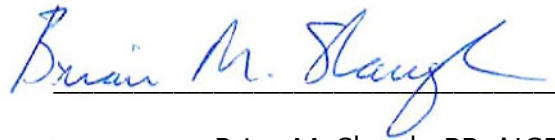


Review 1

Preliminary and Final Major Site Plan
377 Broadway Realty, LLC (P-23-007)

377 Broadway
Block 239, Lot 13
Central Business District (CBD) Zone
Town Center Special Improvement District (SID)

Prepared for the City of Bayonne by:



Brian M. Slauch, PP, AICP
Professional Planning License No. 3743



James Clavelli, PP, AICP
Professional Planning License No. 6514

With the assistance of Tristan Harrison, PP, AICP
Professional Planning License No. 6528

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CLARKE CATON HINTZ, PC
100 Barrack Street
Trenton, New Jersey 08608
(609) 883-8383

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INTRODUCTION

1. Project Summary and Site Description

- 1.1. Project Summary.** The applicant requests site plan approval with bulk variance relief to construct a third-floor addition containing two (2) new two-bedroom apartments and an occupiable roof on top of an existing two-story mixed-use building containing three apartments and 526 sf. of ground-floor commercial space, or five dwellings in total. The property is an undersized lot in the CBD Zone and the Town Center Special Improvement District (SID). No site work is proposed.



- 1.2. Existing Conditions.** The property consists of one 2,500 sf., undersized lot with a 1,512-square-foot mixed-use building containing 526 square feet of commercial space, a single ground-floor one-bedroom dwelling, and two, two-bedroom dwellings on the second floor. An existing passageway with gated access onto Broadway is located at the ground floor adjacent to the commercial use. The passageway provides access to the existing residential units but stops short of providing access all the way to the rear yard.
- 1.3. Neighborhood Context.** The site is located directly across from where E. 17th Street intersects Broadway. Neighboring uses generally consist of mixed-use buildings measuring one (1) to three (3) stories. Typically, commercial uses are found on the ground floor, only.
- 1.4. Special Improvement District.** The property is located within the Town Center Special Improvement District (SID), which establishes guidelines for architectural design, façade colors and signage within the district.



377 Broadway Building Frontage



377 Broadway Streetscape

- 1.5. **Relief Required.** A comprehensive list of the required relief and recommended conditions of approval are found in Section 13 of this report. **Two variances, two design exceptions, and a *de minimis* RSIS exception are required.**

ZONING

2. Use Standards

- 2.1. **Permitted Use: Retail Commercial.** Per §35-5.10, permitted principal uses include retail commercial uses. The plan complies. **This office recommends the applicant provide testimony on the occupancy of the existing retail space by the current tenant. At present, it appears to be a clothing shop, which is consistent with a commercial retail use.**
- 2.2. **Permitted Use: Apartments.** Per §35-5.10, permitted principal uses include apartments on floors above the street level floor provided that each apartment has a minimum of 600 square feet of habitable floor area. The existing structure contains a 425-square-foot, ground-level apartment in the rear of the building. While nonconforming as to location and size, this office assumes this use is legally preexisting as no evidence has been provided to suggest otherwise. The proposed addition does not expand this preexisting nonconforming use. The proposed addition complies with the use regulations.

3. Bulk Requirements

- 3.1. **CBD Zone Bulk Regulations.** Compliance with lot and bulk standards of the CBD Zone is summarized below in Table 1.0. **One bulk variance for rear yard setback is required.**

| Table 1.0: CBD Zone Bulk Regulations §35-5.10 | | | |
|--|----------|---------------|-----------|
| Standard | Required | Existing | Proposed |
| Min. Lot Area (square feet) | 3,000 | 2,500 (PE) | 2,500 (V) |
| Min. Lot Frontage (feet) | 30 | 25 (PE) | 25 (V) |
| Max. Building Height (stories / feet) | 5 / 55 | 2 / 25.6 | 4 / 41.9 |
| Min. Building Setbacks (feet) | | | |
| Front | 0 | 0 | 0 |
| Rear | 20 | 19.33 (PE) | 19.33 (V) |
| Side | 0 | 0 | 0 |
| Max. Floor Area Ratio Limit | 4.0 | Not Specified | 2.1 |
| Max. Lot Coverage | 70% | 100% (PE) | 100% (V) |
| (PE) = Preexisting, Nonconforming Condition (V) = Variance Required | | | |

- 3.1.1. **Rear Yard Setback.** Pursuant to §35-5.10.e.4, a rear yard setback of 20 feet is required, where a setback of 19.33 feet exists. The applicant proposes to build straight up from

this setback for the proposed third floor. **A variance is required for the proposed new encroachment of the third floor into the rear yard setback by 0.67 feet.**

- 3.1.2. **Lot Area.** Pursuant to §35-5.10.e.1, the minimum lot area is 3,000 sf. in the district, where 2,500 sf. exists and the same is proposed. This is a preexisting nonconforming condition. **Board practice is to require applicants to seek variance relief.**
- 3.1.3. **Lot Frontage.** Pursuant to §35-5.10.e.2, the minimum lot frontage is 30 feet, where 25 feet exists and the same is proposed. This is a preexisting nonconforming condition. **Board practice is to require applicants to seek variance relief.**
- 3.1.4. **Lot Coverage.** Pursuant to §35-5.10.e.7, the maximum lot coverage is 70%, where 100% exists and 100% is proposed. This is a preexisting nonconforming condition. **Board practice is to require applicants to seek variance relief.**
- 3.1.5. **Utilization of Curb Cut.** The CBD regulations seek to remove curb cuts from Broadway under §35-5.10.f.3 where the applicant seeks to use or continue to use the one in front of the gate at the street sidewalk. This variance would no longer be needed if the Board agrees that the proposed parking spaces under the building are not viable and do not meet parking space size standards.
- 3.1.6. **Parking Allowed in Rear Yards Only.** In addition, the CBD regulations limit parking to rear yards only under §35-5.10.f.4. Aside from the fact that the rear yard is not large enough for parking nor accessible from the street, if the Board agrees that the proposed parking spaces under the building are not viable, then this variance would not be necessary.
- 3.2. **Usable Open Space.** Pursuant to §35-5.26.k, all multi-family dwellings must provide minimum usable open space based on unit type. Compliance with this requirement is summarized below in Table 2. The plan proposes a 2,028 sf. rooftop deck area accessed by the common stairwell. **This office recommends that the applicant provide testimony on whether the proposed rooftop area will be shared and accessible by all existing and proposed residential units.** If this is the case, then the plan will meet the ordinance requirement.

| Table 2. Usable Open Space Requirement §35-5.26 | | | | |
|---|------------------------|------------------|----------|------------------|
| Unit Type | Standard | Required | Existing | Proposed |
| 1-Bedroom Apartment | 200 square feet / unit | 200 sf. | 0 | 2,028 sf. |
| 2-Bedroom Apartment | 250 square feet / unit | 1,250 sf. | 0 | |
| Total | | 1,450 sf. | 0 | 2,028 sf. |

SITE PLAN REVIEW

4. Circulation and Parking Regulations

- 4.1. **Off-Street Parking Requirement Exception.** Pursuant to §35-17.1, the City’s off-street parking and loading requirements do not apply to existing structures in the CBD zone. Given that the plans propose to expand the existing building to create additional dwelling units, the existing commercial and residential units are exempt from the parking requirements while the two proposed dwelling units generate a parking requirement.
- 4.2. **Off-Street Parking Requirements.** The applicant does not propose to provide any off-site parking spaces for the two new units. Under the parking regulations pertaining to this stretch of Boardway, existing buildings are exempt from providing off-street parking. Consequently, the parking requirement only applies to the new development, namely the two, two-bedroom units on the proposed third floor. Compliance with the City’s off-street parking requirements is summarized below in Table 3.

| Use | Standard | Required | Proposed |
|--|-------------------------------|-----------------|--|
| Existing residential, 1-bedroom | ○ | ○ | ○ |
| Existing residential, 2-bedroom | ○ | ○ | ○ |
| Proposed residential, 2-bedroom | 1.25 spaces per dwelling unit | 2.5 | Applicant Claims 2 spaces |
| Commercial, Retail, <2,000 square feet | ○ | ○ | ○ |
| Total | | 2.5 | Applicant Claims 2 Spaces (v) |
| (V) = Variance Required | | | |

As noted above, at the ground floor there is a gated passageway that provides access to the three apartments as well as the rear of the store. A photograph of this is shown on the next page.

The passageway contains structural steel columns that hold up the second floor and presumably the proposed third floor. The distance between the posts and the wall on the opposite side is 8 feet, 2 inches. Wider vehicles, such as larger SUV’s and pickup trucks may be able to pull into the space, but the motorist or passenger would be unable to open at least one side of the vehicle. In addition, note the air conditioning unit that protruding from the side wall where the store is located. Vehicles either backing in or backing out of the passageway would create hazardous conditions to traffic and particular pedestrians on the street sidewalk since the driver would not have a view of them until nearly fully out of the building. Vehicles would need to be stacked in the space and as drawn there is only 34 feet from the gate at the street sidewalk and the fire exit door for the store. The large majority of vehicles in a stacked configuration will require more than 34 feet for two



vehicles, which would mean the fire door (which must swing outwards) would be blocked. If vehicles were parked in this area, it would narrow the passage for any resident leaving the building and would hinder rescue personnel from reaching the apartments. Stretchers would need to be moved over top of the vehicles since inadequate room would exist to transport stricken persons along the side of the vehicles. Lastly, in particular wind conditions, exhaust fumes could be trapped in the passageway and leak into the residential area and/or store. We do find credible the proposed use of the passageway for the provision of parking and recommend that the Planning Board not consider them in its deliberations as meeting any demand for parking from the two new apartments. **In our view, a variance is required from §35-17.6.B for the entire parking requirement of 2.5 parking spaces.**

required. This is equivalent to 9.8 parking spaces, rounded up to 10 spaces, for the entire building. **The applicant must request a *de minimis* exception per N.J.A.C. 5:21-3.1(a).**

- 4.4. **Parking Stall Size Exception.** The stacked parking stall size would be 8' 2" x 17' in the passageway where §35-17.5.a requires a minimum parking stall size of 9' x 18'. **A design exception is required.**

5. Architectural and Building Design Standards

- 5.1. The following is a review of consistency with the standards contained in the Bayonne Town Center Special Improvement District (SID) guidelines.

5.1.1. **Cornice Treatment.** Per §2.02.03, cornices should be incorporated in all buildings and should contain compound profiles and brackets or other shadow-casting elements. **The existing and proposed cornice line appear to be composed of just a capstone that does not meet this standard. This office recommends a more pronounced cornice line consistent with the SID guidelines.**

5.1.2. **Horizontal Articulation.** Per §2.02.05, horizontal demarcations shall be required for any building taller than two stories. The proposed three-story façade does not have horizontal demarcations. **This office recommends articulation of the ground-floor**

façade with an awning, cornice line, change in material, or linear change in brick course to distinguish the storefront from the residential units above, consistent with the Town Center guidelines and the recommendations of 5.1.1, above. We recommend that a sign area be delineated as part of these façade improvements. It is not clear if the gooseneck lighting is proposed to remain; it is not depicted on that architectural drawing.

6. Site Lighting

- 6.1. **No Lighting is Proposed.** The applicant has requested a waiver for the submission of a lighting plan as no lighting is proposed; however, see our comment in 5.1.2. **We recommend higher lighting levels in the passageway at its closed end and not solely depend on the light well for illumination. On a bright day, this area remained in dark shadow.**
- 6.2. **Rooftop Open Space Lighting.** Pursuant to §33-10.14, adequate lighting shall be provided to promote a sense of security in the open space. The plans do not indicate whether the rooftop open space area will be illuminated. **The applicant should provide testimony on whether the roof deck will be illuminated, and the type of lighting proposed to determine whether a waiver of lighting plan is recommended. A design exception may be required.**

7. Trash and Recycling

- 7.1. **Trash Enclosure:** The plans indicate an existing trash enclosure located on the interior of the site and accessible from the interior driveway onto Broadway. **The applicant should provide testimony on whether all uses will share the existing trash enclosure and whether there is sufficient capacity to serve the additional two (2) dwelling units.**
- 7.2. **Recycling Facilities:** Pursuant to §33-10.13.b, multifamily housing developments containing three or more dwelling units must provide an indoor or outdoor recycling area for collection and storage of recyclable materials. The area must be well-lit and conveniently located. **The plans do not indicate a recycling area or other provisions for recycling. The applicant should provide testimony on whether recycling facilities will be provided within the trash enclosure identified on the site plan and whether recycling facilities will be illuminated and shared by all tenants of the site. A design exception may be required.**

8. Signs

- 8.1. **No Signs Proposed.** While the plans do not indicate a tenant within the existing commercial space, **this office recommends that future signage be consistent with the Town Center SID guidelines and that the location of the commercial sign be depicted on the front façade.**

9. Landscaping

- 9.1. **Only Minor Landscaping Proposed.** The plan proposes potted plants on the rooftop deck. There is no space at the street level for landscaping as the building has no front yard setback. The plan complies.

- 9.2. **Street Trees.** Pursuant to §33-19.17.c.1, street trees are required on all development applications and shall be approximately 40 feet apart. A site visit by this office indicates the presence of an existing street tree that is not indicated on the site plan or survey. If the tree is to be protected and preserved during construction, no additional street trees are required as the site is less than 40 feet wide. **The plans should be revised to indicate the existing street tree and whether it is proposed to be preserved, removed, and/or replaced. A tree protection detail should be added to the site plan so it is not damaged during construction.**

10. Consideration of the “C” Variance

- 10.1. **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.

- 10.2. **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.

- 10.3. **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. These factors are referred to as the negative criteria.

11. Applicant / Owner / Consultants

- 11.1. **Applicant/Owner.** 377 Broadway Realty, LLC. 377 Broadway Avenue, Bayonne, New Jersey 07002.



- 11.2. **Attorney.** Raff, Masone & Weeks, P.A. 1083 Avenue C, Bayonne, New Jersey 07002. Tel: 201.339.0924. Facsimile: 201.339.0250.
- 11.3. **Architect/Planner.** Stephen Kawalek, RA, PP. 764 Avenue C, Bayonne, NJ 07002 Tel: 201.437.0648. Facsimile: 201.535.8676.

12. Materials Reviewed

- 12.1. *City of Bayonne Application for Development Form (updated)*, with attachments.
- 12.2. *Statement of the Applicant*, undated.
- 12.3. *Property Description*, prepared by Caulfield Associates, LLP, undated.
- 12.4. *Referral Letter*, prepared by Tracey Tuohy, Zoning Officer, dated January 17, 2023.
- 12.5. *Referral Letter*, prepared by Joseph Ryan, Historic Preservation Commission, dated September 27, 2023.
- 12.6. *Transmittal Letter from Applicant's Architect*, dated May 24, 2023.
- 12.7. *Site Plans, Maps, and Zoning Data*, 3 sheets, prepared by Harold J. Kawalek, AIA, and Stephen M. Kawalek, RA, PP, of Kawalek & Kawalek Architects, LLC, dated December 23, 2022.
- 12.8. *Survey of Property*, 1 sheet, prepared by P.L. Caulfield, JR., dated April 18, 2017.

13. Relief Required

13.1. Variances:

- §35-5.10.e.1 Minimum Lot Area (Existing)
- §35-5.10.e.2 Minimum Lot Frontage (Existing)
- §35-5.10.e.4 Min. Rear Yard Setback
- §35-5.10.e.7 Maximum Lot Coverage (Existing)
- §35-5.10.f.3 Use of Curb Cut on Broadway (Dependent on acceptance of applicant's parking plan)
- §35-5.10.f.4 Parking Not in the Rear Yard (Dependent on acceptance of applicant's parking plan)
- §35-17.7 Minimum Off-Street Parking Requirements

13.2. Design and Performance Exceptions:

- NJAC 5:21-3.1.(a) RSIS Minimum Parking Requirements
- §35-17.5.a Parking Stall Size (Dependent on acceptance of applicant's parking plan)
- §33-10.13.b Recycling Facilities in Multifamily Housing Developments
- §33-10.14.b Public or Common Private Open Space Design (Lighting)



13.3. Recommended Conditions of Approval:

- Compliance with the Design Guidelines for the Town Center Special Improvement District and not acceptance of applicant's front façade building design.

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.

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

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