

**RECOMMENDATION ON THE VARIANCE APPLICATION OF  
SEI Carlstadt-New Building and Variances  
FILE #17-281**

**I. INTRODUCTION**

An application for one bulk variance has been filed with the New Jersey Sports & Exposition Authority (NJSEA) by Samuel Wachsman, SEI Carlstadt, LLC, for the premises located at 701 Twelfth Street, identified as Block 84, Lot 1, in the Borough of Carlstadt, New Jersey. The variance is sought in connection with the applicant's proposal to construct a new warehouse building on the premises within the Hackensack Meadowlands District's (District) Light Industrial B zone. The project is also partially located outside of the District, with that portion of the premises identified as Block 229.02, Lot 3 in the Borough of Wood-Ridge.

Specifically, the applicant is requesting variance relief from the following:

1. N.J.A.C. 19:4-8.3(b)1, which prohibits loading in any front yard, whereas seven loading doors are proposed in the front yard facing Twelfth Street within the District.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Record newspaper. One written objection was received. A public hearing was held in the NJSEA Office on Tuesday, July 24, 2018. 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 subject property, which is located within the jurisdictional boundaries of both the NJSEA (within the Borough of Carlstadt) and the Borough of Wood-Ridge, is currently improved with a vacant industrial building measuring approximately 40,000 square feet. The existing building is uninhabitable, and the site is in obsolete condition, with areas of broken pavement and overgrown vegetation.

The site contains frontage on Twelfth Street within the Borough of Carlstadt, and frontage within the Borough of Wood-Ridge along a rail line right-of-way (ROW) identified as the Norfolk Southern Bergen County Branch Main Line (NS Main Line), which also accommodates the NJ Transit Pascack Valley Line passenger rail service. Twelfth Street in the vicinity of the site is a 22-foot-wide ROW belonging to the Borough of Carlstadt. While the Twelfth Street ROW extends further to the south of the property in question within the Borough of Carlstadt, it is not navigable due to degraded pavement and deep ruts in the roadway. Therefore, the site can only be accessed from the north, via Park Place East, Park Place, and then through a 22-foot-wide easement across the adjacent property to the north (1 Ethel Boulevard in Wood-Ridge). There is also an existing 22-foot wide access easement across Lot 3, along the westerly side of the Wood-Ridge portion of the project site.

The surrounding area is industrial in nature. A number of warehouse and distribution facilities exist within the Borough of Wood-Ridge to the north of the site, as well as to the west across the NS Main Line ROW. One existing warehouse facility, also only partially located within the District, is located directly to the east, and one vacant site with zoning approval for a warehouse building is located within the District to the south.

The applicant proposes to remove the existing dilapidated structure on the site and construct a new 60,696-square-foot warehouse facility with accessory office space. As part of this proposal, the applicant requests a variance from the NJSEA to provide seven loading areas within the front yard facing Twelfth Street within the District portion of the subject property. This application applies only to the portion of the premises identified as Block 84, Lot 1, within the Borough of Carlstadt, which is located within the Hackensack Meadowlands District jurisdiction.

On May 3, 2018, the Borough of Carlstadt approved Borough Resolution No. 2018-141-A permitting the applicant to utilize and make certain improvements within the Twelfth Street ROW along the site's frontage.

#### **B. Response to the Public Notice**

One objector provided a written submittal in response to the public notice. In an email dated July 24, 2018, Scott E. Rekant, Esq., of the firm, Cullen & Dykman, LLP, representing an objector, Eric Senderowicz, Operating Member of One Ethel Boulevard, LLC and President of Reddy Raw, 1 Ethel Boulevard, Wood-Ridge, NJ, ("Objector") submitted an affidavit, subsequently submitted at the public hearing as Exhibit O-1.

### **III. PUBLIC HEARING (July 24, 2018)**

A public hearing was held on Tuesday, July 24, 2018. 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, CFM, Principal Planner; and Mark Skerbetz, P.P., AICP, Senior Planner.

### 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	"Front Yard Loading Aerial Exhibit," prepared by Maser Consulting, P.A., dated 04/13/2018;
A-2	"Dimension Plan," prepared by Yosef Portnoy, P.E., Maser Consulting, P.A., dated 07/06/2017, and revised through 07/14/2017.
A-3	"Landscape Plan," prepared by Raymond C. Liotta, L.A., Maser Consulting, P.A., dated 07/06/2017, and revised through 07/14/2017.
A-4	"Elevations," prepared by KSS Architects, dated 1/11/2018.
A-5	"Exterior Rendering," prepared by KSS Architects, dated 1/11/2018.
A-6	"Exterior Rendering," prepared by KSS Architects, dated 1/11/2018.
A-7	"Meadowlands Dock Door to Building SF Ratio Analysis," submitted by Christopher Hile, Jones Lang LaSalle, dated July 23, 2018.
A-8	"Traffic Assessment," prepared by Jeffrey M. Fiore, P.E., Maser Consulting, P.A., dated 12/05/2017, and revised through 02/13/2018.
A-9	"Expert Planning Report," prepared by Paul A. Phillips, P.P., Phillips, Preiss, Grygiel, LLC, dated January 2018.
A-10	"WB-67 Truck Turn Exhibit," prepared by Yosef Portnoy, P.E., Maser Consulting, P.A., dated 07/06/2017, and revised through 07/14/2017.

A-11 Borough of Carlstadt Resolution No. 2018-141-A dated May 3, 2018.

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

O-1 Affidavit of Eric Senderowicz, dated July 24, 2018.

**B. Testimony**

Thomas J. Trautner, Esq., of the firm, Chiesa Shahinian & Giantomasi PC, represented SEI Carlstadt, LLC at the hearing. The following witnesses testified in support of the application:

1. Yosef Portnoy, P.E., Maser Consulting, P.A.;
2. Scot Murdoch, AIA, KSS Architects;
3. Christopher Hile, Jones Lang LaSalle;
4. Jefferey M. Fiore, P.E., Maser Consulting, P.A.; and
5. Paul Phillips, P.P., AICP, Phillips, Preiss, Grygiel, LLC.

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**

One objector, Eric Senderowicz, Operating Member of One Ethel Boulevard, LLC and President of Reddy Raw, was present at the public hearing, and was represented by counsel, Scott E. Rekant, Esq., of Cullen and Dykman, LLP.

#### IV. RECOMMENDATION

**A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.3(b)1, which prohibits loading in any front yard, whereas four loading doors are proposed in the front yard facing Twelfth Street within the District.**

The Hackensack Meadowlands 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 property in question is subject to a unique set of conditions that affect the site's development. First, zoning authority over site development is split between two jurisdictions. The Hackensack Meadowlands District Zoning Regulations apply to the southerly portion of the site (the property identified as Block 84, Lot 1 within the Borough of Carlstadt), while the northerly portion of the site (the property identified as Block 229.02, Lot 3 within the Borough of Wood-Ridge) is located outside of the District. Thusly, development on Lot 3 is subject to the zoning requirements of the Borough of Wood-Ridge. Furthermore, Twelfth Street is a narrow 22-foot-wide public right-of-way (ROW) within the Borough of Carlstadt, which terminates at the municipal border with the Borough of Wood-Ridge. The site is accessed from the north via roadways through Wood-Ridge, in particular along Park Place East, Park Place, and then via an existing 22-foot-wide access

easement across the adjacent property located at 1 Ethel Boulevard. No access is available from the south of the site via Twelfth Street due to the degraded condition of the roadway.

The property also exhibits an irregular configuration due to the unique conditions owing to the terminus of Carlstadt's Twelfth Street ROW at the Borough of Wood-Ridge boundary line. At this location, the westerly portion of the site in Wood-Ridge (Lot 3) extends approximately 22 feet beyond the site's westerly lot line within the District (Lot 1), forming a small panhandle.

This combination of factors results in a unique set of circumstances applicable to the property in question that is not ordinarily found in the District.

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

The granting of the requested variance will not adversely affect the rights of area residents. While no residences exist within the immediate vicinity of the subject property, a residential neighborhood does exist approximately 1,000 feet to the north of the subject property within the Borough of Wood-Ridge. There are weight-related travel restrictions on truck traffic through this residential neighborhood, therefore trucks accessing the industrial properties in the vicinity of the subject site are limited to using Park Place East. The truck traffic associated with the property in question will continue on to the site via Park Place and then an access easement across the neighboring private property at 1 Ethel

Boulevard. The traffic assessment provided by the applicant (Exhibit A-8) indicates site-generated traffic can be accommodated at the proposed site with no negative impact to the roadway system in the area. Therefore, with respect to area residences, there will be no substantial detriment resulting from the variance request to provide loading within the front yard.

Surrounding properties in the vicinity of the property in question are industrial in nature, and front yard loading operations exist on many properties located to the north of the site in question.

An objector representing the adjacent property to the north, appeared at the public hearing to oppose the proposed variance, stating that the vehicles using the easement across his property to access the proposed warehouse building would negatively impact the circulation and loading operations at his property, which is occupied by his business, Reddy Raw food distributors. The Objector indicated that trucks queuing while waiting to access the loading doors within the proposed front yard loading area would result in a back-up of traffic within the easement area on his property, thereby obstructing access to the Reddy Raw site.

A total of 11 loading doors are proposed along the westerly building elevation, with four of those doors located within the northerly portion of the site in Wood-Ridge. This variance request applies only to the seven loading doors located within the Borough of Carlstadt. A review of the site plan indicates the distance between the proposed westerly building façade and the proposed curb/retaining wall to the east of NS Main Line ranges from 158

feet from the northerly-most loading dock in the Borough of Wood-Ridge, to approximately 140 feet at the southerly-most drive-in ramp within the Borough of Carlstadt. The distance at the District boundary line is approximately 152 feet. This differentiation occurs due to the angle of the NS Main Line as it traverses past the property. Therefore, the loading areas in the northerly portion of the site contain more area available for trucks to maneuver into the loading areas than those in the southerly portion of the site within the District.

In order to ensure that the proposed loading operations do not result in a back-up of traffic along the easement on the adjacent property, this recommendation includes a condition that the six proposed loading dock doors, which are located to the north of the proposed southerly drive-in loading door, shall be recessed within the building a minimum distance of five feet from the proposed westerly building line. Based on the truck circulation patterns shown on Exhibit A-10, the additional five feet would provide for a 10-foot-wide area within the southbound travel lane of Twelfth Street that would remain clear of the path of trucks maneuvering within the loading areas. This area will provide for additional maneuvering space on the site itself, as opposed to within the ROW, and will minimize the potential for the obstruction of traffic flow along Twelfth Street, the access easement on the adjacent property, and Park Place. This loading door recession would also allow sufficient area for a tractor-trailer or emergency vehicles to continue to travel southbound on Twelfth Street to the southerly driveway while a tractor trailer is maneuvering into one of the proposed loading doors on the site.

The proposed loading doors would not impact the two neighboring properties to the west of the NS Main Line, whose rear yards face the subject property from across the rail line. One of these two properties contains loading activities within their easterly rear yard, and the other contains a masonry building wall with limited fenestration. Both properties have either fencing or vegetation along the rail line that will screen the proposed loading activities.

With the implementation of the recommended condition, the granting of the requested 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 subject property contains a number of characteristics that result in peculiar and exceptional practical difficulties in the ability to install loading areas on the site in a conforming location outside of a front yard.

The property configuration exhibits some irregularities that result in practical difficulties in the design of the building and loading areas. Specifically, the westerly portion of the site within the Borough of Wood-Ridge (Lot 3) extends approximately 22 feet beyond the site's westerly lot line within the District (Lot 1), forming a small panhandle. In addition, both the easterly and westerly lot lines contain an angle in the southeasterly direction.

The site is proposed to be redeveloped with a new 60,696-square-foot warehouse building with accessory office space. The proposed site design locates the main building entrance within the easterly rear yard, along with passenger vehicle parking. The proposed loading areas are situated within the site's westerly front yard along Twelfth Street.

The Twelfth Street ROW terminates to the north at the municipal boundary with the Borough of Wood-Ridge. Lot 3, a private property within the Borough of Wood-Ridge that is part of the subject development site, is located to the north of this terminus. Therefore, the area within the Wood-Ridge portion of the site where truck loading and maneuvering for the building is proposed is within the subject property's physical boundaries. The applicant proposes to continue the loading area along the westerly building façade within the Borough of Carlstadt facing the Twelfth Street ROW.

Alternative configurations for development within the District that would result in the placement of loading areas within a permitted side yard are not practicable. Such alternative would result in a long and extremely narrow building that would not permit the safe separation of truck and passenger vehicle traffic, as accomplished by the proposed design. The provision of the site's loading operations within the site's easterly rear yard, another potential permitted location, would impact the building layout and potentially reduce the building size to allow for the wide arcs needed to accommodate truck circulation patterns within the

loading areas and around the proposed building, resulting in an inefficient site design. The proposed alternative, with loading spaces in the westerly front yard, provides for a comprehensive and cohesive site design that provides for one defined loading area for the overall site, and accomplishes a safe separation of truck traffic from passenger vehicles and pedestrians by providing for these site requirements in separate locations. The building, as proposed, complies with all required setbacks, open space, and lot coverage requirements, signifying the site is not being overdeveloped.

Therefore, the strict application of the zoning regulations prohibiting loading in a front yard results in a hardship for the applicant. The requested variance is sought to address the significant practical difficulties resulting from the unique property conditions.

*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 impact to the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance.

The applicant proposes to locate seven loading areas located in the District-portion of the project, consisting of one drive-in ramp and six loading dock doors, within the front yard facing Twelfth Street.

The applicant also proposes to utilize the Twelfth Street ROW to accommodate truck maneuvers associated with the site's loading operations. Improvements to the Twelfth Street ROW along the site frontage are proposed to facilitate vehicular movements within the ROW. The Borough of Carlstadt, the owner of the ROW, passed a resolution approving the proposed utilization of Twelfth Street for such purposes. The applicant also proposes to add either a high curb or retaining wall adjacent to the NS Main Line in order to clearly define the edge of the roadway. As no specific plans are shown for this area, this recommendation is conditioned on the applicant obtaining all required approvals from the Borough of Carlstadt with respect to any proposed improvements to the Twelfth Street ROW.

The Twelfth Street ROW, to the south of the property in question, is severely degraded and is not in navigable condition. Immediately to the south of the property in question, the owner of the vacant site at Block 84, Lot 2 has obtained zoning approval from this agency for the construction of a 218,261-square-foot warehouse building. Access to future development on Lot 2 will be from a small improved portion of Twelfth Street in the vicinity of its southerly boundary, where it connects with Route 17 via an at-grade crossing of the NS Main Line rail line. It is noted that the length of Twelfth Street to the west of Lot 2 was not proposed to be improved northward to Lot 1 as part of that development approval. As a result, no access to the subject property or beyond is anticipated from the portion of Twelfth Street to the south of the property in question, and public safety will not be impacted by the

proposed circulation patterns of vehicles associated with the location of the proposed loading areas within the front yard.

The subject property is accessed from the terminus of Park Place in the Borough of Wood-Ridge via an easement across the adjacent property located at 1 Ethel Boulevard. Potential public safety concerns result from the utilization of the Twelfth Street ROW to accommodate turning maneuvers by trucks accessing the loading area. During loading operations, conflicts may result between the on-site trucks and vehicles traveling south from Park Place across the easement on 1 Ethel Boulevard and through to the Twelfth Street ROW. In order to ensure unobstructed access to the site, particularly by emergency vehicles, and to avoid any potential back-up of vehicles onto the access easement across 1 Ethel Boulevard, it is recommended that the six proposed loading dock doors on the site be recessed a minimum of five feet from the proposed westerly façade wall of the building.

Therefore, with the recommended condition, the placement of the loading areas within the front yard facing Twelfth Street will have no adverse impact on public safety or health.

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

The granting of the requested variance will not have any adverse environmental impacts. The site is a currently improved, but defunct, industrial site that is proposed to be privately redeveloped with new warehouse development. No environmentally sensitive

wetlands will be impacted as a result of the proposed site development, and all open space requirements will be met.

Furthermore, the requested variance to locate seven loading doors within the front yard facing Twelfth Street will not cause the NJSEA's environmental performance standards for noise, glare, vibrations, airborne emissions or hazardous materials to be exceeded. The aesthetics of the proposed front yard loading operations will not cause a significant detriment to the visual environment within the area, given its remote location and the presence of the NS Main Line which provides separation from properties to the west.

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

The applicant proposes a total of 11 loading areas on the subject property, with one drive-in ramp and ten loading docks. Seven of those loading areas (inclusive of the drive-in door) are located within the District. Through the analysis provided in Exhibit A-7, the applicant has demonstrated that the proposed number of loading doors is consistent with prevailing warehouse development in the area. The average dock door ratio for warehouse development in the Meadowlands region is one loading door per 4,915 square feet of floor area. The proposed ratio at the subject site of one loading door per 5,400 square feet of warehouse space is not excessive and is within the average range of loading provisions for warehouse development in the area.

Furthermore, the applicant meets all bulk requirements for site development within the Light Industrial B zone. As noted above, the property's particular and unique property characteristics result in challenges in the development of a site within two distinct zoning jurisdictions and unique practical difficulties with respect to the property's configuration and site access.

The staff's concerns with respect to safe circulation patterns are addressed by the recommended condition to recess the loading dock doors within the westerly façade of the building by a minimum distance of five feet, which would allow a truck that is waiting to enter the loading area sufficient staging area within the Twelfth Street ROW, without obstructing loading operations on the site.

The requested variance, therefore, represents the minimum deviation from the regulations that will afford relief.

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

The intent and purpose of front yard loading regulations are rooted in the promotion of public safety and aesthetics. Although this proposal locates loading areas in a front yard, public safety is not adversely impacted in this particular instance. The subject property is located between the physical termini of its two potential points of access. The Twelfth Street ROW is not an existing thoroughfare, nor is it likely to become one. Access from Park Place is via an access easement across the adjacent property at 1 Ethel

Boulevard in Wood-Ridge. There is no anticipated through traffic along the subject site's frontage. This recommendation provides a condition to ensure that the public safety concerns normally associated with front yard loading, namely, the obstruction of traffic and emergency vehicle access, are minimized. Therefore, there will be no impairment to the intent and purpose of these regulations by the granting of the requested variance, which is requested due to the unique property conditions established herein. The site's relatively remote location within its specific locational context also does not compromise area aesthetics.

Ultimately, the proposed variance will enable the redevelopment of a degraded site in a manner consistent with both existing and planned uses in the vicinity.

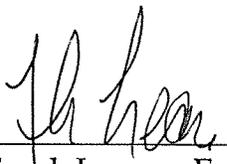
V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.3(b)1, which prohibits loading in any front yard, whereas seven loading doors are proposed in the front yard facing Twelfth Street within the District.

Based on the record in this matter, the bulk variance application to permit seven new loading doors in the front yard facing Twelfth Street within the District on Block 84, Lot 1, in the Borough of Carlstadt, whereas loading is not permitted in any front yard, is hereby recommended for APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS:

1. The six proposed loading dock doors, which are located to the north of the proposed southerly drive-in loading door, shall be recessed within the building for a minimum distance of five feet from the proposed westerly building line to allow for an additional five-foot width of truck maneuvering space in the loading area to minimize the potential for the obstruction of traffic flow along Twelfth Street.
2. The property owner shall obtain all required approvals from the Borough of Carlstadt with respect to any proposed improvements within the Twelfth Street right-of-way.

CONDITIONAL APPROVAL 10/9/2018   
Recommendation on Variance Request      Date      Sara J. Sundell, P.E., P.P.  
Director of Land Use Management

Conditional Approval 10/10/18   
Recommendation on Variance Request      Date      Frank Leanza, Esq.  
Senior Vice President  
Chief of Legal & Regulatory Affairs