

COMMUNITY PLANNING
LAND DEVELOPMENT AND DESIGN
LANDSCAPE ARCHITECTURE

PRINCIPALS:
Joseph H. Burgis PP, AICP
Edward Snieckus, Jr. PP, LLA, ASLA
David Novak PP, AICP

B U R G I S
A S S O C I A T E S , I N C .

MEMORANDUM

To: Borough of Hillsdale Planning Board
From: Tom Behrens, Jr., PP, AICP
Subject: New Concepts for Living (PZ-11-21)
33 Ruckman Avenue
Block 2004 Lot 3
'c' Bulk Variance Requests
Date: January 20, 2022
BA#: 3886.02

INTRODUCTION

The Applicant, New Concepts for Living, proposes to develop a new six-bedroom group home and associated site improvements at the above-referenced property previously developed with a single-family home and related improvements. The site is located in the Borough's R-2 Zone wherein group homes are not specifically listed as permitted uses but are permitted in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-66.1). The Applicant shall demonstrate the proposed use qualifies as a group home or other approved residence pursuant to the applicable State regulations. The nature of the proposed use and extent of required variance relief are detailed herein.

Based on the Borough's 2018 Housing Element and Fair Share Plan and tax records, it appears the Applicant currently operates a four-bedroom group home for the developmentally disabled at 80 Ruckman Avenue in Hillsdale.

DOCUMENTS SUBMITTED

Our office is in receipt of the following documents:

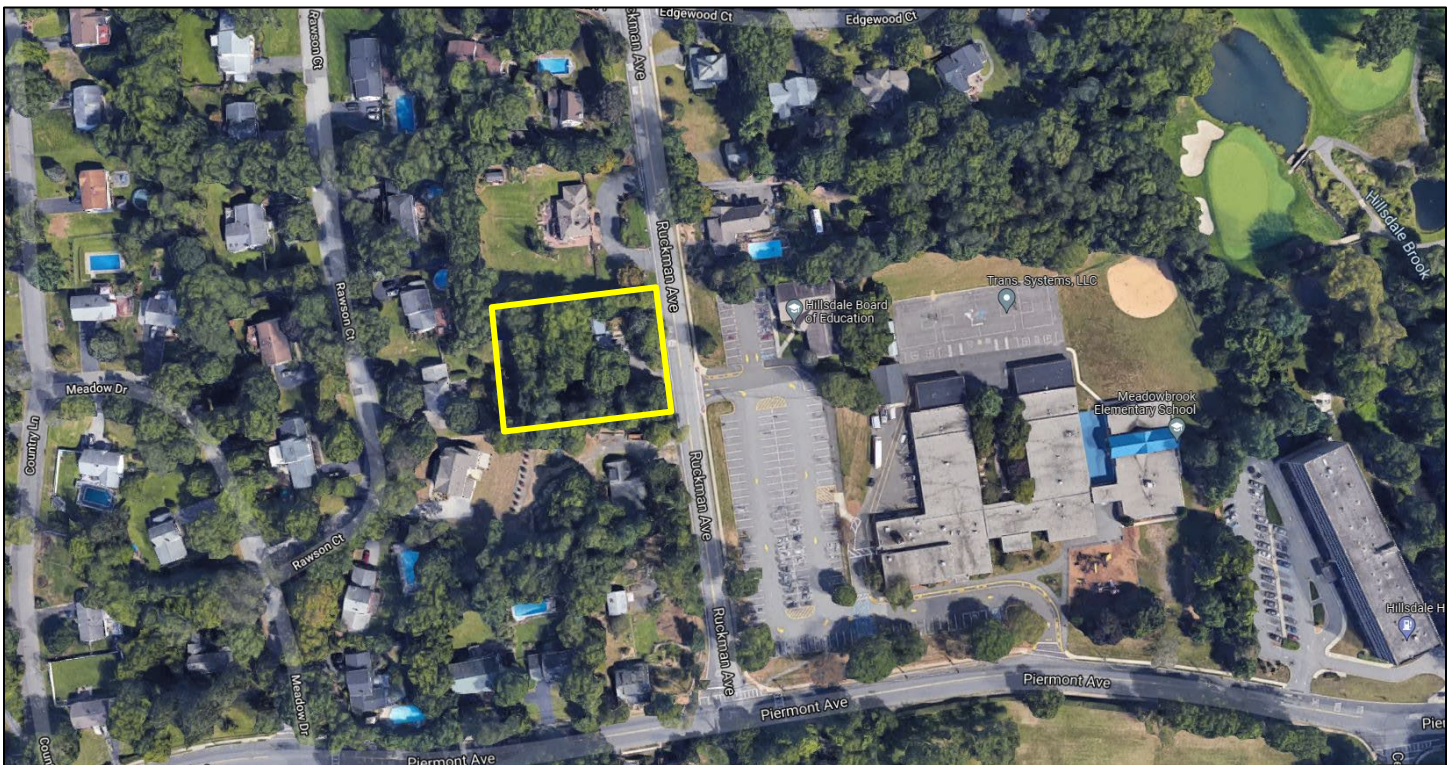
1. Application and accompanying materials.
2. Site plans (6 sheets) prepared by Azzolina & Feury Engineering, Inc. dated September 21, 2021.
3. Architectural plans (4 sheets) prepared by William G. Brown, Architects dated revised December 22, 2021.
4. Site survey prepared by Mark Martins Engineering, LLC dated March 12, 2018.
5. Site photos.

PROPERTY DESCRIPTION

The site, identified as Block 2004 Lot 3, is a 0.51-acre rectangular parcel with 134.73 feet of frontage on Ruckman Avenue. The parcel was previously developed with a 1½-story dwelling and detached accessory building which appear to have been demolished within the last several years. The property otherwise contains some paving associated with the former use, has areas of overgrown vegetation and appears to be devoid of environmental constraints.

Development surrounding the site consists of single-family dwellings to the north, south and west. The Hillsdale Board of Education and Meadowbrook Elementary School are located to the east across Ruckman Avenue. The following aerial image provides a general overview of the site and surrounding development pattern.

Image 1: Site Aerial Photograph



Source: Google Maps, January 20, 2022. Note: lot lines are approximate.

PROPOSED DEVELOPMENT

The Applicant proposes to develop the site with a one-story, 5,051 square foot group home with 6 bedrooms. Associated site improvements include a paved driveway leading to a rear parking area and landscaped areas. Both the group home and affordable housing aspects of the development constitute inherently beneficial uses.

The following is offered for the Board's consideration with respect to specific elements of the development application:

1. Use. The Applicant shall specify the operation and nature of the group home in terms of services provided, entity responsible for the home, regular staff, tenants' needs, general security and any other pertinent information to demonstrate the use is permitted in the R-2 Zone in accordance with N.J.S.A. 40:55D-66.1. This provision of the Municipal Land Use Law establishes that community residences for the developmentally disabled shall be a permitted use in all residential districts of a municipality, and the requirements therefor shall be the same as for single-family dwelling units located within such districts. N.J.S.A. 30:11B-2 defines 'community residence for the developmentally disabled as follows:

"any community residential facility housing up to 16 persons with developmental disabilities, which provides food, shelter, and personal guidance for persons with developmental disabilities who require assistance, temporarily or permanently, in order to live independently in the community. Such residences shall not be considered health care facilities within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and shall include, but not be limited to, group homes, halfway houses, supervised apartment living arrangements and hostels."

2. Affordable Housing. Group home bedrooms typically qualify as very low-income units quantified on a per bedroom basis. As such, it appears that the proposed six group home bedrooms will generate the same number of affordable housing credits to satisfy a portion of the Borough's Third Round unmet need or may be applied to a future obligation. The Applicant shall confirm the duration or extent to which the units will remain affordable for the intended use by deed restriction or other acceptable mechanism.
3. Building Design. The first floor plan features 6 bedrooms, 4 full bathrooms, exercise room, library, laundry room, kitchen and dining area, office, "med" room, living room and ancillary spaces. The majority of the house will be built on top of a slab at grade while there will be an open basement area at the rear of the dwelling. The Applicant shall confirm the proposed use(s) of the basement area.

The Applicant shall provide an overview of all proposed exterior building materials and colors and confirm consistency with surrounding development. The dwelling features covered front and rear porch areas.

4. Parking and Circulation. A 12 foot wide driveway traverses the southerly portion of the site leading to the rear parking area with 8 striped parking stalls where the New Jersey Residential Site Improvement Standards (RSIS) requires a minimum of 3 parking stalls for the 6 bedroom dwelling. The Applicant shall demonstrate the need for the number of parking spaces in excess of the RSIS parking requirement given the requested variance relief for the proposed nonconforming impervious coverage. Similarly, the Applicant shall discuss the planning benefits of the proposed parking and circulation configuration with the parking in the rear as compared to other alternatives. We also question if any designated handicap parking spaces are required. Finally, the Applicant shall confirm the extent to which tenants keep vehicles on the site as well as specifications of any commercial or community vehicles anticipated to be stored on the site overnight.

The Applicant proposes an 8.5 foot wide road widening easement along Ruckman Avenue.

5. Landscaping. Sheet 5 of the site plans indicates that approximately 36 trees will be removed from the site. The landscape plan includes the installation of one Newport Plum and one Holly in the rear of the site and one Colorado Spruce in the front yard as well as a hedgerow of Emerald Green Arborvitae along the northerly side lot line planted at 3' to 4' in height. It appears that some existing vegetation will remain along the rear property line, the details of which and adequacy to provide year-round screening of the parking area are unknown. There appears to be limited screening for the residential property immediately south of the site. No foundation plantings are shown on the plans.

The Board should consider whether or not a more complete and comprehensive landscape plan should be prepared for the site. The Applicant shall confirm the adequacy of the proposed landscape buffers and screening.

6. Fencing. No fencing is proposed. We question if fencing should be installed around the rear yard, at a minimum, to provide screening for the parking area and provide privacy for residents.
7. Retaining Walls. A 3 foot high block retaining wall will be installed along the northerly side lot line and a 2 foot high block retaining wall will be installed along the southerly side lot line.
8. Lighting. The Applicant shall provide an overview of proposed exterior lighting improvements and demonstrate compliance with the applicable Borough requirements.
9. Signage. No sign details have been provided. The Applicant shall confirm whether any signs are proposed and, if so, address compliance with the Borough's sign regulations.
10. Trash and Recycling. An open trash area composed of a concrete pad is proposed at the rear of the dwelling.
11. Generator. The proposed generator is located in the northerly side yard approximately 12 feet from the lot line. While in a compliant location, we question if the generator could be located centrally in the rear yard to mitigate noise when exercised which is typically on a weekly basis. The generator shall be exercised as permitted by the Borough.

MASTER PLAN

The Borough's 2003 Master Plan includes the following goals and objectives applicable to the proposed development:

1. Achieve a balance between the developed community and new development.

The Applicant shall provide an overview of the development's consistency with the surrounding neighborhood with respect to scale, style, materials and site features. The Board is tasked with balancing these aspects of the development with the proposed inherently beneficial use(s).

The Borough's adopted 2018 Housing Element and Fair Share Plan and Settlement Agreement with Fair Share Housing Center does not specifically include the subject site. The Borough's Fair Share Plan has been determined to satisfactorily comply with the Borough's Third Round affordable housing obligations. If approved, the six group home bedrooms will contribute 6 credits of affordable housing to the Borough's Third Round unmet need or future obligations.

ZONING

The site is located in the R-2 Residential Zone wherein the proposed group home is not specifically listed as a permitted use. However, as noted above, the Municipal Land Use Law permits group homes as of right in all residential zones. The Applicant shall confirm the proposed use conforms with those terms. Table 1 below provides the bulk requirements of the R-2 Zone a compared to the existing and proposed development conditions. 'C' bulk variance relief is required for the proposed front yard setback, building coverage and impervious coverage.

Table 1: R-2 Zone District Requirements

Requirement	R-2 Zone	Existing	Proposed
Min. Lot Area	15,000 sf	22,172 sf	No Change
Min. Frontage and Width	100 ft	134.56 ft	No Change
Min. Lot Depth	150 ft	164.94 ft	No Change
Min. Front Yard Setback	50 ft	57.5 ft	43.2 ft (V)
Min. Rear Yard Setback	50 ft	73.7 ft	50.1 ft
Min. Side Yard Setback			
One	10 ft	10 ft, 30.5 ft	10 ft, 30.5 ft
Combined	40.4 ft (30% x 134.56 ft)	94.4 ft	40.5 ft
Max. Building Coverage	20%	6.6%	22.8% (V)
Max. Impervious Coverage	30%	18.8%	45.2% (V)
Max. FAR	27%	<27%	22.8%
Min. Total FAR			
One-Story	1,800 sf	N/A	5,051 sf
Two-Story	1,200 sf	>1,200 sf	N/A
Ground Floor	600 sf	>600 sf	5,051 sf
Max. Building Height	35 ft	<35 ft	29.99 ft

(V) Variance relief required.

Required Variance Relief

The proposed development requires the following variance relief:

1. 'c' Minimum Front Yard Setback. The proposed dwelling will have a nonconforming front yard setback of 43.2 feet where the R-2 Zone requires a minimum front yard setback of 50 feet. The Applicant shall provide a justification as to the planning benefits of the proposed nonconforming front yard setback and consistency with surrounding development on Ruckman Avenue. An exhibit depicting the existing front yard setbacks along Ruckman Avenue in the vicinity of the site could help illustrate this.
2. 'c' Maximum Building Coverage. The R-2 Zone permits a maximum building coverage of 20% where the proposed dwelling will have a nonconforming setback of 22.8%, or 621 square feet above the maximum permitted coverage. The Applicant shall discuss why the building cannot be designed to conform with the R-2 Zone building coverage requirement and the extent to which the proposed building and excess coverage are consistent with the surrounding neighborhood.
3. 'c' Maximum Impervious Coverage. The proposed development will have a nonconforming impervious coverage of 45.2% where the R-2 Zone permits a maximum impervious coverage of 30% representing an overage of 3,370 square feet. The excess impervious coverage appears to derive primarily from the elongated driveway and rear parking area. The Applicant shall discuss the planning benefits of the proposed parking and circulation configuration (parking in rear vs. front) and whether or not the parking area can be reduced in area to reduce the impervious coverage. In addition, the Applicant shall demonstrate how the excess coverage will be mitigated in terms of stormwater management and screening for surrounding single-family uses.

STATUTORY CRITERIA

The Applicant is required to address the below statutory criteria for the requested 'c' variance relief.

SICA Test for Inherently Beneficial Use Variances

Though typically applied to 'd'(1) use variance relief for inherently beneficial uses, the SICA balancing test should be considered in evaluating this development application for a group home. Inherently beneficial uses are considered to have satisfied the positive criteria set forth in N.J.S.A. 40:55D-70(d) of the Municipal Land Use Law. In the decision *Sica v. Board of Adjustment of the Township of Wall et al.*, the Supreme Court stated that, in reviewing applications with inherently beneficial uses, the board must:

1. Identify the public interest at stake;
2. Identify the detrimental effect that will ensue from the grant of the variance, recognizing that certain impacts will result from permitting a use not normally permitted in a zone. When minimal, such impacts need not outweigh an inherently beneficial use that satisfies the positive criteria;
3. Impose reasonable conditions to reduce prospective detrimental effects, and
4. Weigh the positive and negative criteria and determine whether, on balance, the grant of the variance would cause a substantial detriment to the public good.

To address the "negative criteria," the applicant must demonstrate that the proposed variance can be granted "without substantial detriment to the public good" nor will the granting of the variance "substantially impair the intent and the purpose of the zone plan and zoning ordinance" of the municipality.

'c' Variance Relief

The statute provides two approaches to 'c' variance relief, commonly referred to as the 'physical features' test and the 'public benefits' test. These are identified as follows:

1. **Physical Features Test:** An applicant may be granted 'c'(1) variance relief when it is demonstrated that the noncompliant condition is caused by 1) an exceptional narrowness, shallowness, or shape of the property, 2) exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or 3) by reason of extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.
2. **Public Benefits Test:** An applicant may be granted 'c'(2) variance relief where it can prove the following: 1) that the granting of the variance will advance the intents and purposes of the Municipal Land Use Law; 2) that the benefits of granting the variance substantially outweigh any potential detriments. The benefits are required to be public benefits rather than a benefit that simply accrues to the property owner.

In addition to the above, an applicant must address the Negative Criteria of the statute. To meet the negative criteria, an applicant must demonstrate the variance can be granted without substantial detriment to the public good and it will not substantially impair the intent and the purpose of the master plan and zoning ordinance.