

RIDER TO THE APPLICATIONS

SPARK CAR WASH LLC PRELIMINARY AND FINAL SITE PLAN WITH USE AND BULK VARIANCES AND DESIGN WAIVER RELIEF BLOCK 203, LOT 4 575 MILLTOWN ROAD, NORTH BRUNSWICK, NEW JERSEY

BACKGROUND

Spark Car Wash LLC (the “**Applicant**”) is the lessee of Block 203, Lot 4, as designated on the tax map of the Township of North Brunswick, said property being located at 575 Milltown Road, North Brunswick, New Jersey (the “**Property**”). The Property is 1.74 +/- acres and is in the C-1 Neighborhood Commercial Zone (the “C-1 Zone”). The Property is currently improved with the existing Bank of America building with drive through and associated parking, and has existing driveway access to both Milltown and Georges Roads.

The Applicant is seeking preliminary and final site plan approval with use and bulk variances and design waiver relief in order to construct a 4,841 +/- SF automated car wash structure with twenty-seven parking spaces (twenty-two vacuum and five employee spaces) and signage (the “**Project**”). The C-1 zone does not specifically permit stand-alone car wash facilities in the zone. Therefore, a use variance pursuant to N.J.S.A. 40:55D-70d(1) is required for this use at the Property. Pursuant to N.J.S.A. 40:55D-76, the Applicant is also requesting all bulk variance and design exception relief associated with its application for preliminary and final site plan approval.

LEGAL ANALYSIS IN SUPPORT OF USE AND BULK VARIANCE RELIEF

The Applicant is seeking both “D” use variance relief pursuant to N.J.S.A. 40:55D-70d(1) and “C” bulk variance relief pursuant to N.J.S.A. 40:55D-70c(2).

I. “D” Use Variance Relief

Regarding the requested use variance relief, N.J.S.A. 40:55D-70d(1) states that the board of adjustment shall have the power to, “[i]n 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] [n]o 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.”

In the present matter, the Project satisfies the positive criteria for a use variance as it is both particularly suited to this location and special reasons exist for the proposed car wash, as demonstrated by the following reasons:

1. The Property is particularly well-suited and situated for the car wash use because it fronts both Milltown and Georges Road and is located among other commercial and retail uses. The frontage on both roads provides unique and safe ingress and egress to the Property and supports the proposed use. In addition, the car wash will provide local residents and employees with a safe and accessible means to service their cars while visiting the area for other commercial and retail uses. Moreover, such a use is not currently provided in the area and meshes well with the existing commercial and retail uses in the area;
2. A need in the general community exists as the proposed use provides a modern and efficient automated car wash service, which is currently lacking in the immediate area and also contributes a needed use to an underserved market; and
3. The shape and location of the Property is particularly suited for the Applicant's use for the following reasons:
 - a. The Applicant is proposing a design that effectively utilizes the unique shape of the lot and its frontage on both Milltown and Georges Road;
 - b. The access to both roads provides safe and efficient ingress and egress for the Applicant's proposed car wash use; and
 - c. The Property is one of the few available locations in the area large enough to efficiently accommodate the use and allows the Applicant to propose a modern structural design in furtherance of N.J.S.A. 40:55D-2(i).

For the reasons stated, the purposes of the MLUL are advanced by allowing the requested car wash use. N.J.S.A. 40:55D-2(a) of the MLUL states that 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." As a suitable redevelopment of the Bank of America building, the proposed car wash serves the community with a use that draws from the existing traffic flow, more so than the existing bank. Also, the new trip generation for a car wash is for all but the AM peak hour less than that associated with the current bank use. The car wash has no significant traffic impact, as demonstrated by the NJDOT Letter of No Interest. This use therefore furthers the purposes of zoning found in N.J.S.A. 40:55D-2(h). N.J.S.A. 40:55D-2(i) of the MLUL states that another purpose of the MLUL is to "promote a desirable visual environment through creative development techniques and good civic design and arrangement." The proposed Spark Car Wash will be a modern facility with state-of-the-art water processing and an appropriate landscaping package that will enhance both the Milltown and Georges Road corridors.

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 in a compatible manner with the surrounding uses. In addition, the Project will be appropriately lighted and is designed to 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 commercial and retail uses surrounding the Property, such as the adjacent car parts store and the nearby car repair shop, eating and drinking establishments, and retail stores; and
3. The Project will have no negative impact on the traffic flow on either Georges Road or Milltown Road as access on Milltown is right in and right out and the Georges Road access uses the same driveway configuration as the existing bank. As a primarily “pass by” use, the proposed car wash will not adversely impact the nearby intersection through its efficient ingress and egress design.

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-70d(1) is justified.

II. “C” Bulk Variance Relief

The Applicant is seeking bulk variance relief from the following sections of North Brunswick’s land use code:

1. § 205-66B – for a proposed buffer of 13.9 feet with the abutting residential use where a buffer of 30 feet is required;
2. § 205-96E – for two (2) proposed parking spaces in the front yard where none are permitted;
3. § 205-98C(3) – for noncompliance with the requirement that sidewalks and parking areas must be arranged to prevent cars from extending over sidewalk areas;
4. § 205-102C – for a proposed sign on Milltown and Georges Road that are 10 feet from a lot line where no sign is permitted closer than 20 feet from a lot line;
5. § 205-105A – for a proposed non-illuminated directional sign with 3.5 SF in area where a maximum of 3.0 SF in area is permitted; and
6. § 205-105H(1) – for two (2) proposed freestanding signs with a SF of 71.0 each where only one freestanding sign with a maximum SF of 40 is permitted.

Regarding flexible bulk variance relief, N.J.S.A. 40:55D-70c(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. . . .” In this case, the purposes of the MLUL are 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.” N.J.S.A. 40:55D-2(i) of the MLUL states that another purpose of the MLUL is to “promote a desirable visual environment through creative development techniques and good civic design and arrangement.”

The variances requested are specifically related the Property and Project and can be granted without a substantial detriment to the public good and without impairing the intent and purpose of North Brunswick Township’s Zoning Plan or Ordinance. In addition, the deviations will advance the purposes of the MLUL and the benefits achieved from granting the deviations substantially outweighs any potential detriments. The deviations are appropriate for the proposed car wash use in relation to the Property and are de minimis in nature.

The proposed 13.9 feet of buffer will allow for a more adequate design which will promote safe traffic circulation and the Project will include landscaping on that side of the Property that partially abuts the back undeveloped portion of the commercially zoned lot that is developed with a residential use along Georges Road, and of which said back portion currently includes existing trees and natural landscaping between the Property and the residential use. Placing the two (2) proposed parking spaces in the front yard allows for safer and more efficient traffic circulation in the vacuum area and permits the Applicant to have an adequate number of vacuum spaces for the projected traffic. The sidewalk and parking area design that may cause some cars to extend slightly into certain sidewalk areas is de minimis and the design promotes efficient and safe parking and circulation. The location of the two proposed freestanding signs and the proposed area of the non-illuminated directional sign and two proposed freestanding signs allows for a more adequate design that promotes proper identification of the use and efficient and safe parking and ingress and egress circulation. Adequate business identification and directional signage is critical for directing cars safely to the facility from the road, which in turn, is also critical for promoting safe internal circulation, such as timely directing cars safely to the main car wash structure and vacuum areas.

Moreover, the Project’s modern and creative structural design is visually appealing, utilizes sound civic design and arrangement, and meshes well with the designs of the surrounding retail uses. These deviations have benefits that substantially outweigh any potential detriments and can be granted without any substantial detriment to the public good, and without impairing the intent and purpose of North Brunswick’s Zoning Plan or Ordinance. Granting the deviations requested advances the MLUL’s purposes by encouraging municipal action to guide the appropriate use or development of lands in a manner that promotes public health, safety, morals, and general welfare and by promoting a desirable visual environment.

For the reasons set forth above, along with the supplemental testimony to be submitted by the Applicant at the hearing, the Applicant submits that bulk variance relief under N.J.S.A. 40:55D-70c(2) is justified.

DESIGN EXCEPTION RELIEF

The Applicant is seeking design exception relief from the following sections of North Brunswick's land use code:

1. § 205-108K(1) – for artificial lighting with a 2.1 FC beyond one section of the property line where the maximum FC beyond any property line is 0.5 FC.

The enhanced lighting is located in an area that is critical to the Project, the car wash exit, where cars need to be able to accurately and efficiently see the proper turn route. In addition, the adjacent property where the increased lighting faces is a commercial use that operates from 10:30 a.m. to 12:00 a.m. and the impact on that use from the lighting will be de minimis.

III. Testimony and Amendments

In support of its application, the Applicant will submit the expert testimony of professional engineers from Stonefield Engineering and Design, LLC, who will provide professional civil and traffic engineering testimony, of John McDonough, L.A., P.P., AICP, who will provide professional planning testimony, and of professional architects from GK+A Architects, PC, who will provide testimony regarding the Spark Car Wash façade and sign package. The Applicant will also submit operational testimony from the Applicant's representatives.

The Applicant also respectfully requests that the Zoning Board consider the Application as amended to include any variances, waivers, design exceptions, or other relief that the Zoning Board or Township professionals may deem necessary or required in the review and action on this application.