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Planning & Real Estate Consultants

October 8, 2024
Revised October 28, 2024

Planning/Zoning Board
Borough of Bogota
375 Larch Avenue
Bogota, New Jersey 07603

RE: **Application of Tiger Lily Holdings LLC
Block 39, Lot 3 (114 East Main Street)
Use Variance Approval for Conversion from Office to Residential Use**

*Note: This letter supplements my original review letter dated July 19, 2024 to address amended plans. New information is denoted in **bold underline**, deletions are shown in ~~strikethrough~~.*

Dear Members of the Planning/Zoning Board:

Introduction

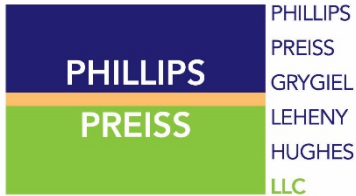
As per your direction, I have reviewed the above-referenced development application. The applicant is proposing to convert an existing second floor office to residential in an existing building on East Main Street that has a commercial space on the first floor. The application requires a use variance to permit the proposed conversion.

As part of my analysis, I undertook the following tasks: an inspection of the subject premises and a survey of surrounding land uses; review of the filed application materials including the Location Map, Survey Map, Notes, Floor Plans, and Building Data, prepared by K. H. Lee Architects, dated September 23, 2024 (one sheet); review of the Borough of Bogota Zoning Ordinance and Zoning Map; and review of the Borough of Bogota Master Plan.

Description of Site and Surrounding Land Uses

The subject property is designated as Block 39, Lot 3 on the Borough’s official tax maps. It is located in the northeastern section of the Borough of Bogota, two blocks west of the Township of Teaneck, at the corner of East Main Street and Second Place. The site is rectangular in shape with 20 feet of frontage on East Main Street and 86.98 feet of frontage on Second Place. The lot area is 1,788.9 square feet (0.041 acres). The subject property is developed with a two-story building with two current occupants: a florist business on the first floor, and medical office space on the second floor. There is a fence perpendicular to the rear of the existing building, and a concrete wall of unknown height following the west property line.

Photographs of existing site conditions are attached to this letter.



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The area surrounding the subject property is developed with a mix of land uses. The property is part of a line of commercial properties fronting East Main Street on both sides and is located two blocks west from the Teaneck Township border. In addition to the subject building, the block consists of a one-story commercial building to the west, also fronting East Main Street, which includes an adolescent therapy office and a drive-through bank. To the rear, there are four two-story residential dwellings, followed by an apartment building. Across Second Place to the east are single-family residential dwellings and across East Main Street to the north, there are commercial spaces including a restaurant, catering and event planning business, a tattoo shop, and an animal hospital. There are two apartment complexes to the west of the property. One block to the rear, there is a Catholic Church and the Bogota Middle School. Two blocks north sits the Bogota High School.

Bus stops are located a short distance to the west and east of the subject property. Sidewalks are provided on all street frontages in the vicinity. There is one-hour street parking along East Main Street.

Summary of Development Proposal

The Applicant is proposing to convert second floor of the existing two-story building from office to a residential unit and maintain the existing retail space on the first floor. There are no proposed internal changes to the first floor. The architectural plans show the residential conversion to consist of two bedrooms (a master and a standard bedroom), each with closet space, one full bathroom, a living room, a combined kitchen and dining room, and a closet with in-unit laundry facilities.

A balcony is proposed on the front façade of the building. The applicant is proposing to modify the roof by adding an enclosed staircase with a metal roof leading down to the second floor.

According to the survey included on the plans, there is an existing parking area to the rear of the building. Based on a site visit, there are four parking spaces in this area, which require vehicles to back out directly into the Second Place right-of-way. A trash enclosure is located adjacent to the southwest corner of the building. No landscaping is provided on the site, other than planters in front of the building. A street tree is located on East Main Street in front of the building. There do not appear to be any proposed changes to the existing front building signage or exterior lighting.

Zoning Compliance

The subject property is located in the B-1 Business Retail zone district. Permitted principal uses in the B-1 zone are as follows:

- Only the following retail, trade, and service uses: Antique shops; bakeries; barber shops; beauty salons; book and stationery stores; bicycle shops; butcher shops; candy stores; copy stores; computer, telephone and cellular telephone stores; delis; drugstores; dry-cleaning establishments; florists; food and grocery stores; gift, card, and novelty stores; health club and fitness centers; nursery school and day-care centers; hardware stores; home brewery supply stores; jewelry stores; package liquor stores; musical instrument and musical supply shops; painting and wallpaper stores; photographic equipment and supply stores; radio and television sales and repair stores; real estate and insurance offices; record and compact disk stores; restaurants and other businesses selling prepared food; shoe repair shops; taxi stands; thrift shops; travel agencies; videotape equipment, rental, and repair stores.
- Business and professional offices.
- Banks and financial institutions.
- Municipal buildings and facilities.
- Places of worship, subject to subsection 21A-10.1.
- Schools, public or parochial.

Permitted accessory uses in the B-1 zone are as follows:

- Parking lots.
- Garages to house commercial vehicles associated with permitted commercial uses.
- Signs.
- Fences.

Permitted conditional uses in the B-1 zone are as follows:

- Public utilities
- Automobile service station

No exterior changes are proposed to the building or site layout.

As residential uses are not listed as a permitted use in the B-1 zone, it has been determined that a “d(1)” use variance is required to permit the proposal.

The following table outlines the proposed development’s compliance with the applicable parking requirements of the Zoning Ordinance:



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	Required	Existing and Proposed
Minimum parking spaces <i>Residential: 1 unit x 2.0 spaces per unit = 2.0 spaces</i> <i>Retail: 1 space/200 sq. ft. (1,785.96 ±800 sq. ft.) = 8.9</i> <i><u>4.41 spaces, rounded down to 4.0</u></i>	<u>11.6</u>	4 (v)

(v): variance required.

It is noted that the submitted plans do not provide floor plans for the first floor or any information regarding its area, other than a “building area” of 882 square feet. The applicant’s architect must provide testimony regarding the actual floor area, which would likely be closer to 800 square feet. Therefore a “c” variance is required for parking.

Planning Analysis and Issues for Consideration by the Board

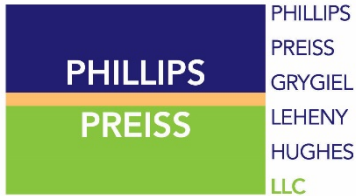
We offer the following for your consideration in reviewing this application:

1. The applicant is seeking a “d(1)” use variance for the proposed residential use. The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70d(1) permits a board of adjustment to grant a variance to allow “a use or principal structure in a district restricted against such use or principal structure.” Per the MLUL, a “d” variance may be granted only “in particular cases for special reasons.” These “special reasons” for a use variance may include that the use is inherently beneficial, that there is a hardship precluding the site being developed for a permitted use, or that the site is particularly suited for the use so as to promote the general welfare.

In addition, a variance applicant must address the “negative criteria,” and affirmatively demonstrate that 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” of the municipality.

A “d(1)” variance applicant for a use that is not inherently beneficial is further required to address the “enhanced quality of proof” per Medici v. BPR Co. (107 NJ 1 [1987]): “the grant of a use variance is not inconsistent with the intent and purpose of the master plan and zoning ordinance.” The applicant’s planner must provide testimony addressing the above proofs.

2. The application requires a “c” variance for the number of parking spaces. The MLUL at N.J.S.A. 40:55D-70c permits a land use board to grant variances from the bulk regulations of a zoning ordinance and other zoning deviations that do not require a “d” variance. A “c(1)” variance is for cases of hardship due to factors such as shape or topography, or due to “an extraordinary and



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exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.” A “c(2)” variance may be granted where the purposes of zoning are advanced and the benefits of deviating from the ordinance requirements outweigh any detriments. The benefits derived from granting a “c(2)” variance must include benefits to the community as a whole, not just to the applicant or property owner. A “c” variance applicant also must address the “negative criteria” described above. Testimony must be provided addressing the above proofs. **As noted, testimony must be provided to confirm the first floor area, though it is noted that the required number of parking spaces for the commercial use would be 4 spaces due to rounding down, even if the entire building footprint (882 square feet) was included in the calculation. When the 2 space requirement for the second floor is added in, the overall requirement is for 6 spaces, while 4 spaces are provided.**

3. Testimony must be provided regarding the existing and proposed use of the parking lot. In particular, information should be provided as to any limitations on usage by the two uses of the building or other restrictions.
4. Information should be provided regarding the proposed use of the roof and whether there are any existing and/or proposed structures on it, such as mechanical equipment, its proposed surface and improvements and whether safety railings are proposed. It is noted the proposed stairway to the roof is only accessible from the proposed dwelling unit.

If the Board has any questions or comments on the above, I would be happy to address them at the public hearing.

Respectfully submitted,

Paul Grygiel, AICP, PP
Principal

Site Photographs – taken October 7, 2024 at approximately 4:30 PM





