

BOROUGH OF BOGOTA

	Aye	Nay	Absent	Abstn.	No Vote
Reiper (Class I)					x
Liriano (Class II)			x		
Murphy (Class III)					x
Mancini	X				
Frias	X				
Foster	X				
Fede	X				
Napolitano	X				
Schnipp	X				
Hordern (Alt. 1)			x		
Youla (Alt. 2)	x				
Vote Total	7				

DATE: October 10, 2023

RESOLUTION: 2023-10

MOTION BY: Frias

SECOND BY: Napolitano

**RE: RESOLUTION REGARDING Application 2- 8 Queen Anne Road, LLC
Block 97, Lot 16 and 17 (2, 8 Queen Anne Road)
Site Plan and Variance Approvals**

**RESOLUTION 2023-10
PLANNING/ZONING BOARD OF BOROUGH OF BOGOTA**

WHEREAS, this Board adopted resolution 2023-09 and the Board wishes to revise same so as to replace resolution 2023-09 in its entirety; and

WHEREAS, 8 Queen Anne Road, LLC and Paul Fine, as the Applicant have applied to the Zoning Board configuration of the Planning/Zoning Board of the Borough of Bogota for Use Variance relief pursuant to N.J.S.A. 40:55D-70(d)5, N.J.S.A. 40:55D-70(c)1, and, N.J.S.A. 40:55D-70(c)2, and Preliminary and Final Site Plan Approval pursuant to, specifically seeking to construct a mixed use building on Block 97, Lot 17 with 1 apartment above the retail use; and

WHEREAS, public hearings, upon the requisite statutory notice, were held by the Zoning Board of Adjustment configuration of the Planning and Zoning Board of the Borough of Bogota, on the application on July 25, 2023; at which time the Applicant, represented by

counsel, David Becker, Esq. appearing;

WHEREAS, during the hearings the Applicant presented testimony and/ or reports from witnesses, each of whom was accepted by the Board as an expert in his respective field, including: Yogesh Mistry, AIA; William Stimmel, PE; and

WHEREAS, during the application the following Exhibits were introduced:

1. A-1 Architectural Plans (submitted with the application)
2. A-2 Renderings (prepared by the Applicant's architect, Yogesh Mistry).
3. A-3 Site Plan (prepared by William Stimmel, last revision date of 7/17/23)

WHEREAS, the Board having reviewed the entire record and exhibits and heard and considered the comments, both written and oral, of all experts; and

WHEREAS, the public was given the opportunity to question each witness and make comments at the conclusion of the testimony; and

WHEREAS, based upon the testimony, stipulations of the Applicant and evidence presented, including all exhibits presented and all of the plans, and the comments of the aforesaid municipal representative and the public; and

NOW THEREFORE BE IT RESOLVED the Zoning Board configuration of the Planning/Zoning Board of the Borough of Bogota has made findings of fact and conclusions of law:

1. This resolution supersedes resolution 2023-09 in its entirety.
2. The site is located within the B-1 Zoning District. Section 21A-10.6 of the Borough Ordinance allows for residential uses above commercial in the B-1 zone as long as the application does not exceed the density limitation. This application exceeded the density limitation, thus requires a use variance pursuant to NJSA 40:55D-70(d) (5).
3. In addition, the application requires the following bulk variances:

- A. No loading space provided where one (1) is required.
 - B. 23 parking spaces required, 13 spaces provided, (10 parking space deficiency).
4. Paul Fine testified as principal of 8 Queen Anne LLC, the Applicant stated he is the Applicant and owner of the building located at 8 Queen Anne Road and 2 Queen Anne Road in Bogota.
 5. Each building is owned by its own Limited Liability Company and he is the sole principal of each Company.
 6. 2 Queen Anne Road, Owned by JZA LLC, is presently a mixed use with retail space on the first floor and apartments on the second floor.
 7. The building for which the variance is sought is 8 Queen Anne Road, which previously was a retail store that sold motorcycle parts but the store is now vacant.
 8. Applicant wants to convert the building and lot in a manner that is like the uses located in the building next door is. (Meaning retail on the first floor and residential apartment above.)
 9. Applicant seeks to add a 2-bedroom apartment unit on top of the existing structure at 8 Queen Anne Road.
 10. Mr. Fine testified that there is currently a dumpster on site for the existing building next door (2 Queen Anne Road).
 11. Applicant will take the existing dumpster location and create a proper common dumpster corral for the buildings at 2 and 8 Queen Anne Road. He indicated Applicant has private garbage removal and trucks come weekly to empty the dumpster and that schedule will continue.
 12. The witness stated he will improve the current landscaping, and will provide curbing, the planting of trees, and create a landscape buffer with hedges.

13. The Applicant will record a common access easement on 2 and 8 Queen Anne Road to allow for the garbage trucks to access the dumpster pad and will create and record joint parking easement agreement over both properties.
14. The witness stated he is aware of the issue that the parking situation may create. As such, he would agree that the use of the retail space would be limited to what is permitted by ordinance. The Applicant stipulated that if another use is sought that requires additional parking, and the parking is not sufficient on site, the Applicant will need to be back before the board for a parking variance.
15. The Applicant agreed to plant trees and create landscaping that the board sees fit and will work with the environmental commission regarding same.
16. Yogesh Mistry testified as Architect and was found to be a qualified expert.
17. Mr. Mistry testified that the foot print of the building will not be altered and the first floor and basement of the building will remain the same.
18. The first floor and basement are vacant.
19. The current sign on the front of the building will be removed and replaced with a sign that is consistent with the town ordinance for signs.
20. The Board addressed concerns to Mr. Mistry regarding the exterior of the building not matching the exterior of the building next door, as well as concerns that mechanicals for the building may be visible from the street with the proposed plans.
21. Mr. Mistry testified that the plan is to design 8 Queen Anne Road to match the exterior of 2 Queen Anne Road.

22. Mr. Mistry also stipulated that the approval of the application can be conditioned upon screening or placing any mechanicals in a way that they will not be visible from the street.
23. William Stimmel, PE testified as the engineer for the application.
24. The Engineer testified the proposed design of the building is to add a level to the existing structure.
25. Access to the building will be consolidated at the rear. The occupants of the added level would enter through the rear into the basement level and climb two flights of steps to the apartments.
26. A fire escape will be installed on the rear of the building for emergency egress.
27. The Engineer testified that there are trees located along north that may obstruct the view of drivers entering or leaving the lot. To maintain a safe viewable distance for drivers, these trees will be removed, with the Applicant working with the environmental commission to replant trees on the property.
28. During the hearing, the board voiced concerns over the placement of the Electric Vehicle Charging Station required by P.L. 2019, c. 362.
29. The Applicant and Engineer agreed to place the EV Charger between the provided handicap spot and the spot next to it to allow for EV charging if the handicap spot is in use.
30. The Engineer is also a planner and testified that the application satisfies the positive and negative requirements for a use variance relief. The application satisfies the following positive criteria, in that it provides Improved Parking on site. It also improves sanitary sewer controls and storm water runoff with the addition of a

seepage pit. The application provides an improved landscape plan where little to none currently exists.

31. The Engineer testified that the application presents no adverse impact the Municipal Land Use Law, the Master Plan or Zoning ordinance in that all that is being proposed is one additional unit which is in keeping with the building abutting the site. IN addition, the opposite side of the site is next to Route 80. As such the application satisfies the negative criteria.
32. The Applicant and Engineer agreed that they would place nothing on top of the building in the form of antennas, poles, or wires.
33. The board finds the witnesses were credible and that the Applicant has complied with all recommendations of the Board.
34. The Board finds the application will improve the building which is currently in disrepair and in need of upgrades and the proposal will provide an aesthetically pleasing building that is consistent with the neighborhood.
35. The new unit will benefit the area and provide a refreshed appearance to the area. The Board finds that the single unit will have a minimal impact on existing parking in the area.
36. The Board finds the site can easily accommodate the density and parking deviation and the new building is consistent with the area, and the height of the old building will not overpower the area and fits into the character of the neighborhood and is compatible.
37. The Board finds the application meets the requirements for special reasons required for a D-5 use variance as the site is uniquely situated for this use. The variance can

be granted “without substantial detriment to the public good” and “without substantial impairment to the intent and purpose of the zone plan and zoning ordinance” The principles of the positive criteria have been met in that this is a unique use which generates limited traffic which promotes the general welfare, and the use is suitable in size and configuration for the site.

38. The application meets the positive criteria in that it is uniquely suitable for the site as it will enhance the appearance of the area. This was corroborated by the Board planner. The Board finds that Master Plan called for establishing additional housing and this application will serve to clean up the site, which currently contains an empty lot and will replace it with a finished aesthetically pleasing buildings with appropriate landscaping.
39. The application meets the goals of the Zoning Code and Master Plan and promotes the general welfare.
40. The negative criteria have been met in that there is no detriment to the public good and there is no impairment to the use of the zone plan. The Board finds the Applicant has attempted to minimize the parking impact on the neighborhood and has addressed any board concerns. In addition, the site can accommodate the new unit.
41. The Board finds that the proposed application poses no detriment to the zone. The Board finds that the positive effect outweighs any negative effect to the neighborhood. The design is commensurate with the area. The Applicant has presented proof that the purpose of the Municipal Land Use Law will be advanced by a deviation from the zoning ordinance requirements.
42. The Applicant has demonstrated both the positive and negative criteria necessary for

a use variance. The Applicant has demonstrated that a benefit that will be provided by a deviation from the Municipal Land Use Law, would outweigh any detriment to the Municipal Land Use Law.

WHEREAS, the Planning /Zoning Board of the Borough of Bogota has determined the Applicant has presented evidence that establish the positive criteria for granting of use variance relief under NJSA 40:55D-70 (D) 5 as well as NJSA 40:55D-70 (c) 1 and 2 as well as Preliminary and Final Site Plan Approval;

NOW THEREFORE BE IT RESOLVED THAT THE PLANNING/ZONING BOARD OF THE BOROUGH OF BOGOTA, hereby grants Applicant's application as presented. This approval is subject to the following conditions:

1. This approval is specifically granted based upon the testimony of the Applicant, the exhibits, and the application submitted to the Planning/Zoning Board of the Borough of Bogota, all of which have been relied upon by the Board.
2. The Applicant shall comply with all stipulations made on the record to the board.
3. The relief granted to the Applicant is specifically made subject to any conditions referred to herein. In the event any condition is held to be invalid, unenforceable, or unlawful, the approval shall be unenforceable. It is the intent of the Board that the application not be approved if any condition is invalid and that the conditions are not severable from any relief granted herein.
4. Any violation of these conditions would result in a rescission of the approval, and result in the revocation of any certificate of occupancy for the subject site.
5. The Applicant shall pay all professional fees incurred by the Board as a result of this application. In the event any professional escrow of the Applicant has been exhausted, said escrow shall be replenished prior to the issuance of any certificates of occupancy.

6. Applicant shall enter into a developer's agreement with the Borough of Bogota regarding all public improvements and shall post-performance bonds to ensure all public improvements will be completed, will be posted by the Applicant as a condition of approval.
7. All Plans including the final site plan plat of the Applicant shall be subject to the final review and approval of the Board Engineer, Borough Planner to ensure compliance with all stipulations of Applicant made on the record as well as applicable standards and codes.
8. The Applicant will provide the Board Engineer with structural calculations before construction, and will provide confirmation that the current sanitary sewer, water service and other utilities are adequate for the site. This shall include a telescopic inspection of the building sewer lateral before and after construction, and video of the inspection of the lateral shall be provided to the Board Engineer.
9. Applicant shall comply with the general comments and requirements set forth in the review letters of the Board Engineer and Borough Planner.
10. The EV Charging station shall be located between the provided handicap parking space and the space next to it to allow for EV charging if the handicap space is in use.
11. The design of the façade of 8 Queen Anne Road shall match the exterior of 2 Queen Anne Road to the extent possible.
12. Applicant shall provide screening of, or shall place and roof top mechanical equipment in a manner that same will not be visible from the street.
13. All construction shall comply with all controlling construction, environmental, engineering and fire safety codes. The Applicant shall obtain all necessary state, county

and municipal approvals and building permits. Applicant shall comply with all resolutions issued by the Governing Body regarding the subject site.

14. The Applicant shall obtain all necessary municipal and county approvals and building permits required for the site including: Soil Moving Permit; Bergen County Soil Conservation District; Treatment Work Approval; Bergen County Planning Board.
15. Applicant shall enter into a Developer's Agreement with the Borough to address maintenance of trees and off-site improvements, said agreement shall be prepared by the Board Attorney, and is subject to review of Borough Attorney.
16. Paul Fine, as the Sole/managing member of JZA LLC and 8 Queen Anne Road LLC will grant a common access easement over both entities beginning at the ingress and egress point spanning the length of both lots 16 and 17 to the dumpster corral for vehicle traffic to and from the parking area. The common access easement over 2 and 8 Queen Anne Road shall allow for vehicles to use both properties and for the garbage trucks to access the dumpster pad. It shall also create a joint parking easement agreement over both properties so that both buildings may park in the parking lot. Said agreement shall be provided to the Board Attorney and Engineer for approval prior to recording.
17. The Dumpster corral shall be screen to block the view of the dumpster.
18. The roof line of the proposed addition shall be designed in such a way to be as similar to the roof line of the building on lot 17.
19. Applicant shall consult the Borough Environmental commission regarding the planting trees in the right of way. A landscape plan must be submitted to the Borough Environmental Commission for approval.

20. The Applicant and owner may not place any poles, wires, cellular antennas, or similar devices on the roof top.

PLANNING/ZONING BOARD OF THE BOROUGH OF BOGOTA

Patricia Morrone
Patricia Morrone, Secretary

Corrado Mancini
Corrado Mancini, Chairman

I hereby certify the foregoing to be a true copy of a resolution adopted by the Planning Zoning Board of the Borough of Bogota at a meeting held on 10 Dec, 2023.

ATTEST: Patricia Morrone
Patricia Morrone, Clerk of the Board