



June 29, 2021
Revised July 23, 2021

Mr. George A. Castro, II, Chairman
Commissioners & Members
City of Elizabeth Zoning Board of Adjustment
50 Winfield Scott Plaza
Elizabeth, NJ 07201

**Re: 331-337 Morris, LLC
331-337 Morris Avenue
Application No. Z-09-21
City of Elizabeth, NJ**

Dear Chairman & Members of the Board:

Our office is in receipt of a revised application by 331-337 Morris, LLC for a use variance with preliminary and final site plan approval and bulk variances for the above referenced property located at 331-337 Morris Avenue. The property is identified on the City Tax Maps as Lot 677, Block 11 and has an area of 13,572.3 square feet. Currently the property contains a one-story commercial building with a pharmacy and restaurant, operating as “The Garden”. The building has an area of 4,533 square feet of which 2,782 square feet is occupied by the pharmacy and 1,751 square feet is occupied by the restaurant.

Under the COVID Executive Order, the restaurant has been utilizing a temporary outdoor dining area that occupies a portion of the front yard, the right-side yard, and a portion of the rear yard. The Emergency Order is due to expire 10/21/21. The Applicant was initially proposing to construct a permanent outdoor eating area in the same location. The enclosure will have an area of 3,321 square feet. The plans indicate that the structure will be constructed of a metal frame and fabric cover.

The plans have been revised as follows:

1. The plans indicate that the structure will contain 2,944 square feet, will be climate controlled and will be utilized year-round.
2. A 23' high masonry wall is proposed along the right property line.
3. The setback to the right property line has been increased to 3.0'.
4. The proposed seating layout has been added.

We have reviewed the plan and application and we offer the following comments:

Planning Comments:

1. The property in question is in the C-5 Commercial Zone. Restaurants are not permitted in the C-5 Zone; therefore a d.1 Use Variance is being requested.
2. The Applicant is requesting the following bulk variances:
 - a. Under Section 17.36.150.b.6.a of the City Code, the minimum required front yard setback is 6.10' prevailing, whereas a setback of 0' is proposed.
 - b. Under Section 17.36.150.b.6.c of the City Code, the minimum required front rear setback is 30.20' prevailing, whereas a setback of 0' is proposed.
3. A parking variance is being requested for the number of parking spaces. A total of 47 spaces are required, whereas 6 on-site spaces are proposed. The plans indicate that the site has historically contained 14 to 15 parking spaces based on historic aerial images. The site currently contains 6 spaces with the existing outdoor eating enclosure in place. See Comment 4 below.

General Comments:

1. The Applicant shall provide testimony in support of each variance being requested.
2. The revised plans include 110 seats, new storage areas, and new freezers. A 23' high masonry wall has been added to the right side at a setback of 3.0' from the property line. Also, the front door along Morris Avenue has been recessed as to not swing into the Morris Avenue sidewalk.
3. The parking analysis has been updated to include the retail area in the pharmacy, employee parking for the restaurant and 110 customer seats. Under Section 17.40 of the City Code, the required number of required off-street parking spaces 1 space per 300 square feet for retail and one space for every two employees plus one space per four seats for restaurants.
4. The Applicant has provided a lease agreement with the property owner at 416 Morris Avenue to utilize 40 parking spaces in their parking lot. Testimony should be provided in support of the shared parking arrangement.
5. Testimony shall be provided with respect to the configuration, material colors and textures of the proposed structure.
6. A new sign is proposed on the front façade measuring 2.0' high by 16.0' wide and 12.5' from the ground to the top of the sign. The sign as proposed is conforming. Testimony should be provided with respect to the colors, materials, and illumination.
7. The site plans depict a refuse area in the left rear corner of the property.
8. The Applicant shall determine if the increased seating capacity requires a Treatment Works Permit from the NJDEP.

9. The Applicant shall provide testimony with respect to any impacts on existing site drainage from the proposed structure.
10. Security Planters are proposed to separate the parking spaces from the eating area.
11. The Applicant shall comply with the comments of the City Engineer, dated 06/15/21.
12. The Applicant shall comply with all directives of the City of Elizabeth Fire Official.
13. Prior to issuance of building permits, compliance with all conditions of approval indicated in the resolution shall be verified by the Board Engineer.
14. After resolution compliance, an electronic copy of the approved drawings shall be provided to the Board Engineer. The file format may be PDF, JPEG, or TIF.
15. The Applicant shall arrange a pre-construction meeting with the Board Engineer and Construction Official at least one week prior to start of construction.
16. An engineer's estimate for site improvements must be submitted prior to signature by the Board Chairperson.
17. The Applicant must post performance guarantees and inspection fees with the City of Elizabeth prior to beginning of any on-site construction activities.

Regulatory Agency Approvals

1. The applicant shall file with the Board and Construction Official copies of all necessary agency approvals other than municipal agencies having land use jurisdiction over the application.
2. The Applicant is required to obtain the following regulatory approvals prior to the issuance of building permits for this project:
 - a. Union County Planning Board.
 - b. Somerset – Union Soil Conservation District.
 - c. City Fire Official.
 - d. City Utility and Road Opening Permits.
 - e. Any other regulatory agency having jurisdiction over, or which require an approval or permit to be obtained by the Applicant.
3. It is the Applicant's responsibility to secure all required permits and approvals.

Documents Reviewed:

1. Site Plans entitled “Proposed Outdoor Dining Area, 331-337 Morris Avenue, Block 11, Lot 677, Union County, City of Elizabeth, New Jersey”, prepared by Neglia Engineering Associates, last revised July 15, 2021, consisting of 2 sheets.
2. Architectural Plans entitled “The Garden, 331 Morris Avenue, Elizabeth, New Jersey”, prepared by Waga Enterprises Architects, LLC, last revised July 15, 2021, consisting of 4 sheets.
3. Structural Plans “The Garden, 331 Morris Avenue, Elizabeth, New Jersey”, prepared by S3DA Design, dated June 14, 2021, consisting of 4 sheets.
4. Structural Calculations for The Garden Canopy, prepared by S3DA Design, dated June 14, 2021.
5. Lease agreement between 416 Avenue LLC and Pollo Rotisserie and Bakery LLC for use of parking spaces.

The above comments presented in this letter are for the consideration of the Board Members, the Applicant, and the Applicants Professionals. We reserve the right to further comment based upon the testimony at the public hearing and/or the submission of any additional documentation. Please contact our office should you have any questions or comments.

Very truly yours,



Anthony G. Gallerano, PE, PP
Harbor Consultants, Inc.