

**RESOLUTION OF THE
TOWNSHIP OF BLOOMFIELD
ZONING BOARD OF ADJUSTMENT**

RESOLUTION IN THE MATTER OF THE APPLICATION OF 59 DODD, LLC, FOR AMENDED PRELIMINARY AND FINAL SITE PLAN APPROVAL FOLLOWING SETTLEMENT OF A CHALLENGE TO A PREVIOUSLY APPROVED 24-UNIT MULTI-FAMILY DWELLING, A CONDITIONAL USE VARIANCE PURSUANT TO N.J.S.A. 40:55D-70(d)(3), A VARIANCE PURSUANT TO N.J.S.A. 40:55D-70(c) FOR EXCESSIVE LOT COVERAGE, AND DESIGN WAIVERS FOR THE SIZE OF COMPACT PARKING STALLS AND THE WIDTH OF DRIVE AISLES, TO PERMIT THE EXPANSION AND CONVERSION OF A VACANT TWO-STORY BANK BUILDING FOR USE AS A SEVENTEEN-UNIT MULTI-FAMILY DWELLING WITH GROUND FLOOR COMMERCIAL SPACE AT PROPERTY LOCATED AT 59 DODD STREET, BLOCK 94, LOTS 27, 28, 30 AND 31.

WHEREAS, by Resolution adopted on January 16, 2020, the Township of Bloomfield Zoning Board of Adjustment memorialized its decision of November 7, 2019, approving an application filed by 59 Dodd, LLC, with respect to property located at 59 Dodd Street in the Township of Bloomfield, Block 94, Lots 27, 28, 30 and 31, for preliminary and final site plan approval, a conditional use variance pursuant to N.J.S.A. 40:55D-70(d)(3), a variance pursuant to N.J.S.A. 40:55D-70(c), *de minimis* exceptions from the Residential Site Improvement Standards ("RSIS") and design waivers, to permit the construction of additions to a vacant, two-story bank building and its use as a 24-unit multi-family dwelling; and

WHEREAS, the subject property is located in the B-2, Neighborhood Business district where multi-family dwellings are a permitted conditional use; and

WHEREAS, the conditional use standards governing multi-family dwellings require commercial uses on the ground floor with no ground floor parking, a maximum density of 25 units per acre, and sufficient on-site parking; and

WHEREAS, the application did not meet those standards because the ground floor would be used for residential amenities and for parking, with no commercial component, the density would equate with 70 units per acre, and there would be 27 on-site parking spaces, where 46 were required; and

WHEREAS, following the Township's Mayor and Council timely challenged the Board's approval in the Superior Court of New Jersey, the litigation was settled by the parties which resulted in this application for a revised plan which reduced the number of residential units to 17, reducing the residential density to 49.8 dwelling units per acre, and added 1,920 square feet of ground floor commercial space, thereby eliminating one deviation from the conditional use standards, although the revised project would still deviate from the density and parking standards; and

WHEREAS, both the approved plans and the revised plans required a (c) variance for excessive lot coverage of 97.8% where 90% is permitted; and

WHEREAS, the prior approval included *de minimis* exceptions from the Residential Site Improvement Standards ("RSIS") because of insufficient on-site parking, the inclusion of two compact parking spaces, and the width of a portion of a drive aisle serving perpendicular parking stalls, conditions that remained unchanged by the revised plans; and

WHEREAS, RSIS exempts mixed-use buildings as proposed by the Applicant from the scope of its regulations, and thus no relief from RSIS was necessary for the revised plans despite the similar site conditions; and

WHEREAS, waivers from the Township's design standards were required under both the approved plans and the revised plans because the two compact stalls, although authorized by the design standards, would be eight feet in width instead of 8.5 feet, and because of narrow drive aisle widths serving both perpendicular and parallel parking stalls;

WHEREAS, the proposed additions would include adding a third floor to the existing two-story bank building, and a two-story raised addition above the existing parking lot, which would create ground floor parking on a portion of the site; and

WHEREAS, the 27 proposed parking stalls were less than the 46 spaces required for both uses; and

WHEREAS, a hearing on this revised application was held before the Bloomfield Zoning Board of Adjustment at its May 13,

2021, meeting, which was conducted remotely due to Covid-19 and Executive Orders issued in response thereto; and

WHEREAS, Board members Brown, Stivers and Wanguer, who did not participate in the 2019 hearings, signed certifications attesting to their having reviewed the video recordings of the September 12, 2019, and November 7, 2019, hearings on the prior application; and

WHEREAS, the Applicant filed an affidavit with this Board showing compliance with the statutory requirements concerning notice to the affected property owners of both the subject property and the property proposed for off-site parking, and of making proper and timely publication of the application in the official newspaper of the Township of Bloomfield.

NOW, THEREFORE, be it resolved by the Zoning Board of Adjustment of the Township of Bloomfield as follows:

This is an application for amended preliminary and final site plan approval, a conditional use variance pursuant to N.J.S.A. 40:55D-70(d)(3), a bulk variance pursuant to N.J.S.A. 40:55D-70(c), and design waivers, to permit the construction of a third floor addition to a vacant, two story bank building, the construction of a raised two story addition above an existing accessory parking lot, thereby creating ground floor parking, and the conversion of the site into a 17-unit multi-family dwelling

with ground floor commercial space at property located at 59 Dodd Street in the Township of Bloomfield, Block 94, Lots 27, 28, 30 and 31. The subject property is located in the B-2, Neighborhood Business District, which conditionally permits multi-family dwellings. One of the conditional use standards permits residential uses only if located above a ground floor commercial use, with no ground floor parking permitted. Another standard establishes a maximum residential density of 25 units per acre. A third requires that the site meets the parking demand for all uses. A previous application was approved by the Board in 2019 with 24 residential units resulting in a density of 70-units per acre, no commercial space, ground floor parking and 27 proposed parking spaces when 46 were required (the "2019 Approval"). The Mayor and Council challenged the 2019 Approval, which was settled by the parties under terms which required revisions to the Applicant's plans reflected in this new application. The revised plans, however, also implicated a (d) (3) conditional use variance, even with 1,920 square feet of ground floor commercial space added, eliminating a conditional use deviation. Nonetheless, the adaptive re-use of the building would still include ground floor parking, the proposed density would be 49.8 units per acre, and there would remain only 27 on-site parking spaces where a total of 46 were required for the mixed, commercial and residential uses. A (c) variance remained

necessary for excessive lot coverage. Waivers from the design standards included within the Township's Land Development Ordinance were necessary because the two compact spaces, although authorized by the design standards, would be eight feet wide instead of the required 8.5 feet, and because of narrow drive aisle widths serving perpendicular and parallel parking spaces. The lot coverage and design standard deviations were consistent between both plans. RSIS is not applicable to an integrated mixed-use development, and thus no relief from its regulations was necessary.

The granting of a d(3) conditional use variance requires the Applicant to demonstrate "special reasons" for the granting of the variance, i.e., that the property is an appropriate site for the conditional use notwithstanding the deviation from one or more of the conditions imposed by the Ordinance. The granting of a (c) variance requires the Applicant to demonstrate that due to unique circumstances affecting its property, it would suffer some hardship without the variances, or that the variance would benefit the community and advance the purposes of the Municipal Land Use Law. For both (d) and (c) variances, the Applicant must additionally demonstrate that the granting of the application would not impose a substantial detriment to the public good or substantially impair the intent and purpose of the municipal master plan or zoning ordinance. The granting of design waivers

requires the Applicant to demonstrate that it would be impractical to enforce the standards or that conformance with the standards would impose an undue hardship due to conditions of the property. Applicant must also demonstrate compliance with the requirements of the Township Land Development Ordinance governing review and approval of site plan applications.

Applicant was represented by Mark D. Maryanski, Esq. Mr. Maryanski presented the testimony of Steven Corso, a New Jersey licensed architect with the firm Steven Corso Architect, LLC, and Frank D. Miletto, a New Jersey licensed professional planner. Mr. Corso and Mr. Miletto were accepted by the Board as experts in their respective fields. Since the plans reflected no changes in the site plan or the number of parking spaces, Applicant did not re-introduce the testimony of its civil engineer and traffic engineer. The Board also received reports and heard testimony from Anthony Marucci with the firm Marucci Engineering Associates, LLC, the Board's consulting engineers, George Wheatle Williams with the firm Nishuane Group, the Board's consulting planners, and Joseph Fishinger with the firm Brightview Engineering, the Board's consulting traffic engineers. No members of the public participated in the hearing.

Based on the evidence presented at the hearing, the Board made the following findings of fact [paragraphs 1 through 18 are reproduced from the Board's January 16, 2020, memorializing

the setback from Arch Street is 1.5 feet. The building is set Avenue, where the primary entrance into the building is located;

the northern lot line fronting on Dodd Street and Watsessing the northern and western lot lines. The setback is 0.3 feet from building situated in the northwest corner of the lot proximate to 3. The property is improved with a two-story, vacant bank

91.6 feet. The southerly lot line measures 115.85 feet;

the east for 49.92 feet, where it turns again to the south for line, which extends to the south for 75.95 feet before it jogs to it jogs to the east for 7.3 feet before meeting the easterly lot direction for 62.1 feet from the Arch Street intersection, where Dodd Street/Watsessing Avenue frontage extends in a northeast square feet. The Arch Street frontage measures 145 feet and the 2. The property is irregularly shaped and totals 14,873

Street;

is to the west of the property and intersects only with Dodd Watsessing Avenue converge to the north of the site. Arch Street

signalized intersection. Dodd Street, Orange Street and Arch Street, Dodd Street, Orange Street and Watsessing Avenue, a 1. The subject property is located at the intersection of

paragraphs]:

plans for the components of the project described in those necessary, or to reflect any changes to the previously approved Resolution, with additional language added for clarity, as

- back 60 feet from the southerly lot line and 17.6 feet from the northerly course of the eastern lot line if measured from the one-story drive through window of the bank building and 23.1 feet if measured from the main building wall;
4. A parking lot covers the balance of the site, with two-way access from Arch Street and an exit only driveway onto Dodd Street/Watessing Street between the building and the eastern lot line. The lot is 96.3% impervious;
5. As previously approved, Applicant would construct a one-story addition over the existing bank building and a raised two-story addition over the parking area, which would create ground floor parking with two building levels above, and convert the use to a 24-unit multi-family dwelling. The ground floor of the bank building would be converted to common areas for the residential tenants and all residential units would be on the second and third floors. There would be 12 one-bedroom units and 12 two-bedroom units;
6. The property is located in the B-2, Neighborhood Business District, which permits multi-family dwellings as a conditional use;
7. The conditional use standards governing multi-family dwellings in the B-2 Zone include the following:
- (a) All dwelling units shall be located above the ground floor;

- (b) The ground floor shall be utilized for nonresidential permitted uses only, except no ground floor parking area is allowed;
- (c) The residential density shall not exceed 25 dwelling units per acre;
- (d) Height shall not exceed 40 feet;
- (e) Combined parking requirements for all uses shall be met; and
- (f) Any site plan approval shall be conditioned upon the filing of an application for amended site plan approval and any necessary variance should any change in first floor uses increase the required parking beyond the number of spaces approved by the Board;
8. The 2019 Approval included a (d) (3) conditional use variance because the proposed adaptive re-use of the building would have residential amenities and parking on the ground floor rather than commercial uses, would have a density equal to 70 units per acre, and would provide 27 on-site parking stalls rather than the required 46;
9. The parking area included 20 standard 9 feet by 18 feet perpendicular parking spaces, ten of which would face the southerly lot line, six of which would face the easterly lot line along the 91.6-foot course, three of which would be on the opposite side of the drive aisle from those six spaces, facing

by the 2019 Approval) at the southerly end of the one-way ingress

11. A stop bar will be painted on the pavement (as required

drive aisle extends to the eastern portion of the parking area;

entrance to the covered parking lot, widening to 24 feet as the

The Arch Street access drive would be 23.5 feet wide near the

Street at the southerly edge of the three, west facing spaces.

connects to the east-west, two-way access drive off of Arch

feet at the end of the third parallel space, to 12 feet as it

11.4 feet at the beginning of the first parallel space, to 11.7

The width of the one-way drive aisle would gradually widen from

would be three parallel spaces, each 23 feet long by 8 feet wide.

of the bank building. To the east of the ingress drive aisle

removed, and the driveway would run along the main eastern wall

only driveway. The one-story drive through window would be

Street/Watassing Street would be reversed, making it an ingress

10. The direction of the driveway connecting to Dodd

the southerly wall;

bollards, will be removed to facilitate the three spaces facing

building, including curbing, stairs, a concrete wall and

building. Existing improvements along the southern wall of the

parking stalls, also facing the southern wall of the bank

to the east of the latter space would be two ADA compliant

building, proximate to the Arch Street right-of-way. Immediately

west, and one would face the southerly wall of the existing bank