



PLANNING MEMORANDUM

To: Avi Naveh, Board Chairman and members of the Zoning Board
Fair Lawn Zoning Board of Adjustment
From: Kathryn M. Gregory, PP, AICP
Principal
Re: 13-13 River Road, LLC
Block 5610 Lots 29 & 30
13-13 River Road
Date: April 20, 2023; revised July 25, 2023

INTRODUCTION

The applicant, 13-13 River Road, LLC, has submitted a revised application for construction of a mixed-use building on the property known as 13-13 River Road, which will require “d” and “c” variance and site plan approval. The property in question (PQ) is located in the B-4 Business Zoning District and the River Road Affordable Housing Overlay District.

D Variances include:

- D(5) Density

“C” Variances required include:

- Parking under Building
- Number of Loading Spaces
- Upper story footprint
- Number of Parking Spaces

The application consists of the following:

1. Section 125-70G Checklist for Variances.
2. Zoning Board Application.
3. Attachment to Sheet Z-1 (Statement of Facts)
4. Public Notice to Newspaper.
5. On-site inspection statement.
6. Certification of Tax and water payments.
7. Certificate of ownership of applicant.
8. Section 125-70E Major Site Plan – Preliminary & final checklist.
9. Section 125-70F Environmental Impact Preliminary Statement.
10. Political Disclosure Form.
11. Business Entity Disclosure Certification.

12. Denial Letter from Zoning Officer.
13. Copy of tax map.
14. 200' property owners list.
15. List of County Agencies.
16. Site Plan, prepared by Weissman Engineering, dated 10/6/21; revised to 6/12/23.
17. Architectural Plans, Sheets A01.00, A02.00, A03.00, A04.00, prepared by Danon Group, dated 2/16/23; revised to 7/3/23.
18. Landscape Plan, prepared by Meumann Associates, dated 6/1/2022.

PROPERTY DESCRIPTION

The PQ is identified as Block 5610 Lots 29 & 30. The overall site has a total area of approximately 7,179 SF and has frontage on River Road. The site is currently developed with a single-family home that has been converted into an office, with parking in the rear, accessed by a driveway on the north side of the property.

SURROUNDING AREA

The site is surrounded by a mixture of older and newer buildings along River Road, including newer commercial and mixed use buildings, and converted homes into businesses or offices. Residential uses are located to the rear. An aerial of the site is below.



Source: Bing Maps

PROPOSED DEVELOPMENT

The applicant is proposing to demolish the existing improvements on site and construct a 3-story, mixed-use building, consisting of a 1,000 SF retail space on the first floor and six (6) residential units

on the second and third floor. All of the proposed units are 3-bedroom units. One (1) of these units is proposed to be an affordable unit.

Parking is proposed at the rear of the property. A total of fifteen (15) parking spaces are proposed, with ten (10) arranged in tandem fashion, to be located under the second floor of the building. Access to the parking area is proposed from the adjoining property to the south, 13-09 River Road.

Landscaping is proposed along the front and the rear of the property. A total of 14 Japanese Hollies, 12 St. John's Wort and 43 junipers are proposed in the front yard. Nine (9) arborvitaes are proposed along the rear, along with a decorative fence. The existing pear tree in the rear is to remain.

The site plan has been revised to include parking calculations based on 14 spaces; correction to the bulk table for required building coverage; and a revision to show a 135' long driveway easement between 13-09 and 13-13 River Road.

The architectural plans have been revised. The revisions include a reconfiguration of the first floor of the building, now showing an access hallway and door from the front of the building to the stairwell. This involves a reduction in storage space from 300 SF to 129 SF. The rear exit from the commercial space has been moved towards the storage/trash room, and the pedestrian door entry to the trash/storage room has been moved to the north side of the room. The rear door has been revised to an overhead door. Walkways have been shifted to accommodate these changes.

EXISTING ZONING

The site is located in the B-4 River Road Business District, and within the River Road Affordable Housing Overlay Zone. The permitted uses in the B-4 District are as follows:

- (1) All uses permitted in the B-1, B-2 and B-3 Business Zones, except animal hospitals and funeral parlors.
- (2) Mixed use buildings containing permitted uses and residences above the first floor. Residences shall be permitted on the second and third floor of any two-, two-and-one-half-, or three-story building at the request and option of the applicant. No residences shall be permitted on the first floor. Retail establishments located in a mixed-use building containing residences above the ground level or first floor shall be prohibited from engaging in the sale of merchandise to the general public between the hours of 12:00 midnight and 5:00 a.m. [Amended 3-11-2003 by Ord. No. 1939-2003; 6-26-2007 by Ord. No. 2081-2007]

The River Road Affordable Housing Overlay Zone permits the following:

Mixed-use buildings, comprised of any nonresidential use(s) permitted in the B-4 and B-5 Zone Districts on the first floor and residential uses on the second, third, and fourth floors, as applicable. Residential uses shall not be permitted on the first floor.

The proposed development is a permitted use in both zones, however, a number of variances are required.

VARIANCES REQUIRED

D(5) Density Variance (§49-12C(30)(a))

- 12 du/ac permitted
- 36.5 du/ac proposed
- 24 du/ac variance

When considering a d(5) Density variance it is the *Randolph Town Center* case and not the *Medici* case that is utilized when analyzing the request for a variance. Instead of showing that the site is particularly suited for more “intensive” development the applicant must show that the site can accommodate the potential problems associated with a density greater than that permitted by the ordinance. In other words, can the problems that the ordinance, by restriction intended to address, be accommodated in this particular location?

In addition, the applicant must prove the following:

Positive Criteria

The applicant must demonstrate “special reasons,” wherein the application must advance the purposes of the Municipal Land Use Law.

Negative Criteria

The applicant must demonstrate that the proposed variance can be granted “without substantial detriment to the public good” and “will not substantially impair the intent and the purpose” of the Master Plan and Zoning Ordinance.

“C” VARIANCES

N.J.S.A. 40:55D-70c sets forth the criteria for a planning board to grant variance from bulk requirements of zoning ordinance. Two types of “c” variances can be granted:

- 1) (c)1: in cases of hardship, such as “exceptional narrowness, shallowness or shape of specific piece of property,” or by reason of exceptional or unique topographic conditions, physical features, or an exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon;
- 2) (c) 2: where the purposes of zoning would be advanced and the benefits derived by the variance would outweigh any detriments.

The applicant must also meet the negative criteria of the statute for the granting of a “c” variance, wherein a variance can be granted only “without substantial detriment to the public good” and where it “will not substantially impair the intent and the purpose of the zone plan and zoning ordinance.”

The following “C” variances are required:

Parking under Building §125-C(6)(d)

- No off-street parking spaces shall be situated beneath or within the footprint of a building, unless such building is used exclusively as an aboveground parking garage, except that parking beneath a building is permitted where parking is limited to a depth of one row of parking and provided that such parking is shielded by commercial space at the front facade having a minimum depth of at least 30 feet from the facade.

- Only one row of parking is permitted under the building as proposed commercial space has a depth over 30'
- 2 rows proposed
- Variance required

Number of Loading Spaces §125-48B*

- Retail uses: 1 for each 10,000 square feet of floor area or major fraction thereof but in no case less than 1 per building of 2,000 square feet of floor area or more
- No loading space proposed

** We question whether this is a variance. The retail space in the building is only 1,000 SF, which does not rise to the threshold of the 2,000 SF listed above. We defer to the Board for its interpretation of this regulation.*

Upper Story Footprint §125-C(4)

- The ground level footprint of any building may not be exceeded in its rear by more than two feet by any higher story of the building.
- Rear of second and third story exceed the rear of the first story by ~~34.83~~ 37'-2"
- ~~32.84~~ 35'-2" variance

Number of Parking Spaces for Lots 29 & 30 *

- 19 spaces required for Lots 29 and 30 (as listed by applicant)
- 18 spaces required as per RSIS:
 - 1,000 SF retail /200 SF = 5 parking spaces
 - 6 3-bedroom units @ 2.1 spaces/unit (RSIS) = 12.6 or 13 parking spaces
 - 18 parking spaces required
- 17 spaces required as per Fair Lawn zoning code:
 - 1,000 SF retail /200 Sf = 5 parking spaces
 - 6 units @ 2 spaces/unit = 12 parking spaces
 - 17 parking spaces required
- One EV space is proposed, which reduces the parking requirement by 10% or 1.8 spaces, so therefore 16.2 or 16 spaces required as per RSIS
- 15 spaces proposed for Lots 29 and 30
- One (1) space variance

** The applicant shall provide testimony as to who will be utilizing the 100 SF storage space. The drawings show access from the residential lobby. However, if it is utilized by the retail use, the SF would be utilized in the parking calculation, bringing the number of required spaces up to 19.*

MASTER PLAN

The following goals and objectives of the 2014 Master Plan may be relevant to this application:

Goals:

2. To promote a balanced variety of residential, commercial, industrial, recreational and public land uses.
3. To promote aesthetic improvement in the major commercial and industrial areas.

Objectives:

2. To increase the value and aesthetics of existing commercial areas through strengthening standards which promote safe and efficient site circulation, building layout and scale, façade improvements, parking, signage, landscaping and buffering.

GENERAL COMMENTS:

1. It should be noted a building coverage variance is not required. §49-12C(2) permits a building coverage of 80% for an affordable set-aside development. This section supersedes §125 Attachment 8, as per §49-12C: “Bulk standards for the underlying B-4 and B-5 Zone Districts shall apply except as modified herein.”

Comment 6/16/23: This has been addressed on the plans.

2. It should be noted that a rear yard buffer variance is not needed as indicated on the site plan. §125-25C(1) states “A buffer of no less than five feet at rear of lot shall be provided. A fence shall be provided at the rear lot line, in accordance with the Design Manual and criteria of the River Road Improvement Corporation, as part of the buffer.” A 5’ buffer is proposed in the rear with a 6’ PVC fence.

Comment 6/16/23: This has been addressed on the plans.

3. It should be noted that while the applicant is asking for access on 13-09 River Road, but in essence, the “in” driveway is located on Lot 26, while the “out” driveway is located on Lot 26 & 27 (13-09 River Road). Lot 26 should be made part of this application.

Comment 6/16/23: This has been addressed as per the applicant.

4. The applicant in Attachment to Sheet Z-1 of Application 13-13 River Road LLC and 13-09 River Road LLC states in paragraph 5 that “overall, 31 spaces are required, and 26 are provided;”. While we assume this means the sum of the parking required for Lots 27, 28, 29 & 30, no information has been provided on Lots 27 and 28. Applicant shall provide parking details for Lots 27 and 28.

Comment 6/16/23: This has been addressed on the plans.

5. 6/16/23 comment: The applicant shall revise the bulk table to indicate the correct permitted height. §49-12C(1) (River Road Affordable Housing Overlay District) allows the maximum principal building height to be three stories/40 feet, except corner lots, which shall have a maximum height of four stories/50 feet. While this needs to be corrected, the applicant is in conformance with this section.

Comment 7/25/23: This has not been addressed on the plans.

6. 6/16/23 comment: The applicant shall indicate if the residential units will be for sale or rental, which will determine the affordable housing set-aside for the project. As per §49-12D, there shall be an affordable housing set-aside for all mixed-use development on the River Road site. Each such development shall include a twenty-percent set-aside for affordable housing, if sales housing is produced, or a fifteen-percent set-aside if rental housing is produced. If the units are rentals, 15% of 6 units is .9 units; if the units are for sale, 20% of 6 units is 1.2.

Comment 7/25/23: To be addressed by applicant.

7. 6/16/23 comment: The project appears to “mirror” the development located on 13-09 River Road in terms of its scale and streetscape. The idea of any downtown district is to create and maintain a consistent streetscape, and provide activity in terms of retail uses. The applicant shall discuss, to the extent possible, the success of the mutli-use building located at 13-09 River Road.

Comment 7/25/23: To be addressed by applicant.

We reserve the right to comment and/or determine additional variances during the course of testimony.

KMG

Cc: Marc Leibman, Esq. Zoning Board of Adjustment Attorney
Paul Azzolina, PE, Zoning Board of Adjustment Engineer
Jeffrey Kantowitz, Esq., Applicant's Attorney