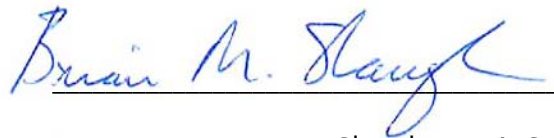


Review 1

398 Broadway, LLC Preliminary and Final Major Site Plan Application P-24-010 Central Business District (CBD)

398 Broadway
Block 226, Lot 44

Prepared for the City of Bayonne by:



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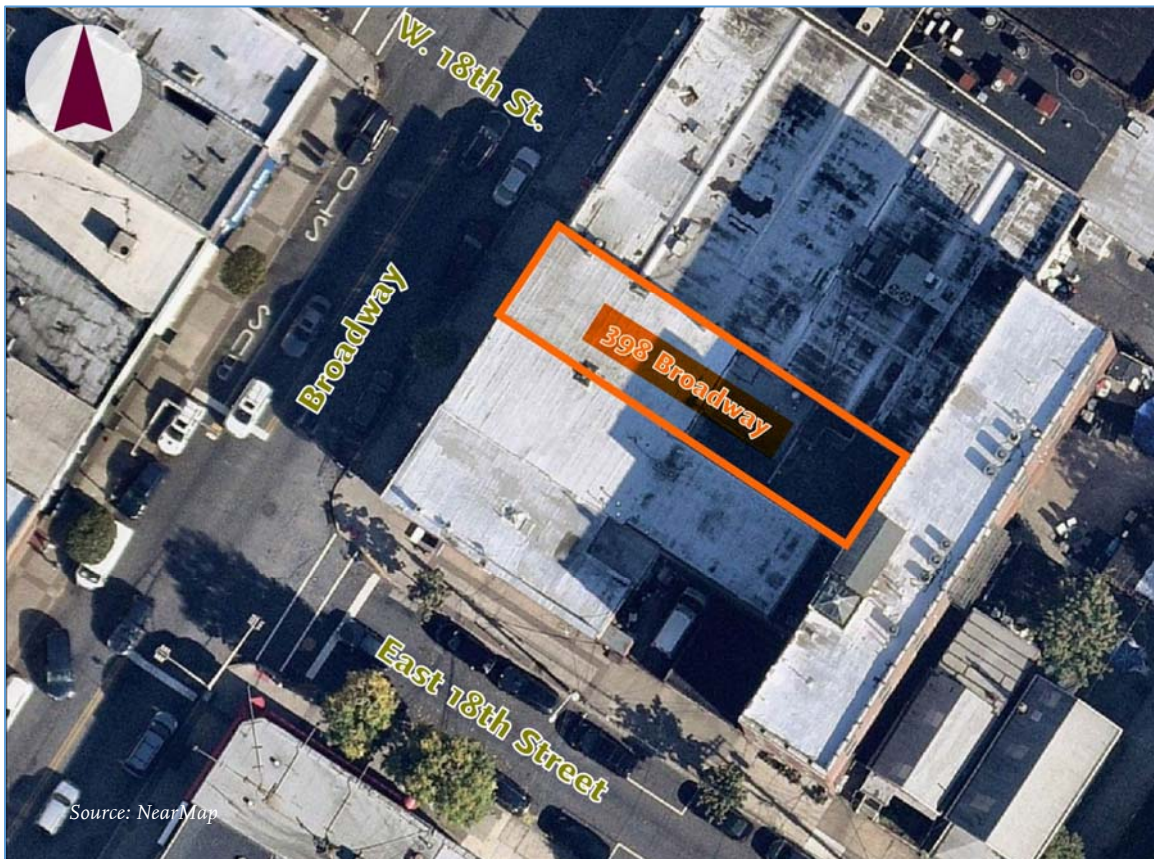
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INTRODUCTION

1. Project Summary and Site Description

- 1.1. Proposal.** The applicant is requesting major preliminary and final site plan approval and bulk variance relief to construct an addition to an existing mixed-use building located in the Central Business District (CBD). The existing two-story building contains a dance studio on the ground floor and two residential apartments on the second floor, one of which contains two bedrooms, and the other one bedroom. The proposed addition would extend the building towards the rear. The addition would also extend the building upward. The rear addition would allow for an extension of the ground floor dance studio as well as expand the existing one bedroom apartment into a three bedroom with a private roof deck. Several bulk variances and a parking variance are required. See site aerial below.



Aerial Image of Block 226, Lot 44 and Surrounding Area¹

- 1.2. Existing Conditions.** The site consists of a rectilinear interior lot located on the east side of Broadway near the corners of East and West 18th Street (18th Street is off-set where it intersects Broadway). The property fronts on Broadway and is located within the commercial center of the City and in the Central Business District. The building's location

¹ - Image source: NearMap, dated October 11, 2024.

on the site encompasses the entire width of the lot and extends about 73 feet into the 100 foot depth of the property. The rear yard is paved with concrete and consequently is 100% impervious.

The building is attached to the adjacent buildings on either side. The existing building consists of a ground level storefront façade with a brick base and tall shop windows. An awning protrudes beyond the façade identifying the dance studio. A separate entrance leads to the upstairs, residential portion of the building, and the second story façade contains a blue-gray siding with four windows.

- 1.3. **Neighborhood Context.** The subject property is located within the typical mixed-use urban corridor along Broadway. Surrounding uses consist of other mixed-buildings with commercial uses on the ground floor and residential uses on upper floors or fully commercial uses, including grocery stores, retail shops, services, and a variety of restaurants. Buildings range from one to three stories in height. The neighborhood is walkable and pedestrian friendly with wide sidewalks on either side of the street. Nearby side streets consist of residences in the form of single-, two-, and multi-family buildings.

ZONING – CENTRAL BUSINESS DISTRICT (CBD)

2. Use Standards

- 2.1. **Permitted Uses.** The CBD include numerous permitted uses. Dance instruction studios are explicitly permitted as are apartments above the ground floor.
- 2.2. **Bedroom Number.** §35-5.10.a.10 only permits apartments with two bedrooms above commercial uses in the CBD. Because the applicant proposes a three bedroom apartment, **a “C” variance will be required.**
- 2.3. **Required Accessory Uses.** Per §35-5.10.b.1, off-street parking is a required accessory use in the CBD District and should comply with §35-17. §35-17.1 states “*provisions of this section shall apply and govern in all zoning districts, with the exception of existing structures in the C-1, C-2, ORS, UBD and CBD districts.*” Thus, this only applies to the expanded portions of the building. The dance studio is being expanded to 1,999 sf. §35-17.6b exempts retail and service uses under 2,000 sf. from any parking requirement. The three bedroom unit requires one and a half spaces and a one bedroom unit, one space, or a net increase of half a space, rounded up to one space. No parking spaces are proposed. **A variance is required.**

3. Area, Yard & Structure Requirements

- 3.1. **Bulk Requirements.** Compliance with the bulk and lot standards of the CBD District is summarized below in Table 1. **Several additional variances are required per the Planning Board’s policy of requiring variances for non-conforming conditions.**



Lot and Bulk Requirements §35-5.10.e			
Standard	Required	Existing	Proposed
Min. Lot Area	3,000 sf.	2,516 sf.	No change ^(v)
Min. Lot Frontage	30 ft.	25 ft.	No change ^(v)
Min. Front Yard Setback	0 ft.	0 ft.	No change
Min. Rear Yard Setback	20 ft.	27 ft. 2 in.	10 ft. ^(v)
Min. Side Yard Setback	0 ft.	0 ft.	0 ft.
Max. Structure Height (feet / habitable stories)	55 ft. / 5 stories	21 ft. / 2 stories	21 ft. / 2 stories
Max. Lot Coverage	70%	100%	100% ^(v)
Max. Floor Area Ratio	4.0	1.1	1.5
^(v) - Variance required.			

- 3.2. **Minimum Lot Area Variance.** The existing lot area is 2,516 sf. where 3,000 sf. is required. **This is a preexisting condition. If a variance has not been received for this nonconformity in the past, it is recommended that the applicant obtain one.**
- 3.3. **Minimum Lot Frontage Variance.** The existing lot frontage is 25 ft. where 30 ft. is required. **This is a preexisting condition. If a variance has not been received for this nonconformity in the past, it is recommended that the applicant obtain one.**
- 3.4. **Minimum Rear Yard Setback Variance.** The existing rear yard setback is 27 ft and two inches, which conforms. It is being reduced to 10 ft. where 20 ft. is required. **A variance is required.**
- 3.5. **Maximum Lot Coverage Variance.** The existing lot coverage is 100% where 70% is permitted. It is recommended that any existing impervious coverage that can be removed be removed. **This is a preexisting condition. If a variance has not been received for this nonconformity in the past, it is recommended that the applicant obtain one.**

4. Site Plan

- 4.1. **Site Access.** The site is accessed from Broadway. The main ground floor entrance provides access to the dance studio, and the entrance to the right of the main entrance provides shared access to the second floor apartment units. The site does not contain any vehicular access. See photograph following page.



Front Façade of Building from Broadway

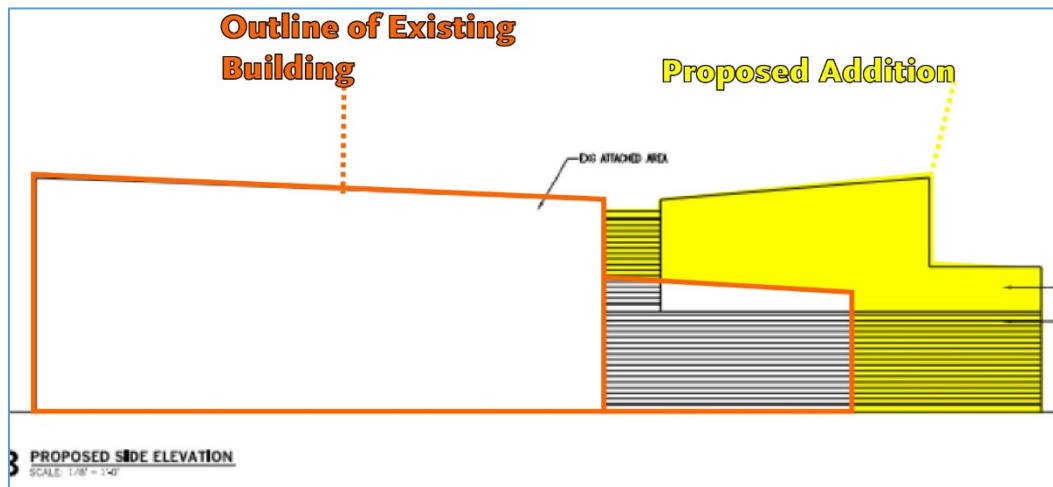
Source: Google Streetview, Oct. 2022

- 4.2. **Lighting.** No lighting is proposed at this time. §33-10.10.a.3 requires that pedestrian areas be lighted with a minimum average illumination of 1.5 footcandles and §33-10.10.2 limits the lighting to one footcandle at property lines and requires shielding. The only pedestrian area on the lot is directly in front of the dance studio door. The applicant should testify as to whether any new lighting is envisioned for this location. If so, it should comply with §33-10.10.
- 4.3. **Landscaping.** Pursuant to §33-10.11.a, landscaping is required as part of any site submission and is required to be designed for the entire site. No landscaping is proposed on site. It is recommended that that applicant provide a street tree if it is deemed by the City Engineer to be feasible. There are street trees on this portion of Broadway, though none in front of the subject property. If it is feasible, this office recommends a Trident Maple (*Acer buergerianum*). This is a native, hardy species that can thrive in an urban environment, if properly watered, and in the narrow space in which the tree will be planted.
- 4.4. **Trash/Recycling.** Per 33-10.13.a, all development applications are required to depict or describe facilities suitable for separation of recyclable materials in accordance with the City's Recycling Ordinance. **The applicant should provide testimony as to how waste storage and disposal is expected to occur in the building.**

- 4.5. **No Signage is Proposed.** The plan does not propose any new signs at this time. If signage is planned, or proposed to change, such a sign will be required to comply with §35-25 of the Ordinance as a condition of any approval, otherwise amended site plan approval and variance relief may be required.

5. Building Design

- 5.1. **Building Design - Exterior.** The exterior changes to the building all occur in the rear portion of the building. The façade will remain unchanged. The left of the following image is the front of the building facing Broadway. The orange outline indicates the existing extent of the building elevation, and the yellow indicates the extent of the proposed addition.



However, if the photograph of the front of the building as it exists is reviewed (preceding page), a refreshing of the second story should be proposed. The siding consists of two different lots of materials, the exterior facing air conditioning unit is unattractive, and the soffit boxed with sheet metal provides no aesthetic relief. With the applicant making this level of investment, this exterior appearance of the second area story on Broadway should also be included in the apartment expansion and renovation plans.

- 5.2. **Building Design - Interior.** The building interior consists of two floor plans, the first level, and the second level. The layout is indicated in the image on the next page, with the existing floor plan indicated in orange, and the proposed addition indicated in yellow.

The rear of the ground level is expanding, creating more space for the dance studio. While it appears that this space will be used for dance instruction and performance, the applicant should confirm its use.

The second level is also expanding in the rear, enlarging one of the two existing apartments on the second floor. The existing living room, kitchen, and bathroom are combined to be an open concept kitchen, while the addition contains a short hallway with two bathrooms, a utility closet, and a bedroom, terminating in master bedroom with a closet and access to a rear terrace.



6. Consideration of the “C” Variance

6.1. **Overall Comment.** The following sections summarize the “c” variance criteria for the purposes of establishing a framework for review. The applicant bears the burden of proof, which is divided into two parts, in the justification of the “c” variances. The applicant must justify the “c” variances separately and each variance must satisfy both parts. We defer to the Board Attorney for any additional comment on the “c” variance criteria.

6.2. **Consideration of the Positive Criteria.** To satisfy the positive criteria for a “c” variance, the applicant has two choices. First, known as “c(1)” variance relief, the applicant may demonstrate that strict application of the regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship due to one of the following:

- By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
- By reason of exceptional topographic conditions or physical features uniquely affecting the specific piece of property; or
- By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

Alternatively, and known as “c(2)” variance relief, the applicant may demonstrate the following positive criteria in support of the request for relief:

- Where in an application or appeal relating to a specific piece of property to 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.

6.3. Consideration of the Negative Criteria. Should the applicant satisfy the positive criteria, it must also be demonstrated that that the granting of the variance can be accomplished without resulting in substantial detriment to the public good and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan.

- Impact to the public health, safety and welfare. Impact to the public, typically relates to any substantial detriment to the adjoining neighbors or within the surrounding neighborhood. Substantial detriments are usually nuisance related such as noise, dust, trash, parking, traffic, visual distraction, light, runoff, vegetation removal and aesthetics that cannot be adequately mitigated. The applicant should address any impacts to the character of the neighborhood resulting from the proposed position of the swimming pool and related structures.
- Impact to the zone plan. The applicant must show that the relief can be granted without substantially impairing the zone plan and zoning ordinance. In evaluating the negative criteria as it relates to the zoning ordinance and zone plan, the Board should consider the manner in which this application could impact the overall fulfillment of the AR zone.

The applicant should provide testimony in support of the variances, and be prepared to discuss any potential negative impacts on neighboring properties and the zone plan.

6.4. Variance Discussion.

- 6.4.1. Number of Bedrooms.** One additional bedroom in the City will have a negligible effect on population, even if the bedroom is actually used fully as a bedroom and not a guest bedroom or a home office. Given that virtually all of the new residential development in redevelopment areas, which is the vast majority of building in the City is two bedrooms or less, one three bedroom unit would slightly aid in redressing the balance of housing in Bayonne.
- 6.4.2. Minimum Lot Size.** Regarding the variance for minimum lot size, this office recognizes that the lot size is not changing, however, the use of the site is intensifying, further exacerbating the undersized lot. The applicant should provide testimony as to how this proposal furthers the purposes of zoning, while also stating how negative impacts to neighboring properties are to be mitigated.
- 6.4.3. Minimum Rear Yard.** Regarding the variance for the minimum rear yard setback, this office notes that a new nonconformity is being created. The applicant should provide testimony as to how this proposal furthers the purposes of zoning, while also stating how negative impacts to neighboring properties are to be mitigated.

- 6.4.4. **Maximum Lot Coverage.** Regarding the variance for maximum lot coverage, this office notes that the condition is not changing. However, this does create an opportunity to mitigate the excessive lot coverage. It is recommended that the applicant reduce the lot coverage, if feasible or incorporate green infrastructure.
- 6.4.5. **Minimum Number of Parking Spaces.** Regarding the variance for parking, this office notes that the site does not contain parking, nor does the site allow for parking. This is a limitation of the subject property. The expanded commercial use is exempt from any parking requirements, the front apartment is not changing, and so the applicant is only responsible for the additional one parking spaces required for expanding the rear apartment from one to three bedrooms. The site is located within a ten minute walk of the 22nd Street Light Rail Station, and shorter walks to bus stops on Broadway and Avenue C. A parking variance in this instance appears reasonable.

SUMMARY

7. Applicant / Owner / Consultants

- 7.1. **Applicant/Owner.** 398 Broadway, LLC, 398 Broadway, Bayonne, NJ 07002. Tel: 201.339.0924.
- 7.2. **Attorney.** Paul Weeks, Esq., Raff, Masone, Weeks, PA., 1083 Avenue C, Bayonne, NJ 07002. Tel: 201.339.0924. Email: firm@rmwlawfirm.com.
- 7.3. **Architect/Planner.** Stephen M. Kawalek, RA, PP, Kawalek + Kawalek Architects, LLC, 772 ½ Broadway, Bayonne, NJ 07002. Tel: 201.437.0648.

8. Materials Reviewed

- 8.1. *City of Bayonne Application for Development Form (P-24-010)*, with attachments, dated March 21, 2024.
- 8.2. *Statement of the Applicant*, undated.
- 8.3. *Zoning Officer referral Letter*, dated March 5, 2024.
- 8.4. Property Deed for 398 Broadway, dated October 26, 2009.
- 8.5. *Survey for Property Located at 398 Broadway*, 1 sheet prepared by P.L. Caulfield, Jr., PLS, Caulfield Associates, LLP, dated February 16, 2023.
- 8.6. *Site Plan and Architectural Plans for 398 Broadway*, 2 sheets prepared by Stephen M. Kawalek, RA, PP, dated February 26, 2024.
- 8.7. Building Construction Official Recommendations, dated October 17, 2024, prepared by Joseph Benkert.



9. Relief Required

9.1. Variances:

§35-5.10.a.10	Number of Bedrooms
§35-5.10.e	Minimum Lot Area
§35-5.10.e	Minimum Lot Frontage
§35-5.10.e	Minimum Rear Yard Setback
§35-5.10.e	Maximum Lot Coverage

Note that additional variances and exceptions may be identified by the Board or the other professionals employed by the Board. The same applies to the conditions of approval.

10. Conditions of Approval

- 10.1. **Affordable Housing Fees for Residential Development.** As a condition of approval, any required residential affordable housing fees required by the City ordinance should be paid.
- 10.2. **Final Approval of Exterior Design.** As a condition of approval, any redesign of the façade facing Broadway shall be reviewed and approved by the Board Consulting Planner.

We would be pleased to answer any questions regarding this report.

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