

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
Wonder Realty/Wonder Meats – Variance/Building Addition
FILE #15-219**

I. INTRODUCTION

Pursuant to Public Law 2015, Chapter 19, The New Jersey Meadowlands Commission (NJMC) has become part of the New Jersey Sports and Exposition Authority (NJSEA), effective February 5, 2015.

An application for one bulk variance has been filed with the NJSEA by Wonder Realty Inc. for the premises identified as 15 Broad Street, Block 120.01, Lot 6, in the Borough of Carlstadt, New Jersey. Said premises are located within the Hackensack Meadowlands District's Light Industrial B zone. The variance is sought in connection with the applicant's proposal to construct a building addition.

Specifically, the applicant is requesting relief from the following:

1. N.J.A.C. 19:4-5.84(a)3ii, which requires a minimum side yard setback of 20 feet. The applicant is proposing a building addition with a minimum setback of 17.2 feet from the easterly side yard property line.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Record newspaper. No written objections were received. A public hearing was held in the Office of the Commission on Tuesday, July 7, 2015. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The property in question contains approximately 1.34 acres within the District's Light Industrial B zone. The property has an L-shaped configuration with frontage on Twentieth Street to the west and frontage on Broad Street to the north. Warehouse/distribution facilities are located to the south, west and north of the subject property and a light industrial facility is located to the east. The remainder of the surrounding area is primarily developed with similar warehousing and light industrial uses.

The subject property is currently developed with a 20,502-square-foot warehouse/distribution and manufacturing facility with associated parking. The structure is accessed via driveways on Twentieth Street and Broad Street.

Conditional Zoning Certificate, CZC-14-630, was issued on January 5, 2015, under File No. 14-630, Wonder Realty/Wonder Meats - Building Addition. CZC-14-630 approved a 2,247-square-foot building addition having a width of 20.6 feet, which did not encroach within the side yard setback. Based upon the final layout of the proposed freezer space within the addition, the architect later determined an additional 2.8 feet in width was required to accommodate a forklift's maneuvering of pallets within the addition.

As a result, a new application and a revised set of plans were submitted to the NJSEA under File No. 15-219, Wonder Realty/Wonder Meats - Variance-Building Addition. This new application proposes the construction of a 2,615-square-foot building addition along the eastern façade of the existing building, which encroaches 2.8 feet into the easterly side yard. An existing attached garage on the easterly side of the building is proposed to be demolished to accommodate the addition. The setback of the existing garage from the easterly side lot line is 19.6 feet, which is an existing non-conformity as it is less than the required 20-foot

side yard setback. The addition is proposed to be located 17.2 feet from the side lot line, which extends beyond the existing side yard setback non-conformity by 2.4 feet.

The proposed building addition will be utilized by the applicant for additional freezer storage of both raw meat products and finished products to allow the applicant's business to remain competitive in a safe and efficient manner. A 24-foot-wide building addition is required to accommodate the layout of the product pallets with an aisle width adequate for fork lift machinery to maneuver and load and unload the pallets within the freezer space.

B. Response to the Public Notice

No written comments or objections were submitted to the NJSEA regarding this application prior to the public hearing and no members of the public were present at the public hearing.

III. PUBLIC HEARING (July 7, 2015)

A public hearing was held on Tuesday, July 7, 2015. NJSEA staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, P.P., AICP, Senior Planner, and Elizabeth Kenyon, P.E., Senior Engineer.

A. Exhibits

The following is a list of the exhibits submitted by the applicant at the public hearing and marked for identification as follows:

<u>Number</u>	<u>Description</u>
A-1	"Site Plan for a Proposed Building Addition," prepared by George D. Cascino, P.E., P.P., dated November 6, 2014, revised through May 29, 2015.
A-2	"Addition Floor Plan," prepared by Perley-Halladay Associates, Inc., dated January 23, 2015, revised through March 19, 2015.
A-3	"Aerial Photograph," dated July 7, 2015.
A-4	"Site Photograph," dated June 7, 2015.

B. Testimony

Thomas H. Bruinooge, Esq., of the firm, Bruinooge & Associates, represented Wonder Realty Inc. at the hearing. The following witness testified in support of the application:

1. Steve Realbuto, Applicant, Property and Business Owner
2. George D. Cascino, P.E., P.P., Cascino Engineering

Staff findings and recommendations are based on the entire record. A transcript of the public hearing was prepared and transcribed by Beth Calderone, Certified Shorthand Reporter.

C. Public Comment

No members of the public were present at the public hearing.

IV. RECOMMENDATION

- A. N.J.A.C. 19:4-5.84(a)3ii, which requires a minimum side yard setback of 20 feet. The applicant is proposing a building addition with a minimum setback of 17.2 feet from the easterly side yard property line.

The District Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. *Concerning bulk variances:*

- i. *The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

The requested variance to permit a building addition within the required 20-foot side yard setback arises from conditions that are unique to the site. The purpose of the proposed addition is to provide additional freezer storage space for raw and finished meat products to effectively sustain the applicant's business operations and remain competitive. The subject property is a corner lot and has two front yards, one along Twentieth Street to the east and one along Broad Street to the north. The property is L-shaped, with the larger rectangle having 298.50 feet of frontage along Twentieth Street and 200 feet of frontage along Broad Street. The smaller rectangle is located approximately 102.36 feet towards the southwest and is 74.35 feet wide. The smaller rectangle is comprised primarily of vegetated open space, which shall remain undisturbed.

The site is currently developed with a one-story 20,502-square-foot warehouse/distribution and manufacturing building and associated paved parking and site improvements. The existing building is located along the property's easterly and northerly front yard setbacks, with a setback of 35.2 feet from Twentieth Street and 34.9 feet from Broad Street. An existing attached garage, slated to be demolished, is approximately 19.6 feet from the easterly lot line, encroaching 0.4 feet within the easterly side yard setback. The majority of the car parking spaces and loading spaces are located towards the south of the building.

Due to the building's proximity to each of the property's front yards and the configuration of the existing parking area to the south, the easterly side yard is the only practical location for the addition. The proposed addition along the easterly building façade, which will replace an existing attached garage, will be located at a setback of 17.2 feet, effectively increasing the existing nonconforming side yard setback by 2.4 feet. The property is unique in that it is a corner property that is configured and improved in such a way that limits potential locations for a functional building addition without negatively affecting logistical functions of the site or encroaching within either of its front yard setbacks.

- ii. The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The granting of the requested variance to permit the proposed addition within the required 20-foot side yard setback will not adversely affect the rights of neighboring property owners or

residents. The site is located within a fully-developed industrial area. There are no residential uses within the immediate vicinity of the subject premises. The proposed setback of 17.2 feet, which is 2.4 feet greater than the existing building's preexisting nonconforming side yard setback of 19.6 feet, is required to accommodate a functional freezer storage addition.

Broad Street and the continuation of its right-of-way is a public street serving very few properties. The proposed addition is only visible from the extension of Broad Street and, as the last driveway on that street, it is seldom utilized by the public. Wonder Meats is one of the last properties at end of Twentieth Street. The proposed addition will not create any negative visual impacts to the neighboring properties or impede their ability to function as intended. The proposed addition will also decrease noise and emissions within the area by eliminating the applicant's need for the two existing freezer trucks.

The adjacent property to the east, identified as Block 120.01, Lot 5, would be the neighbor most directly impacted by the construction of the proposed addition. The applicant provided testimony that he discussed the proposed addition with his neighbor to the east who stated he had no opinion regarding the addition. The conditions on the adjoining property most proximate to the area of the proposed addition consist of open space and a building located 10 feet from the shared property line. The applicant's professional engineer, George Cascino, testified that adequate air and light will be maintained between structures and there will be no building code issues related to the proximity of the proposed addition to the

adjacent existing building. Therefore, the granting of the variance will not adversely affect the rights of neighboring property owners or residents.

iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

The strict application of the regulations that would require a minimum side yard setback of 20 feet along the easterly property line, whereas 17.2 feet is proposed, will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. The property's existing conditions and building configuration present challenges in providing a conforming setback that accommodates the operational functionality of the addition while avoiding impacts to the site's existing parking and circulation. Alternative locations to construct the proposed addition are limited for several reasons, including the operational impracticality of constructing refrigeration and freezer storage areas on a second floor level.

The proposed addition is not practical along either the western or northern façades of the building because it would significantly encroach within the required front yards. Likewise, the addition is not practical on the southern façade of the existing building due to the existence of the parking area and loading docks, which are integral to the facility's operations.

As a result, the only feasible area of the site for the proposed freezer addition is along the building's eastern façade. Reducing the size of the proposed addition to comply with the side yard setback regulations would result in a proposed addition that would be operationally unfeasible. The applicant's professional engineer testified that a 24-foot-wide building addition is required to provide a functional layout of the product pallets and aisle width adequate for a forklift to maneuver within the freezer space. The strict application of the required 20-foot side yard setback would decrease the width of the proposed addition by 2.8 feet, which would in turn decrease the width of the aisle, thus preventing the equipment from operating and maneuvering the product pallets in a safe and effective manner. Without the bulk variance approval, Wonder Meats would not be able to store as many pallets and the loss of inventory would have a significant negative impact in meeting its business demands.

iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

There will be no substantial detriment to the public good, and no adverse effects to the public health, safety, morals, order, convenience, prosperity or general welfare will result from the granting of the requested variance. The surrounding properties consist primarily of light industrial and warehouse and distribution uses. The applicant proposes to construct a 2,615-square-foot addition partially within the required 20-foot side yard on the easterly side of existing building.

There will be no changes to the current on-site vehicular circulation pattern. Access to the site will continue via two driveways from Broad Street on the northern side and Twentieth Street on the western side of the property. The proposed placement of the addition with a slight encroachment into the easterly side yard avoids potential safety impacts that a compliant building addition placed in areas currently used for on-site parking and circulation could engender.

In addition, excess noise, odor, vibration, or glare will not be generated as a result of the proposed building addition and adequate light, air, and open space will continue to be supplied.

Therefore, the placement of the building addition within the easterly side yard, as proposed, will have no adverse impact on public safety, health, morals, order, convenience, prosperity or general welfare.

- v. *The variance will not have a substantial adverse environmental impact.*

The granting of the requested variance to permit the construction of a 2,615-square-foot building addition within the required 20-foot side yard will not have any adverse environmental impacts. The location of the proposed addition within the required side yard will not violate the NJSEA performance standards regarding noise, vibrations, airborne emissions, hazardous materials, glare or water quality. In fact, the proposed addition will decrease noise and emissions within the area by eliminating the two existing freezer

trucks currently utilized by the applicant. The improved site will provide 32.4 percent open space, well above the 15 percent minimum open space requirement of the Light Industrial B zone. Additionally, no environmentally sensitive areas will be disturbed by the construction of the proposed addition and a drainage pattern similar to existing conditions will be maintained.

vi. The variance represents the minimum deviation from the regulations that will afford relief.

The requested variance represents the minimum deviation from the regulations that will afford relief. The proposed addition will be constructed on a fully-developed corner lot with two front yards. Potential locations to provide a functional addition without altering the safe operation and layout of the warehouse/distribution facility are limited due to the location and configuration of the existing building on the site. The addition as proposed maintains the existing paved areas, which are necessary to maintain on-site parking, circulation and maneuvering.

Due to the particular characteristics of the property, and the operational requirements of the fork lifts utilized for the movement of the pallets within the proposed freezer space, the addition cannot be constructed in a feasible, functional manner if the required minimum 20-foot side yard setback were applied.

The total proposed lot coverage of 34.6 percent is in substantial compliance with the zone's maximum lot coverage of 50 percent. The area of the proposed addition represents a minor 2.6 percent

increase in the site's existing lot coverage. The improved site will provide 32.4 percent open space, well in compliance with the zone's 15 percent minimum open space requirement. Compliance with the lot coverage and open space requirements is an indication that the property will not be overdeveloped.

vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

The requested variance to permit the construction of a 2,615-square-foot building addition within the required 20-foot side yard setback will not impair the intent and purpose of the regulations. Specific purposes of the District zoning regulations include providing sufficient space in appropriate locations for a variety of uses, and ensuring that such uses are suitably sited and placed in order to relate buildings and uses to each other and to the environment so that aesthetic and use values are maximized. As the proposed variance will allow for the renovation of an existing warehouse and manufacturing facility, with a small expansion in floor area to accommodate the storage requirements of a successful growing business, the granting of the variance will promote orderly and comprehensive development in accordance with good planning principles that relate the type, design and layout of such development to both the particular site and surrounding environment.

Although the proposed addition will be located within the required side yard setback, it will have a minimal visual impact to the surrounding industrial area. Furthermore, the proposed addition

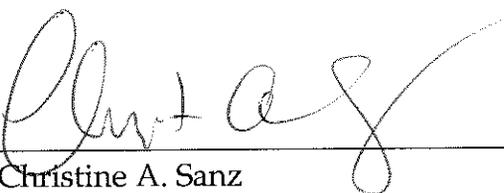
will promote the overall logistical functionality of the site. In balancing the side yard setback requirements with the particular characteristics of the site and the neighborhood in which it is located, the proposed variance can be granted with no substantial detriment to the intent and purpose of the District zoning regulations. Further, the granting of the requested variance will contribute to and promote this intent and purpose of the regulations by allowing the site to be developed and utilized in a safe, orderly, and efficient manner.

V. SUMMARY OF CONCLUSIONS

A. N.J.A.C. 19:4-5.84(a)3ii, which requires a minimum side yard setback of 20 feet. The applicant is proposing a building addition with a minimum setback of 17.2 feet from the easterly side yard property line.

Based on the record in this matter, the bulk variance application to permit the construction of a building addition within the required side yard, whereas a minimum side yard setback of 20 feet is required, is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>9/3/15</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>Approval</u>	<u>9/3/15</u>	
Recommendation on Variance Request	Date	Christine A. Sanz Senior Vice President Chief Operating Officer