 Jackson Avenue, Jersey City, New Jersey, and identified on the Jersey City Tax Maps as 17902, Lots 15 and 16 (the "Project"); and

WHEREAS, it appears that due notice of a hearing on the above said application before the Zoning Board of Adjustment of the City of Jersey City, on April 11, 2019 at 6:30 p.m., was duly published as prescribed in the Jersey City Land Development Ordinance and the Municipal Land Use Law; and

WHEREAS, the Applicant has submitted proof that it has complied with the applicable procedural requirements including the payment of fees and public notices; and

WHEREAS, the Applicant and its witnesses first having been sworn and all testimony having been formally heard for this application; and

WHEREAS, after consideration of the application and the testimony presented at the meeting, the Zoning Board of Adjustment has made the following findings of fact:

FINDINGS OF FACT

1. The Applicant, Jackson Towers, LLC, filed an application with the Jersey City Zoning Board of Adjustment for Preliminary and Final Major Site Plan approval with variances pursuant to N.J.S.A. 40:55D-70(c) (curb cut width; compact parking spaces) and N.J.S.A. 40:55D-70(d) (use; height), with regard to the property located at 573-577 Jackson Avenue, Jersey City, New Jersey, and also identified on the Jersey City Tax Maps as Block 17902, Lots 15 and 16 (the "Property").
2. The Property is located at 573-577 Jackson Avenue (referred to on some maps as Jackson Street) off of Communipaw Avenue in the R-1 One and Two Family Housing Zone district ("R-1 Zone") and presently consists of a commercial warehouse use.
3. The lot area is 8,747 square feet. The Property is located directly adjacent to Jersey City West District Police Station.
4. The current R-1 Zone permits the following uses: "1. One family dwellings, 2. Dwellings with two dwelling units, 3. Houses of worship, 4. Parks and playgrounds, 5. Essential services, 6. Schools, 7. Governmental uses. 8. Conversions of first floor commercial to a single residential unit..., 9. Assisted living residences, 10. Nursing Homes, 11. Senior Housing, 12. Public utilities...."
5. The purpose of the application is to develop the Property with a new five (5) story residential building (4 residential floors over ground floor parking) with twenty-eight (28) residential units, twenty three (23) on-site car parking spaces, and twenty (20) bicycle parking spaces.
6. In connection with the Application, the Applicant is requesting the following variances, exceptions and/or waivers from the Redevelopment Plan and the Jersey City Land Development Ordinance ("JC LDO") in connection with this application.

- a. The Applicant is requesting a use variance to permit a five-story multi-residential building in the R-1 Zone; and a height variance to permit relief above the permitted height for a residential building in the R-1 Zone.
- b. The Applicant is requesting variances for relief from minimum drive aisle width (22 feet proposed vs. 24 feet required) and five compact parking spaces.
- c. The Applicant is also seeking any other variances, waivers and/or exceptions that the Zoning Board of Adjustment shall deem necessary in connection with this application.

7. Anthony C. Vandermark, Jr., of MVMK Architecture and Design and Edward Kolling of Dresdner Robin testified on behalf of the Applicant. Both were qualified as experts in their respective fields by the Zoning Board of Adjustment.

8. Edward Kolling of Dresdner Robin testified that the use and height variances may be granted because the subject property is particularly well suited to accommodate the proposed Project, given the variety of surrounding land uses, the proximity to redevelopment areas permitting a similar scale of development to the proposed Project, access to public transportation, as well as convenient access to goods and services in the nearby commercial mixed-use areas.

9. The positive criteria for the use variance are met for this Project because the Project will eliminate unsightly and incompatible non-conforming quasi-industrial buildings and uses, and replace these with an attractive residential building more compatible with the character of the surrounding area and the residential zoning, thereby bringing the property into more conformity with the intent and purpose of the zone plan.

10. The Applicant proved that the site is particularly suited for the proposed use because of its size and location. The Project proposes a use that is consistent with the character of the surrounding area and the availability of public transportation in the area, including proximity to a light rail station, and bus routes along Communipaw Avenue and MLK Drive. Further, the unusually large lot is particularly well-suited to the proposed use.

11. The negative criteria is satisfied as well, because the proposed use will advance the

purposes of the Municipal Land Use Law ("MLUL") and promote the general welfare because of the following:

a. The commercial buildings located on the subject Property are currently used as garages and as storage, a non-conforming use, and are surrounded with barbed and wire chain linked fencing. Although multi-family buildings are not permitted within the R-1 Zone, the proposed Project is consistent with the surrounding area and more in line with the residential zoning, and therefore, the granting of the variance will promote the public health, safety, and general welfare, consistent with N.J.S.A. 40:55D-2.a;

b. The subject Property provides sufficient space in an appropriate location for the multi-family use being proposed, consistent with N.J.S.A. 40:55D-2.g;

c. The proposed Project will create an attractive building that will help to complete the streetscape along Jackson Avenue and will promote a desirable visual environment, consistent with N.J.S.A. 40:55D-2.j; and

d. The proposed development will use green development techniques by providing a green roof, storm water detention, bicycle storage, and other green elements and will therefore promote the conservation of engery resources and natural resources and, as a redevelopment of an existing urban site, will help prevent urban sprawl and degradation of the environment, consistent with N.J.S.A. 40:55D-2.j.

12. A conforming one or two-family home would be out of character on this Property, given the size of the lot and the surrounding land uses.

13. Accordingly, the use variance may be granted because there are special reasons to grant the variance, granting the variance will not substantially impair the purposes of the zone plan or the MLUL, the site is particularly suited to the proposed use, and the Applicant has reconciled why the proposed use is not listed in the permitted uses for the R-1 Zone.

14. The height variance may be granted because the positive criteria are satisfied, as the height of the proposed building is consistent with other buildings in the area, and the site can accommodate any negative effect associated with the increased height, and granting

the variance would not impair the intent of the R-1 Zone or the MLUL.

15. The subject Property is a significantly larger lot than required in the R-1 Zone and therefore is particularly well suited to accommodate a larger multi-family building. The Property is 8,747 square feet, where a minimum of 2,500 square feet is required.

16. The site is able to accommodate any negative effects associate with the increased height because the Property is unusually large and is close to many commercial uses and several multi-family residential buildings.

17. The proposed height will advance the intent of the R-1 Zone and the MLUL because the Applicant is proposing to replace the current commercial warehouse that has barbed wire fencing surrounding it with a residential use that is much more compatible with the intent of the R-1 Zone.

18. The compact spaces variance may be granted because, although JC LDO § 345-70(A)(9) states that no parking space shall be less than eighteen (18) feet long and eight and one-half feet wide, JC LDO § 345-70(A)(9)(b) creates an exception for compact spaces if approved by the Zoning Board of Adjustment. The proposed compact spaces are compliant with the dimensional requirements for compact spaces and, as such, the Applicant is requesting approval from the Zoning Board of Adjustment. The compact spaces are proposed so that the Project can maximize the number of parking spaces provided.

19. The minimum drive aisle width variance may also be granted because all spaces will be assigned and the residents who are using the parking stalls will be familiar with the use and operation of the parking area and will be able to maneuver their vehicles in a safe and efficient manner.

20. JC LDO § 345-70(A)(10) states that no more than a single 10-foot wide curb cut, driveway, and garage door shall be permitted on any lot in the R-1 Zone. The curb cut the Applicant is proposing is compliant with the 10-foot driveway width and garage door width. The actual width of the dropped curb of the curb-cut is also 10-feet wide. However, the apron of the dropped curb has to flare to allow for the transition from the 6-inch curb height to the dropped curb area, resulting in a 14-foot wide apron. This is necessary for pedestrian

safety to allow for the proper slope into the sidewalk area as well as to add better sight angles for cars turning into and out of the driveway from Jackson Avenue.

20. The Jersey City Zoning Board of Adjustment concurs with the testimony presented on behalf of the Applicant and the testimony of the Division of Planning Staff. The requested variances can be approved because both the positive and negative criteria have been met pursuant to N.J.S.A. 40:55D-70.c.(2) and N.J.S.A. 40:55D-70.d.(1) and (6), wherein the Property exhibits hardships related to its shape and topography; the resulting development promotes the general welfare in that it achieves the aims of the R-1 Zone; the granting of the variances will not result in any substantial detriments to the public good, and will not substantially impair the intent and purposes of the zone plan, and the benefits of granting the variances substantially outweigh any detriment.

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board of Adjustment of the City of Jersey City, County of Hudson and State of New Jersey, for the foregoing reasons, approves the within application for Preliminary and Final Major Site Plan with variances pursuant to N.J.S.A. 40:55D-70(c) (curb cut width; compact parking spaces; drive aisle width) and N.J.S.A. 40:55D-70(d) (use; height), to wit: Calendar No. Z18-103, for the purpose of developing the property with construction of a new five story multi-residential building containing twenty-eight (28) dwelling units and twenty-three parking spaces on the property located at 573-577 Jackson Avenue, Jersey City, New Jersey, and identified on the Jersey City Tax Maps as 17902, Lots 15 and 16, in accordance with the plans and testimony submitted to the Zoning Board of Adjustment of the City of Jersey City in accordance with the submitted plans and testimony that are incorporated herein, subject to the following conditions:

1. No change to the site design shall be permitted without consultation with and approval by planning staff;
2. All testimony given by the applicant and their expert witnesses in accordance with this application shall be binding;
3. All street trees/landscaping shall be installed in accordance with JC LDO § 345-66 and the City's Forestry Standards, prior to an issuance of a Certificate of Occupancy;
4. All comments from JC Engineering and JCMUA shall be addressed and shown on

final signature plans; and

5. A copy of the memorialized resolution with amended deed shall be filed with the Hudson County Register's Office with proof of such filing to be submitted to the Division of City Planning prior to application for construction permit.

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VOTE: 7-0

| COMMISSIONER: | <u>YES</u> | <u>NO</u> | <u>ABSTAIN</u> | <u>ABSENT</u> |
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| Joshua Jacobs, Chairman | X |
| Kate Donnelly, Vice Chairman | X |
| Richard J. McCormack, Commissioner | X |
| Ahmed Shedeed, Commissioner | X |
| Matthew Vilardo, Commissioner | X |
| Anthony Mitchell, Commissioner | X |
| Chester M. Rothman, Commissioner | X |


JOSHUA JACOBS, CHAIRMAN
JERSEY CITY ZONING BOARD OF ADJUSTMENT


LINDSEY SIGMUND, SECRETARY
JERSEY CITY ZONING BOARD OF
ADJUSTMENT

APPROVED AS TO LEGAL FORM:


VINCENT LaPAGLIA, ESQ.

DATE OF HEARING: April 11, 2019
DATE OF MEMORIALIZATION: June 27, 2019