

RIDER TO APPLICATION

NORTH BRUNSWICK PUB INC. PRELIMINARY AND FINAL SITE PLAN WITH “D-1” (USE) AND “C” (BULK) VARIANCE RELIEF 1864 US ROUTE 1, NORTH BRUNSWICK, NJ 08902 LOTS 2.01, 3.01, 4.01 IN BLOCK 143

North Brunswick Pub, Inc. (the “Applicant/Owner”) is the owner of Block 143, Lots 2.01, 3.01 and 4.01 on the tax map of the Township of North Brunswick also known as 1864 US Route 1, North Brunswick, NJ (the “Property”). The Property is an approximately 1.05 acres tract. The existing one-story structure serves as a restaurant and bar and is approximately 4,896 +/- square feet and has since its inception been operated as a restaurant and bar.

The property is zoned I-1 and has frontage on US Route 1. The Applicant is seeking preliminary and final site plan approval for the construction of a 1,200 +/- square foot external addition to the existing bar and restaurant to add 52 seats of outdoor dining. The applicant requested the following “C” bulk variances due to the pre-existing conditions of the property.

- Variance required for minimum lot area where 2 acres is required and 1.05 acres are existing;
- Variance required for minimum lot depth where 300 feet is required and 146.17 feet is existing;
- Variance required for minimum front yard where 100 feet is required and 21.3 feet is existing;
- Variance required for maximum lot impervious where 80% is allowed and 88.03% is existing; and
- Variance required for parking in the front yard of U.S. Route 1 where 25 feet is required and 11 feet is existing.

Use variance relief is also necessary pursuant to N.J.S.A. 40:55D-70(d)(1) for the restaurant/bar use which is not specifically permitted in the I-1 zone.

LEGAL ANALYSIS

N.J.S.A. 40:55D-70(d) states that the board of adjustment shall have the power to, “in particular cases for special reasons, grant a variance to allow departure from regulations pursuant to article 8 of this act to permit: (1) a use or principal structure in a district restricted against such use or principal structure . . . [provided that] no variance or other relief may be granted. . . without a showing that such variance or relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance.” Where the use variance is commercial, “the applicant must prove and the board must specifically find that the use promotes the general welfare because the proposed site is particularly suitable for the proposed use.” Medici v. BPR Company, 107 N.J. 1 (1987).

In the present matter, the project satisfies the positive criteria for a use variance as it is particularly suited to this location for the following reasons:

1. The Property is particularly well-suited and situated as it fronts on US Route 1 and will be located among other restaurant/food/bar uses along this corridor and historically has been approved for restaurant/bar use.
2. The Property is of a sufficient size to accommodate the proposed use and parking is sufficient for the proposed expansion of the outdoor seating area.

The Applicant satisfies the negative criteria because the Project will not be substantially detrimental to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance for the following reasons:

1. The project is designed to function as a minor expansion of the existing, approved restaurant/bar and will present little or no detriment to the public good. The project will be well landscaped, appropriately lighted, and will function in a safe and efficient manner.
2. The Project will not substantially impair the intent and purpose of the zone plan and zoning ordinance as it is consistent with uses permitted in the surrounding US Route 1 corridor.

For the reasons set forth above, along with the supplemental testimony to be submitted by the Applicant at the hearing, the Applicant submits that a use variance under N.J.S.A. 40:55D-70(d)(1) is justified.

Finally, regarding the bulk variances, N.J.S.A. 40:55D-70(c)(2) states that variances may be granted "where in an application or appeal relating to a specific piece of property the purposes of [the MLUL] would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment..." The purposes of the MLUL will be advanced by allowing the deviations requested. N.J.S.A. 40:55D-2(a) of the MLUL states that one purpose of the MLUL is to "encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare." The granting of the variances will not be detrimental to the intent and purpose of the Township of North Brunswick code.

Applicant respectfully requests that the Board grant any additional variance, waiver, exception, or other relief as may be necessary or required by the Zoning Board and the Board professionals in its review and action on this Application.