

**BOROUGH OF DUMONT
JOINT LAND USE BOARD
BERGEN COUNTY, NJ
RESOLUTION**

PLEASE TAKE NOTICE at the Joint Land Use Board meeting held on March 31, 2015 at the Dumont Senior Center, 39 Dumont Ave, the Board adopted a memorialization of the following resolution.

RESOLUTION: 14-05: 65 West Madison Ave: 65 West Madison, LLC
Block - 1207, Lot - 8
Parking & Site Plan Variance
Approved

A copy of this determination has been filed in the office of the Joint Land Use Board and is available for inspection during the regular hours prescribed by said Board for inspections of its public records.

Kelly Lo Russo
Clerk
Joint Land Use Board

JOINT LAND USE BOARD OF THE
BOROUGH OF DUMONT

RESOLUTION

PRELIMINARY AND FINAL SITE PLAN APPROVAL
WITH WAIVERS AND VARIANCES

In the Matter of the Application of:
65 WEST MADISON, LLC

WHEREAS, 65 West Madison, LLC, (the "Applicant" or "Owner") is the Applicant upon property located at 65 West Madison Avenue, and designated as Lot 8 in Block 1207 on the Tax Map of the Borough of Dumont (the "Property"); and

WHEREAS, the Applicant is a New Jersey Limited Liability Company and Matt Dagistanli is a designated Member on the various applications submitted to the Board; and

WHEREAS, the Property is located in the B-2 Zoning District of the Borough and is presently developed. The Applicant seeks to demolish same and construct a 7,942 square foot mixed use building including 2 retail spaces on the first floor and six one bedroom apartments on the second floor; and

WHEREAS, the Applicant has made application to the Joint Land Use Board of the Borough of Dumont for Preliminary and Final Site Plan approval pursuant to the Development Ordinances of the Borough of Dumont, together with an application for Bulk

Variance relief pursuant to N.J.S.A. 40:55D-70(c), and for a waiver from various Site Plan submission requirements; and

WHEREAS, public hearings were held by the Board on October 28, 2014 and February 24, 2015 at which time the Applicant, represented by counsel, Richard D. Kelly, Esq., presented the following:

A-1	4 Page Site Plan, prepared by Michael Hubschman, PE, and dated 9/12/14
A-2	5 Page Architectural Plans prepared by Northern Valley Design Center (Peter J. Ditto, RA) and dated 8/21/14
A-3	Easement Agreement as to Common Driveway, dated 11/2/84, and recorded in the Offices of the Bergen County Clerk at Book 6880 and Page 7701
A-4	Drainage Report, prepared by Michael Hubschman, PE, and dated 9/12/14
A-5	Application for Bergen County Planning Board
A-6	Copy of Notice mailed to adjoining property owners for 10/28/14 Public Hearing
A-7	Google Aerial map
A-8	Copy of Notice mailed to adjoining property owners for 1/27/15 public hearing.
A-9	4 Page Site Plan, prepared by Michael Hubschman, PE, and dated 1/14/15
A-10	5 Page Architectural Plans prepared by Northern Valley Design Center (Peter J. Ditto, RA) and dated 8/21/14, revised to 6 one-bedroom apartments
A-11	Colorized Site Plan
A-12	Colorized Ground Floor Plan
A-13	Colorized Second Floor Plan
A-14	Colorized Front Perspective
A-15	Colorized Elevations
A-16	Colorized Elevations
A-17	Neighborhood Photographs

WHEREAS, the Board also introduced Exhibits with regard to the Application as follows:

B-1	Report of Maser Consulting (Darlene Green, PP), dated
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	1/26/15
B-2	Report of Boswell Engineering (James Fordham, PE), dated 10/28/14
B-3	Report of Boswell Engineering (James Fordham, PE), dated 1/2/15

WHEREAS, at the aforesaid public hearings, the Applicant presented the testimony of:

- (a) Michael Hubschman, PE, PP;
- (b) Peter Ditto, RA;

WHEREAS, at the aforesaid public hearing, the Board also accepted into evidence the following expert testimony:

- (a) Darlene Green, PP;
- (b) Eileen Boland, PE;

NOW, THEREFORE, BE IT RESOLVED that the Board makes the following findings of fact with respect to the within Application:

1. The Property is located on the south side of West Madison Avenue, nearly across West Madison Avenue from Veterans Plaza. The Property is 9,884 square feet and is located in the B-2 Business and Commercial Zone.
2. The Property presently contains an older mixed use structure, including retail uses.
3. The Applicant seeks to demolish the existing structure and construct a 7,942 square foot, mixed use

structure, containing retail areas on the ground floor and 6 one-bedroom apartment units on the second floor.

4. The application seeks Preliminary and Final Site Plan Approval, as well as bulk variances pursuant to NJSA 40:55D-70(c) as follows:

a. Variance for Residential Buffer. There is no buffer to adjoining residential use on West Madison Avenue.

b. Variance for location of First Floor. First Floor does not begin at "grade level".

c. Variance for Parking under 2nd Floor. Parking under a 2nd floor is limited to 1/3 of the 2nd Floor.

d. Variance for number of parking spaces as 15 are required and 14 are provided (subsequently amended to 12).

e. Variance as to parking lot layout.

f. Variance for loading space.

5. No variances are sought for the building setbacks or dimensions.

6. At the hearing held on October 28, 2014, the Applicant adduced the testimony of Michael Hubschman, PE, ("Hubschman"). Hubschman testified as to all matters of engineering and Site Plan concern. He testified that the Applicant sought the construction of a 3 story mixed use development containing a ground level floor of

retail and two stories of apartments above. Subsequently, the Application was amended to its' present configuration of a ground floor level of development containing retail uses and a single floor, containing 6 one bedroom apartments above.¹

7. Hubschman testified as to the current uses on the site and the configuration and topography of the Property. Hubschman testified that the property slopes upward from front to rear approximately 4' over the 125' depth of the Property from elevation 84.3 to 88 which limits the ability to "carve out" soil and lower the height of the structure or building envelope. Any such action would result in a difficulty in meeting the grades of adjoining properties, including the common easement. Hubschman testified that there was buffering against the Residential Zone to the rear of the Property.
8. Hubschman testified that the Property shared a common driveway easement with the adjoining residential use at 71 West Madison Avenue. As a result, it was impossible to buffer the Property from that adjoining residential use since both properties utilized the same driveway. Hubschman testified that this demonstrated a hardship

¹ Numerous additional variance were required for the original configuration of the Building. However, same are neither specified nor granted by the within Resolution since the Application was revised.

and that a buffer could not be placed that would screen the adjoining residential use.

9. Hubschman testified that the proposed building was set to be 3-4 steps above existing ground level. A variance is sought because the building is not set at ground level. However, various Borough Ordinances permit the location of the Ground Floor "at or above ground level". Additionally, if the Building were set at ground level, there would be difficulty and hardship in assuring a proper sewer tie in.
10. Hubschman testified as to matters concerning drainage and referred to the Drainage Report which has been satisfactory to the Board Engineer. The design for stormwater on the Property includes the installation of 2 additional seepage pits.
11. Hubschman testified as to the proposed Lighting and Landscape plan including "underside" lighting over the covered parking lot areas and all other lighting is building mounted. He testified that 14 parking spaces were provided and that the parking lot design was the best possible design while preserving the most possible spaces. 15 spaces are required under the Ordinance and the Applicant sought a variance for one parking space deficiency. Subsequently, the Applicant agreed to

reduce the parking spaces to 12 spaces in order that turnaround areas could be provided so that the driveway into the Property did not "dead end" without the ability to have a turnaround.

12. The Applicant adduced the testimony of Project Architect, Peter Ditto, RA. Ditto testified as to all matters concerning the architectural design of the structure. Ditto described the building as a traditional "urban building" and testified as to the design elements of the building exterior. He also testified as to all apartment designs and layouts and the revision of the Building from 12 residential units to 6 residential units.
13. Ditto testified that the ground floor of the Building was approximately 1,920 s.f. and the second floor will have a square footage of 6,005 s.f. As a result, the second floor overhangs a portion of the parking lot. The Building height conforms at 26.5'. Parking under the second floor is limited to 33%. The applicant herein seeks to maximize parking and provides parking under the second floor of 58%.
14. Ditto testified that the ground floor would contain two retail spaces as well as bathrooms, utilities, and elevator access to the second floor apartment level. He

further testified as to the design, square footage and layouts of each of the 6 proposed apartment units. All units would be between 760 and 1098 square feet.

15. Hubschman also provided planning testimony. He testified that there are significant hardships on the Property that justify the variances requested. He testified that there was no ability to lessen or mitigate those hardships. These include the slope of the Property - and the inability to construct at ground level; the inability to buffer along the common driveway; the inability to provide a greater number of parking spaces and still provide safe ingress and egress; the need to provide parking under the overhang and the inability to provide an off street loading space.

16. Hubschman also testified that the variances were not a substantial detriment to the purposes and intents of zoning or the Municipal Land Use Law.

CONCLUSIONS AND DETERMINATIONS

1. All findings of fact set forth above are made a part hereof as if set forth herein at length.
2. The proceedings in this matter were voice recorded. The foregoing facts in this Resolution are not intended to

be all inclusive but merely a summary and highlight of the complete record made before the Board.

3. N.J.S.A. 40:55D-70(c) (1) provides that a variance may be granted where the Board finds that the Property suffers from a specific and unique hardship. The Board finds that the Applicant has demonstrated this hardship and the granting of the requested variances is warranted based on the testimony presented.
4. The Board finds that the variances can be granted without detriment to the public good or any neighboring properties, as the non-conforming conditions are de minimus in nature. The Board further finds that this approval will not substantially impair the intent and purpose of the Dumont Zone Plan and Zoning Ordinance and is in the furtherance of the purposes set forth in N.J.S.A. 40:55D-2.
5. As such, the Board grants the following variances:
 - a. Variance for Residential Buffer. There is no buffer to adjoining residential use on West Madison Avenue.
 - a. Variance for location of First Floor. First Floor does not begin at "grade level".
 - b. Variance for Parking under 2nd Floor. Parking under a 2nd floor is limited to 1/3 of the 2nd Floor.

- c. Variance for number of parking spaces as 15 are required and 14 are provided (subsequently amended to 12).
 - d. Variance as to parking lot layout.
 - e. Variance for loading space.
6. The Applicant has sought, and is hereby granted, a waiver from the various submission requirements set forth herein.

NOW, THEREFORE, BE IT RESOLVED that the application for variance relief is approved by this Board subject to the conditions set forth below.

CONDITIONS

A. The Applicants shall comply with all of the ordinances of the Borough of Dumont and all applicable county, state, and federal ordinances, rules, statutes and regulations including the payment of real estate taxes. Without limiting the foregoing, the Applicants shall comply with any and all applicable requirements of the Federal Americans with Disabilities Act.

B. The approval of the within Application does not constitute a determination by this Board as to whether the proposed development complies with the Federal Americans with Disabilities Act or the applicable regulations thereunder.

C. The Applicants shall comply with all of the stipulations made during the hearing on this Application and shall comply with the suggestions contained in the review letters, as amended, of the Board Engineer and Planner.

D. The Applicants shall include the relocation of the ladder assembly on the GIS Building and the submission of drainage calculations.

E. The Applicants may be required to submit "As Built" drawings to the Borough Building Department that substantially comport with the plans approved by the Borough upon completion of the proposed improvements and before the issuance of a permanent Certificate of Occupancy.

F. All Leases for the Apartment Units shall permit only one car per apartment unit.

G. The plans herein are subject to the comments and suggestions of the appropriate fire and police officials.

H. The Building shall be fully sprinklered.

I. The Development is subject to such affordable housing requirements as may be required by the Borough.

J. The Applicant must return to the Board for any non-conforming signage. The within application does not seek, and does not grant, any variances or approvals with regard to signage.

This Application was approved by the Dumont Joint Land Use Board upon a roll call vote of all members eligible to vote at its regular meeting on March , 2015.

IT IS HEREBY CERTIFIED that this is a true and correct copy of a Resolution adopted by the Joint Land Use Board of the Borough of Dumont upon a roll call vote at its regular meeting held on March , 2015.

A copy of this Resolution shall be given to the Tax Assessor, Applicants (through counsel), Borough Clerk, Building Department, Zoning Officer and Borough Engineer.

ATTEST:

SO APPROVED:

Kelly LaRusso
Rosalie Bob, Secretary

[Signature]
William Bochicchio, Chairman

Adopted: [Signature]

3/31/15

Adopted: