

100 State Street Board of Adjustment Hearing (B o A)

Information Packet – Meeting #5 – Thursday Sep 5, 2019

Council Chambers

Who is in the room?

- Teaneck B o A: Chairperson, Vice Chairperson, 5 Members, 4 Alternates, Attorney, Secretary – all appointed by the Town Council
- Teaneck Planning Board representative(s) – also appointed by Town Council
- Attorney representing Developer
- Developer – this is the person(s) requesting the variance (s)
- Developer’s Witnesses: Engineer, Architect, Planner, etc. depending on testimony given at the time
- Concerned Teaneck Residents

What is the Status?

This is the 5th hearing for the request for 11 variances for 100 State St, which include variances for unit density – only 9 units are allowed, but they are asking for 68. In addition, they are requesting a height variance – 35 feet in height is permitted per the zoning ordinance, but the developer is asking to be able to build to 86 feet in height.

At the last meeting, we heard testimony from the developer’s Planner, Steven M. Lydon. Land Use Planners create plans for land development and usage and use a variety of tools to help them present the developer’s case. In the case of this Mr. Lydon, many of the statistics and assumptions he used were based upon faulty information, statistics that did not really relate to our township, or were just outright incorrect.

The community is in the process of asking the Planner about his testimony, asking him to support his assertions. Once the cross examination of the Planner is complete, the next phase of the meeting is to hear from the community. The community will have a chance to make statements that will be captured on the record as part of the official testimony for this case.

It is recommended that the community focuses on how the variances violate Teaneck’s Master Plan.

The following is from the New Jersey Planning Officials Study Guide:

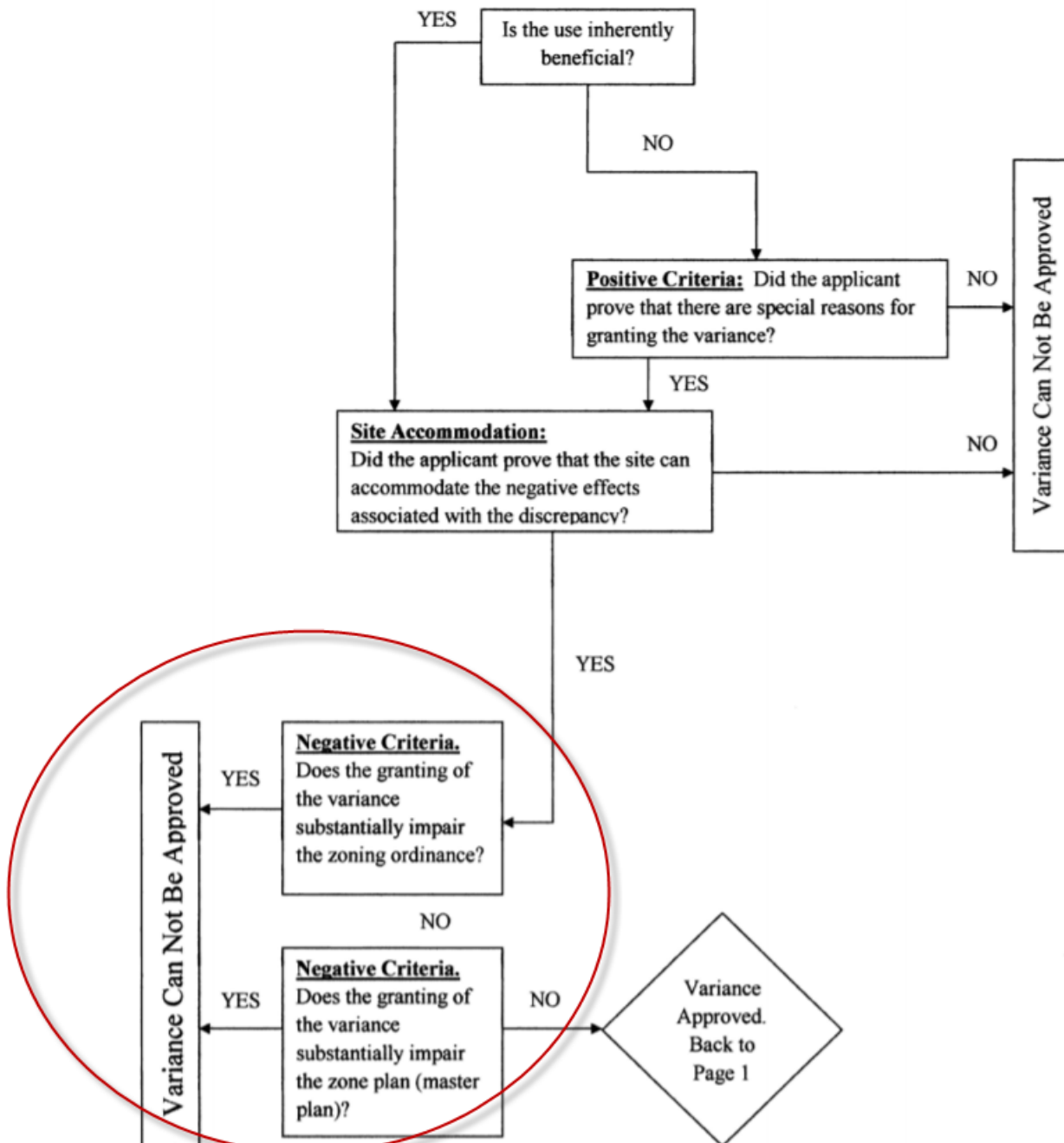
https://cdn.ymaws.com/www.njspls.org/resource/resmgr/survcon/2017_survcon/survcon_2017_handouts/NJPO.Education.Study.Guide.2.pdf

Variance Flowchart

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Edited by: Clifford Gibbons, Esq.

Page 7 – Exceeding a Density Requirement



How does the process work?

This is not a court proceeding, but it may look or feel like it. You will see, for example, a court reporter taking down testimony from witnesses and experts. This is to create a record for any appeals that may follow.

Opportunities for Public (Your) Input

Developer's Witnesses

You can question the witness giving testimony about the testimony just given. The community is now in the process of questioning the Planner for the Developer, Steven M. Lydon regarding his testimony on the overall impact analysis to Teaneck, statistics about why high-density housing is good for Teaneck, and therefore why the BoA should decide in the Developer's favor.

You will be sworn in, which is a formality and shouldn't alarm you. The exchange between you and the witness will be entered into the 'official record'. If Ms. Berger (or the Chair) objects to your question, ask why, and ask how your question could be re-phrased. Be persistent and take your time; if this application is granted, 100 State Street will be standing for a long time.

Good questions to ask (don't repeat if someone already asked):

- Which requested variance does 'this part' of your testimony relate to?
- Why couldn't this building be built according to the existing zoning code (for height, or lot coverage, or number of apartments)? Why not honor the existing code?
- What is the source of your data and what time-period does it represent?

Community Input:

Once all the witness testimony on behalf of the Developer is complete, members of the community will have an opportunity to speak and provide testimony. This is the part of the meeting, that will be recorded on record, where you can state how the proposed variances will impact your community. You may be asked to support your arguments with actual data or anecdotal evidence. **Please come prepared.**

Here is a sample statement: "I am against the Board of Adjustment setting precedent for future development by granting variances that do not comply with the zoning restrictions, laid out in the Land Use Laws and the Teaneck Master Plan, in regard to the concentration of population density in our neighborhoods."

For information about impact to Teaneck, see the draft of the State Street Impact Study prepared by the Teaneck Township Planner, Mr. Preiss

[https://www.teanecknj.gov/media/Documents/Managers%20Documents/State%20Street%20Impact%20Study%20DRAFT%207-1-19\(PDF\)](https://www.teanecknj.gov/media/Documents/Managers%20Documents/State%20Street%20Impact%20Study%20DRAFT%207-1-19(PDF))

Regarding setting precedence – see this screen shot of how 100 State St was being marketed:

<https://www.loopnet.com/Listing/18772058/100-State-Street-Teaneck-NJ/>



OFFICE PROPERTY FOR SALE

Price	N/A	Commission Split	2%
Building Size	1,000 SF	Building Class	B
Property Type	Office	Tenancy	Multiple
Property Sub-type	Medical Office	Lot Size	0.79 AC
Property Use Type	Investment		

Listing ID: 18772058

Date Created: 06/27/2014

Last Updated: 01/06/2015

DESCRIPTION

The Subject Property provides an investor/developer a great opportunity for a multi-family development in a prestigious Bergen County location. The Subject Property is currently a medical/professional office building with tenants; the last lease termination is in 9/2016.

There has been activity in the area with a new Mixed Use Development approved at 140 State Street and a large multi-family development approved just two blocks away at 1475 Palisade Avenue.

The Subject is zoned multi-family and assuming the same (and in many cases less serious) variances given to the other two approvals, one can assume between 60-75 Units of Multi-family can be built on the location. While variances are being pursued by the investor/developer, there is rental income from the current Office property yielding approximately \$50,000 of income annually.

The Subject is close to everything as the NJ Transit Bus to NYC stops across the street and you can walk to restaurants

Teaneck Master Plan

<https://www.teanecknj.gov/teaneck-master-plans>

The Master Plan is a formal document required by the State of New Jersey Municipal Land Use Law, and more importantly to Teaneck, it is a vision for its future.

As provided for in the Municipal Land Use Law, the elements of the Teaneck Master Plan include: A Statement of Goals and Objectives, a Land Use Element, etc.

The Township of Teaneck last adopted a full Master Plan on April 12, 2007 entitled Master Plan for the Township of Teaneck.

The Township Master Plan of 2007 and the Proposed 2017 Master Plan Re-examination Report, in part, reads:

Goals - Preserve the character of existing **low-density** residential neighborhoods forming the predominant character on the township.

Objectives - Preserve and enhance the **low-density** residential character of established neighborhoods

As you can see from the below illustration, the new buildings are very out-of-scale with the rest of the neighborhood.



State of NJ Land Use Law

The State of New Jersey has land use laws that apply to all municipalities

Zoning Municipalities, such as Teaneck, then have their own local zoning laws that determine how real property can or cannot be used in certain areas within the municipality.

Variations are requests to deviate from current zoning requirements. If granted, it permits the owner to use land in a way that is ordinarily not permitted by the zoning ordinance. It is not a change in the zoning law, but a waiver from the requirements of the zoning ordinance.

A Board of Adjustment's ignoring zoning requirements and repeatedly granting applicants' requests for variances may constitute "zoning by variance," which courts generally do not favor.

State and Land Use Law Article 9. Zoning board of Adjustment

"No variance ... may be granted under the terms of this section, including a variance ... involving an inherently beneficial use, without a showing that such variance ... can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance.

40:55D-2 Purpose of the act

It is the intent and purpose of this act:

a. To encourage municipal action to guide the appropriate use or development of all lands in this state, in a manner which will promote the public health, safety, morals, and general welfare;

e. **To promote the establishment of appropriate population densities and concentrations** that will contribute to the well-being of persons, neighborhoods, communities, and regions and preservation of the environment;"

List of variances being requested at 100 State Street

Proposed v. Permitted

1) **Lot area** - Proposed and existing lot area is .79 acres (34,500.00 sq. ft.) Minimum required lot area is 1.5 acres (~65,340 00 sq. ft.).

2) **Building setback to front property line** - Proposed front setback of building to property line is 9.9 feet. Permitted minimum front setback of building to property line is 30 feet.

3) **Building setback to rear property line** - Proposed rear setback of building to property line is 0 feet to parking wall. Proposed rear setback of building to property line is 15 feet to the residential levels. Permitted minimum rear setback of building to property line is 30 feet.

4) **Building setback to side property line (east)** - Proposed side setback of building to property line on the east side is 15 feet. Permitted minimum side setback of building to property line on the eastside is 30 feet.

5) **Building setback to side property line (west)** - Proposed side setback of building to property line on the west side is 15 feet. Permitted minimum side setback of building to property line on the west side is 30 feet.

6) **Density (units per acre maximum)** - 68 units proposed. **9 units** permitted as per acreage. *Impact study by Teaneck Planner mentions 12/86 units per acre – [this is a mathematical calculation per acre](#)

7) **Building coverage** - Proposed building coverage is 27,118 sq. ft. (78.6%) Maximum permitted building coverage is 6,882 sq. ft. (20%).

8) **Lot coverage** - Proposed lot coverage is 27,995 sq. ft. (81.1%) Maximum permitted lot coverage is 22,368 sq. ft. (65%).

9) **Building height** - Proposed building height is 86.02 feet. Maximum permitted building height is **35 feet**.

10) **Parking** - 100 spaces are proposed on site and 44 spaces provided off-site (using municipal land). 132 spaces are minimum required.

11) **Parking Stall Width** – Proposed Width for 46 on-site parking spaces is 8 feet. Minimum permitted parking space width is 9 feet wide.

12) **Combination of wall and fence height** – Proposed combined wall and fence height is 13.25' (10.75' combined wall height with 2.5' fall protection fence) Maximum permitted wall and fence height combined is 6 feet: FYI. Fall protection must be 3 feet high. Only the portion above grade has to be counted toward cumulative fence and wall height.