

August 19, 2024

Mrs. Kristie Dickert,
Administrative Officer
Zoning Board of Adjustment
Neptune Township
P.O. Box 1125
Neptune, NJ 07754-1125

**Re: 1019 Old Corlies Avenue, LLC
 3526 Highway 33
 Block 3102, Lot 2
 Amended Prelim & Final Site Plan and Use
 Variance
 Our File: NTBA 24-17**

Dear Mrs. Dickert:

Our office received and reviewed materials that were submitted in support of an application to amended preliminary & final site plan and use variance approval for the above referenced project. The following documents were reviewed:

1. Documents Reviewed:

- Community Impact Statement prepared by Allison Coffin, PP, AICP, of James W. Higgins Associates, dated July 3, 2024.
- Cover Letter for amended preliminary and final site plan and amended use variance application prepared by Kenneth L. Pape of Heilbrunn & Pape, dated June 11, 2024.
- Cover Letter for completeness review dated June 12, 2024.
- Cover letter prepared by Challoner & Associates LLC., dated June 10, 2024.
- Preliminary & Final Site Plan consisting of two (2) sheets, prepared by Stuart Challoner, P.E., of Challoner & Associates, LLC., dated June 6, 2024.
- Final Survey consisting of one (1) sheet, prepared by Edwin J. Hale, of Challoner & Associates, LLC, dated December 27, 2026, last revised May 15, 2024.
- Architectural Plans consisting of one (1) sheet, prepared by Ricardo Perez of Perez + Radosti, dated March 22, 2024.

2. Site Analysis and Project Description

The project site consists of Block 3102, Lot 2 with a total area of 42, 485 sq. ft. It is located within the C-5, Route 33 West Commercial Zoning District. The subject property is surrounded by commercial properties to the west and east. Residential properties are located southeast and south of the property on the southern side of Old Corlies Avenue. The property has a 226.81 ft. frontage on Route 33 and a 196.60 ft. frontage along Old Corlies Avenue. The property is currently developed as a car wash and quick lube. Access to the property is only available through Route 33.

The applicant is proposing to remove the currently existing façade sign on the north facing side of the building and replace it with a 31.3 sq. ft. wall sign. The currently existing façade sign on the south facing side of the building will also be replaced with a 19.6 sq. ft. wall sign. The existing car was sign is proposed to remain. The current pay stations and menu signs on the rear portion of the property will be removed and replaced with other improvements such as bollards, curbing, pay station canopy, new dual lane pay stations, and new striping are proposed.

3. Consistency with the Zone Plan

The subject property is located with the C-5 Route 33 West Commercial Zoning District. Permitted uses within this zone include, furniture stores; floor covering stores; home furnishing stores; radio, television & other electronic stores; computer & software stores; musical instrument stores; music stores (CDs, cassettes, videos, records); hardware stores; retail bakeries; garden centers/Nurseries; commercial banking savings institutions; bank; credit unions; consumer lending; real estate credit; all other non-depository credit intermediation; financial clearing house & reserve activities; investment banking & securities dealing; securities brokerage; direct life insurance carriers; direct health & medical insurance carriers; claims adjusting; all other insurance related activities; offices of real estate agents; offices of real estate appraisers; other activities related to real estate; computer training facility; apprenticeship training; other technical & trade schools; sports & recreation instruction; art, music, dance & martial-arts instruction; offices of physicians (except mental health); officed of physicians, mental health; offices of dentists; offices of chiropractors; offices of optometrists; offices of physical, occupational and speech therapists, and audiologists; offices of podiatrists; all other outpatient care centers; diagnostic imaging centers; home health care services; child care center; agents, managers for artists & other public entertainers; independent artis, writers & performers; health and fitness club; indoor recreational facility; public parks and recreational facilities; places of worship; civic & social organizations; professional organizations; labor unions& similar labor organizations; full-service restaurants; restaurants; other computer related services; administration & general management consulting services; other scientific & technical consulting services; advertising agencies; other services related to

advertising; veterinary services/animal hospital; photography studios & videography services; corporate, subsidiary & regional managing office; office administrative services; private mail centers; municipal facilities; fire department facilities; public safety facilities; first aid facilities; board of education facilities; newspaper publishers; books publishers; software publishers; film & sound recording studios. **The applicant previously received d(1) use variance approval to operate the site as a full service car wash and automobile lube express facility. They are now proposing to operate the car wash and oil change uses separately. Neither use is permitted within the C-5 Zone District. As such a d(1) use variance is required to allow for the car wash use and the oil change use, both of which are non-permitted uses within the zone district. Additionally, d(1) use variance approval is required to allow for both the car wash use and the oil change use to operate separately on the same lot.**

4. Bulk Requirements

	Required	Existing	Proposed
Minimum Lot Area	50,000 sq. ft.	42,485 sq. ft.	42,485 sq. ft. *
Maximum Density	N/A	N/A	N/A
Maximum Floor Area Ratio	0.6	0.11	0.11
Minimum Lot Width	200 ft	197 ft	197 ft.*
Minimum Lot Frontage (Route 33)	200 ft	226.15 ft	226.15 ft
Minimum Lot Frontage (Old Corlies)	200 ft	197.11 ft	197.11 ft*
Minimum Lot Depth	250 ft	214.75 ft	214.75 ft.*
Minimum Front Yard Setback (Route 33)	40 ft	55.4 ft	55.4 ft
Minimum Front Yard Setback (Old Corlies)	40 ft	78.5 ft	78.5 ft
Minimum Side Yard Setback	30 ft	31 ft	31 ft
Combined Side Yard Setback	60 ft	125.5 ft	125.5 ft
Minimum Rear Yard Setback	40 f	N/A	N/A
Maximum Percent of Building cover	30%	10.90%	10.90%
Maximum Percent Total Lot cover	65%	63.76%	63.76%
Maximum Number of stories	2	1	1
Maximum Building Height	30 ft	<30 ft	<30 ft
Minimum Improvable Area (M.I.A)	19,500 sq. ft.	17,762 sq. ft.	17,762 sq. ft.*
M.I.A. Diameter of Circle	91 ft	124 ft	124 ft

* Variance needed

- A. The minimum lot area required is 50,000 sq. ft. whereas the existing lot is 42, 485 sq. **This is an existing non-conformity, which due to the change in use, requires a variance.**

The minimum lot width required is 200 ft, whereas the existing lot width is 197 ft. **This is an existing non-conformity, which due to the change in use, requires a variance.**

- B. The minimum lot frontage required is 200 ft, whereas the existing frontage along Old Corlies Avenue is 197.11 ft. **This is an existing non-conformity, which due to the change in use, requires a variance.**
- C. The minimum lot depth required is 250 ft, whereas the existing lot depth is 214.75 ft. **This is an existing non-conformity, which due to the change in use, requires a variance.**
- D. The minimum improvable area required is 19,500 sq. ft., whereas the existing improvable area is 17,762 sq. ft. **This is an existing non-conformity, which due to the change in use, requires a variance.**

5. Sign Requirements

- A. The maximum height permitted for a freestanding sign is 15 ft, whereas the existing sign's height is 20 ft. **A variance is needed.**
- B. The minimum permitted setback for a freestanding sign from the property line is 15 ft, whereas existing setback is 5.5 ft. **A variance is needed.**
- C. As per §416.07.A.1, Where a lot has multiple street frontages, then 2 freestanding signs subject to the following standards shall be permitted. Where two (2) freestanding signs are permitted by virtue of multiple street frontage, each permitted sign shall be allowed to have the maximum square footage allowed based on the formulas shown below. In addition, the sign area allowed may be transferred from one (1) sign to another; provided, that no freestanding sign shall exceed four hundred (400) square feet in area.; whereas three (3) free standing signs are proposed (the existing freestanding sign, plus two (2) new menu board signs). **A variance is needed.**
- D. As per §416.07B.2., multi-tenant retail structures are permitted to have 1 sign per tenant, whereas a total of six (6) wall signs are proposed, four (4) for the oil change and two (2) for the car wash. **A variance is required.**
- E. As per §416.07B.3, business uses that have a side or rear building facade fronting on a parking lot or face a secondary street frontage may have a secondary wall-mounted sign not to exceed 50% of the area of the primary building sign. The proposed signage does not meet this requirement. **A variance is needed.**

6. Other Ordinance Requirements

- A. Sidewalks

As per §519B.1, sidewalks shall be required on both sides of the street for all major arterials, minor arterial roads, collector roads and local roads in

association with nonresidential development, whereas no sidewalk is existing or proposed along Old Corlies Ave. **A variance is required.**

B. Fences and Walls

As per §412.07B.1(b), when fences and walls are located within 15 feet of a street line they shall not exceed four (4) feet in height, as measured from the ground level. When such fences and walls are located more than 15 ft. from a street line they shall not exceed six (6) feet in height, as measured from the ground level. The existing retaining wall along Old Corlies Ave does not meet this requirement. **A variance is needed.**

7. **Required Proofs for Variance Relief**

A. *D(1) Use Variance*

This application requires a use variance pursuant to N.J.S.A. 40:55D-70.d(1). Testimony is required to demonstrate that the application satisfies the positive and negative criteria of the Municipal Land Use Law for the granting of the use variance relief. To obtain a d(1) use variance, the Applicant must show that the proposal meets four separate criteria.

1) Positive Criteria

- (a) *That the site is particularly suited to the use.* The Applicant must prove that the site is particularly suited for the proposed use. This requirement sets a high bar, requiring findings that the general welfare is served because the use is particularly fitted to the proposed location of the use. It requires the Applicant to show why the location of the site within the Township is particularly suited for the proposed use despite the underlying zoning, or the unique characteristics of the site that make it particularly appropriate for the proposed use rather than a permitted use.
- (b) *Special Reasons.* The Applicant must prove that special reasons exist for granting the use variance by demonstrating either that there is an unreasonable hardship in not granting the variance, or that the proposed project furthers one or more of the purposes of the Municipal Land Use Law.

2) Negative Criteria

- (a) *The variance will not substantially impair the intent and purpose of the zoning plan and ordinance.* The Applicant must prove that the proposal does not substantially impair the intent of the zoning ordinance or master plan. This criterion comes out of the basic principal that municipalities should make zoning decisions by ordinance rather than by variance, and that the grant of a variance should not represent a complete departure from the enacted policy of the governing body.
- (b) *The variance can be granted without a substantial detriment to the public good.* This requires an evaluation of the impact of the proposed use on surrounding properties and a determination as to whether or not it causes such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.

B. *C Variances*

A number of “c” variances are required. There are two types of c variances with different required proofs.

- 1) Boards may grant a c(1) variance upon proof that a particular property faces hardship due to the shape, topography, or extraordinary and exceptional situation uniquely affecting the specific property.
- 2) Boards may grant a c(2) variance based upon findings that the purposes of zoning enumerated in the MLUL are advanced by the deviation from the ordinance, with the benefits of departing from the standards in the ordinance substantially outweighing any detriment to the public good. The Supreme Court’s ruling in Kaufmann v. Planning Board for Warren Township provides additional guidance on c(2) variances, stating that “the grant of approval must actually benefit the community in that it represents a better zoning alternative for the property. The focus of the c(2) case, then, will be...the characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community.”

C variances must also show consistency with the negative criteria as well.

- a) *A number of design waivers are required.* The Board has the power to grant design waivers as “exceptions” from the

requirements of the Township's Land Use Ordinance as part of site plan review under N.J.S.A. 40:55D-51(b), so long as the exceptions are reasonable and within the general purpose and intent of the provisions for site plan review and approval, if the literal enforcement of one or more provisions is impracticable or will exact undue hardship because of the peculiar conditions pertaining to the land in question.

6. Additional Comments

- A. The applicant should provide testimony on all required variances and clarify all points where additional information is needed.

The applicant should provide testimony on compliance with previous approvals.

- B. Details of all proposed signage should be provided for review.
- C. A trash enclosure is proposed in the southwest corner of the property. We recommend this be constructed of masonry block.


Please be advised that additional comments may follow upon completion of testimony and/or submission of further revisions by the Applicant. Should you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Matt Shafai, P.E.
Board Engineer



Jennifer C. Beahm, P.P.
Board Planner

MS:clb:cw:mcs

cc: All Board Members

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