

## MEMORANDUM

Number: 1000.3.21  
To: Mark Sokolich, Esq.  
Date: January 5, 2021; **April 9, 2021**  
Subject: V & R Developers, Inc site plan  
311 East Edsall Boulevard (Lot 15 in Block 412)  
Borough of Palisades Park, New Jersey

### BACKGROUND

The applicants propose to demolish a two story brick and stone single family residence, located on the above noted site, and construct a new ~~eleven~~ **seven** unit townhouse development. The ~~two building groups~~ **proposed building** will face an interior circulation aisle. ~~one building group will have five units and one will have six units.~~ The property is located on the northern side of East Edsall Boulevard, between Eighth Street and Bergen Boulevard, in the Township of Palisades Park's AA, Residential Zone. The following are comments in support of the application. Prior comments are ~~struck through~~ and new comments are **bold**.

### FINDINGS IN SUPPORT OF THE APPLICATION

#### 1. Existing Conditions

The subject property is located on the northern side of East Edsall Boulevard between Eighth Street and Bergen Boulevard; the lot was enlarged at some point with a vacant portion of Ninth Street. The site is currently developed with a two story brick and stone residence, the residence and various site improvements will be removed. The 24,400 sq. ft. lot has a width of 125 ft.

and a depth of 192 ft. The property has a steep slope upward towards the rear of the lot and from west to east towards Bergen Boulevard.

## 2. Neighborhood Conditions

East Edsall Boulevard, Eighth Street and Ninth Street are primarily developed with two family dwellings. The western side of Bergen Boulevard, in the vicinity of the subject site, is developed with two and three family dwellings. The eastern side of Bergen Boulevard is commercially developed.

## 3. Variances Requested

- a. Townhouses are not permitted uses in the AA Zone. The site exceeds the lot area and lot width requirements of the Zone.
- b. The proposed building requires the following additional (d) variance:
  1. Maximum building height: the proposed 3 story building will be ~~36.77 ft. and 36.8 ft.~~ **34.96 ft.** in height, where 2.5 stories and 25 ft. are allowed.
- c. The proposed building requires the following (c) variances:
  1. ~~Minimum lot area per unit: the eleven units will provide a lot area per unit of 2,218 sq. ft., where 2,500 sq. ft. is required.~~
  2. Minimum front yard: a front yard setback of ~~20 ft.~~ **13.1 ft.** will be provided, where 25 ft. is required.
  3. Minimum rear yard: a rear yard of ~~20 ft.~~ **18 ft.** is provided, where 25 ft. is required.

## 4. Special Reasons: Use and Height Variances

Section 40:55D-70(d) of the Municipal Land Use Law allows variances to be granted “in particular cases and for special reasons”, further, “no variances or other relief may be granted... unless such variances or other 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.”

An applicant for a use variance must show that the variance sought is not inconsistent with the intent and purpose of the master plan and zoning ordinance. Proof must reconcile the proposed use variance with the zoning ordinance’s omission of the use from those permitted in the district. This Medici “test” requires an enhanced proof based on what the New Jersey Supreme Court called “the primacy of planning” This holds that to the greatest extent possible, a municipality must establish its land uses based on a master plan and zoning ordinance.

The Grasso v. Borough of Spring Lake Heights case (2004) found that special reasons exist for a height variance if a taller structure than what is permitted by ordinance would nonetheless be consistent with the surrounding neighborhood.

- a. The proposed townhouse development is consistent with and supports the purposes of zoning. The project meets the following purposes of the Municipal Land Use Law: Purpose (a) for the appropriate use of all lands in a manner that will promote the public health, safety, morals and general welfare; Purpose (e) for the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and. The proposed townhouse development is consistent with the development in the surrounding neighborhood in terms of height and density and provides needed housing; Purpose (f) for the encouragement of the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies; Purpose (i) for the promotion of a desirable visual environment through creative development techniques and good civic design and arrangement. The proposal will remove a structure in fair condition and replace it with modern, safe buildings that address the topography of the site, the development of the surrounding sites and meets all building codes.
- b. The site is particularly well suited for the proposed townhouse development as it is nearly 20,000 sq. ft. larger than what is required in the Zone and can accommodate more units. The lot is significantly larger than the surrounding properties which are all approximately

5,000 sq. ft in size. The project has been designed so that the facade facing East Edsall Boulevard have the appearance of a one or two family dwelling and fit in with the neighboring structures.

- c. Although the proposed structure exceeds the height limitation both in terms of stories and feet, they are similar in height to the newer two family dwellings East Edsall Boulevard, Eighth and Ninth Streets. The building has been designed to acknowledge the topographical conditions on the property, with the dwellings to the east at a significantly higher elevation than the subject site.

## 5. Positive Criteria: Bulk Variances

Section 40:55D-70(c)(2) of the Municipal Land Use Law allows variances to be granted “where in an application or appeal relating to a specific piece of property the purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment”. The proposal meets these standards as follows:

- a. The front and rear yards are ~~only minimally~~ less than what is required in the AA Zone. The front porch on the ~~two~~ end unit projects into the front yard setback, but has been designed to give the appearance of a one or two family dwelling. The side yards are fully conforming and reduce impacts on the two adjacent dwellings.
- b. Although the proposed building meet the coverage limitations of the Zone, additional landscaping, walls and fencing will be provided to buffer the adjacent properties. Drainage improvements are also proposed that will reduce impacts on adjacent properties.
- c. The lot is nearly 20,000 sq. ft. larger than what is required for a two family dwelling. The two and three family dwellings in the vicinity are on much smaller lots and produce densities that are similar to what is proposed. **The seven unit townhouse development significantly exceeds the lot area per unit requirement of the Zone.**

## 6. Negative Criteria

The grant of the requested variances will not be substantially detrimental to the public good nor will they substantially impair the intent and purpose of the zoning ordinance for the following reasons:

- a. The proposal is in character with the surrounding residential land uses and is compatible with the existing neighborhood development.
- b. The proposed building provides setbacks similar to what exists on the site and will be further buffered from the adjacent dwellings by landscaping. The building height is similar to the adjacent structures and a sufficient amount of light, air and open space is provided.
- c. A conforming amount of parking will be provided on site to serve the ~~eleven~~ **seven** units, including parking for visitors. No parking is permitted along the lot frontage and there is no loss of street parking. There is only one driveway entrance into the site.
- d. The frontage on East Edsall Boulevard is 2.5 times what is required in the AA Zone. The project has been designed to look like a one or two family dwelling on similar sized lots to those in the neighborhood.

## CONCLUSIONS

The proposal meets both the positive and negative criteria tests. For the reasons stated above, the grant of the requested variances will advance the purposes of zoning and will not be substantially detrimental to the public good nor will it substantially impair the intent and purpose of the zoning ordinance and master plan.

*David Spatz*

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