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Bayonne Zoning Board of Adjustment
The City of Bayonne
630 Avenue C
Bayonne, New Jersey 07002

DR Project No.: 12456-001
February 10, 2026

**Re: JUSTIFICATIONS FOR A USE VARIANCE
PROPOSED MORTGAGE BROKER OFFICE
271 BROADWAY (BLOCK 267, LOT 23)
CITY OF BAYONNE, HUDSON COUNTY, NEW JERSEY**

An application has been filed for the above noted property with the Bayonne Planning Board approval of a d(1) use variance and a "c" bulk variance for minimum off-street parking (subsumed within the use variance) for the operation of a Mortgage Broker Office use in the ORS Office/Retail Service District.

PROPERTY DESCRIPTION

The subject property is identified as Lot 23 on Block 267 on Broadway, midblock between West 12th Street and West 11th Street. The subject property has approximately 24 feet of frontage on Broadway, a lot depth of approximately 109 feet and a total lot area of approximately 2,648 square feet. The subject property is currently developed with a 3-story, mixed use building with approximately 700 square feet of ground floor commercial and two residential units above.

PROJECT DESCRIPTION

The project proposes to incorporate a new tenant at the existing ground floor commercial space. The proposed tenant, Prime Tree Lending, is a mortgage broker that seeks to operate an office in the approximately 700 square feet of existing commercial space on the ground floor.

The Zoning Letter of Determination dated September 5, 2025 denied the zoning application permit for the proposed Prime Tree Lending office at the subject property, stating that under the City's review of the Standard Industrial Classification System Codes (SIC) and the North American Industry Classification System Cods (NAICS) a "Mortgage and Nonmortgage Loan Brokers" is not considered a "business office".

VARIANCE JUSTIFICATION AND PROOFS

d(1) Use Variance

The Zoning Board of Adjustment has the jurisdiction to grant a "d(1)" use variance pursuant to the Municipal Land Use Law N.J.S.A. 40:55D-70.d.(1) in particular cases and for special reasons. Under relevant case law Medici v. BPR

Co., 107 N.J. 1 (1987), the standard for granting variances with respect to the positive criteria is that the proposed use will promote the general welfare and the property is particularly well suited to accommodate the proposed use.

Permitted Uses in the Office/Retail Service District

The (ORS) Office/Retail Service District permits a range of commercial uses per §35-5.12.a:

a. Permitted Uses:

1. Professional and business offices.
2. Government offices including Federal, State, County or municipal buildings and grounds.
3. Lodges and Clubs.
4. Retail commercial uses as in the C-1 Zone. [§35-5.8.a]
 - i. Retail commercial not exceeding 2,000 square feet of ground floor, except that the following are not permitted:
 - a) Thrift shops, second hand stores, pawn and consignment shops.
 - b) Shops which offer for sale fire arms and/or ammunition.
5. Essential services.
6. Multifamily dwellings on floors above street level floor provided [sic].
7. Townhouse development.
8. Fitness centers, health spas, gymnasiums and establishments offering sports and recreation instruction including but not limited to baseball, martial arts and soccer.
9. (Reserved).

“Professional and business offices” are an undefined term in Chapter 33 of the City’s ordinance, thus the City relies on the SIC and NAICS classification codes to determine if a proposed use falls within the “professional and business office” use.

The NAICS classification system is the standard used by Federal agencies in classifying business establishments for the purpose of collecting, analyzing and publishing statistical data related to the U.S. business economy. The classification system defines broad business categories with 2-digit sector codes. These categories are further divided into additional specified categories with up to 6-digit sector codes. None of the 2-digit sector codes neatly align with the “Professional and business offices” term, and many typical office uses would likely be classified under one or several sector codes including:

- 51 Information
- 52 Finance and Insurance
- 53 Real estate and Rental and Leasing
- 54 Professional, Scientific and Technical Services
- 55 Management of Companies and Enterprises
- 81 Other Services (except Public Administration)

The Zoning Officer's determination letter draws a distinction between the NAICS sector codes for "Mortgage and Nonmortgage Loan Brokers" (522310) which fall under the Finance and Insurance (52) sector code, thus a prohibited "Financial Institution" use in the ORS District, and "Offices of Real Estate Agents and Brokers" (NAICS 5312) which falls under the Real estate and Rental Leasing (53) sector code.

The NAICS code system is intended to assist in the collection and analysis of economic data. What it does not address is how the industry sectors operate, and more importantly does not consider the land use implications of those operations.

Other Definitions for "Office" Uses

While not defined in Chapter 33 of the City of Bayonne ordinance, professional and business "office" uses are defined in other nearby municipal zoning ordinances:

City of Jersey City (345-6): OFFICE – A place for the transaction of business where reports are prepared, records are kept and services are rendered, but where no retail sales are offered and where no manufacturing, assembly or fabricating takes place.

City of Hoboken (196-6) OFFICES – A room or group of rooms used for conducting the affairs of a licensed professional, general business, service industry or government, such as lawyers, accountants, travel agencies, insurance or real estate sales, engineers, architects, doctors, dentists, marketing, consulting, not-for-profit organizations, and similar occupations. An office use shall not include fabrication or assembly of tangible products that are not directly related to the principal use or that are intended for sale to the general public.

City of Newark (41:2-2): OFFICE – Shall mean a room or group of rooms used for conducting the affairs of a business, profession, service, industry or government, and generally furnished with desks, tables, files and communication equipment, including offices of general, business, executive, legal, accounting, architect, planning, engineering, real estate, contractor and employment agencies but excluding medical offices.

All three "office" definitions have several commonalities:

- An office is a space used to conduct business, such as the preparation of reports, keeping of records and the rendering of services.
- An office contains furnishings such as desks, tables and chairs, files and communication equipment.

- No manufacturing, assembly or fabrication takes place in an office.

Particular Suitability

The proposed Prime Tree Lending office is consistent with the definitions of “office” uses above.

- Per the Prime Tree Lending Business Plan (enclosed), the proposed use will provide services to connect first-time homebuyers, investors and refinancing clients with mortgage products tailored to meet specific needs. Prime Tree Lending staff will prepare reports, keep records and render services to its clients.
- Prime Tree Lending will not issue or hold mortgage loans or guarantees, collect deposits or hold client money like a traditional “financial institution” (e.g. a bank) would do.
- The physical space will contain common office furnishings including desks, tables and chairs and communication equipment such as telephones and computers.
- No manufacturing, assembly or fabrication will take place at the subject property.

The proposed use is particularly suitable for the subject property as it requires minimal internal improvements to allow the proposed use to occupy the existing ground floor commercial space. A glass-enclosed room for a personal office will be installed in the otherwise open layout space.

Furthermore, the operations of Prime Tree Lending are no different than other commonly permitted office uses, such as a lawyer’s office or a real estate agents office, in terms of spatial needs, equipment needs, frequency of customer trip generation, etc.

- Business operating hours will be by appointment only, with anticipated hours of 10:00 am to 6:00 pm, similar to other professional and business office uses.
- Anticipated vehicle and pedestrian traffic generated by the proposed Prime Tree Lending office will be similar to the impacts of office uses such as a lawyer’s office or a real estate agents office, which are permitted in the ORS district.
 - The existing structure has no associated off-street parking, where a minimum of 2 spaces¹ is required for the approximately 700 square foot office space on the ground floor.

¹ One off-street parking space is required per 400 square feet of Office and office building area per §35-17.6 of the City’s Zoning code.

- The proposed Prime Tree Lending office will likely generate less vehicular traffic than a typical “Retail store or personal service establishment” which requires 0 off-street parking spaces for establishments less than 2,000 square feet in area.
- Retail and personal service establishments rely on higher volumes of customer traffic in addition to on-site employees during opening hours. The proposed Prime Tree Lending office will be by appointment only which reduces the number of customers visiting during any given time period and thus anticipated vehicular traffic.
- Adequate parking for the proposed use can be met via on-street metered parking and non-residential parking permits for employees. On-street parking is available on both sides of Broadway, which is intended to provide short-term parking for commercial customers of businesses along the corridor. Non-residential parking permits for the Orange Zone will be required for employees of Prime Tree Lending to park in non-metered spots on side streets.
- The operation of Prime Tree Lending will produce no noxious odors or fumes, noise or light/glare impacts.

No detrimental impacts are anticipated with the occupation of the existing commercial space by Prime Tree Lending vs. a conforming professional or business office use or retail store or personal service establishment.

Promotes the General Welfare

The granting of the variances will advance the purposes of the Municipal Land Use Law and promote the general welfare.

- Granting the requested variances will guide the appropriate use and development of the property in a manner that will promote the general welfare consistent with N.J.S.A. 40:55D-2.a. through the provision of an appropriate use which is complementary and consistent with other types of professional and business office uses permitted in the ORS District.
- The proposed project provides sufficient space in appropriate locations for a commercial use consistent with N.J.S.A. 40:55D-2.g. by locating the proposed Prime Tree Lending office along an establish commercial corridor in proximity to potential clients in the surrounding residential areas.
- To encourage coordination of public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land consistent with N.J.S.A. 40:55D-2.m, by allowing the use of the existing ground floor commercial space at 271 Broadway for a use which is complimentary with the commercial corridor.

Negative Criteria

Granting the variances will not result in a substantial detriment to the general welfare. The Prime Tree Lending office is an appropriate use which is complementary and consistent with other types of retail store, personal service establishment, professional and business office uses permitted in the ORS District. No detrimental impacts are anticipated with the occupation of the existing commercial space by Prime Tree Lending vs. a conforming professional or business office use or retail store or personal service establishment.

Granting the variances will likewise not result in a substantial impairment to the intent and purpose of the zone plan or zoning ordinance. The Office/Retail Service District permits a wide range of commercial uses. The Prime Tree Lending office is complementary and consistent with the permitted uses in the District. The proposed project is consistent with the 2000 Bayonne Master Plan Major Objective to,

"Strengthen commercial districts, especially the Broadway Central Business District, by encouraging a mix of uses that provide employment, retail opportunities, services and entertainment;"

CONCLUSION

There are no external expansions or alterations of the existing structure needed to host the new tenant/business which further affirms that the existing ground floor commercial space is particularly well suited for this operation and there will be no detriment to the general welfare or impairment to the intent of the zone plan.

The requested variance is justified and meets the positive and negative proof standards and therefore can be granted. The applicant reserves the right to supplement the foregoing reasons with expert testimony at the Planning Board hearing.

Prepared by:



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