

COMMUNITY PLANNING  
LAND DEVELOPMENT AND DESIGN  
LANDSCAPE ARCHITECTURE

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**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: Joseph H. Burgis, P.P., AICP & Tom Behrens, Jr., PP, AICP  
Subject: Bergen County's United Way/Madeline Housing Partners, LLC (PZ-03-20)  
40 Central Avenue  
Block 1407 Lot 6  
Preliminary/Final Site Plan Application w/ 'd'(1) Use & 'c' Bulk Variance Requests  
Date: October 7, 2020  
BA#: 3704.03

### INTRODUCTION

The Applicant, Bergen County's United Way/Madeline Housing Partners, LLC, is requesting preliminary and final site plan approval as well as 'd'(1) use and 'c' bulk variance relief to demolish the existing single-family dwelling and associated improvements to accommodate the development of a two-story residential building consisting of four group home bedrooms and two one-bedroom affordable units. The site plans have been revised with significant modifications to the front yard parking area. The extent of required variance relief is detailed herein.

### DOCUMENTS SUBMITTED

Our office is in receipt of the following documents:

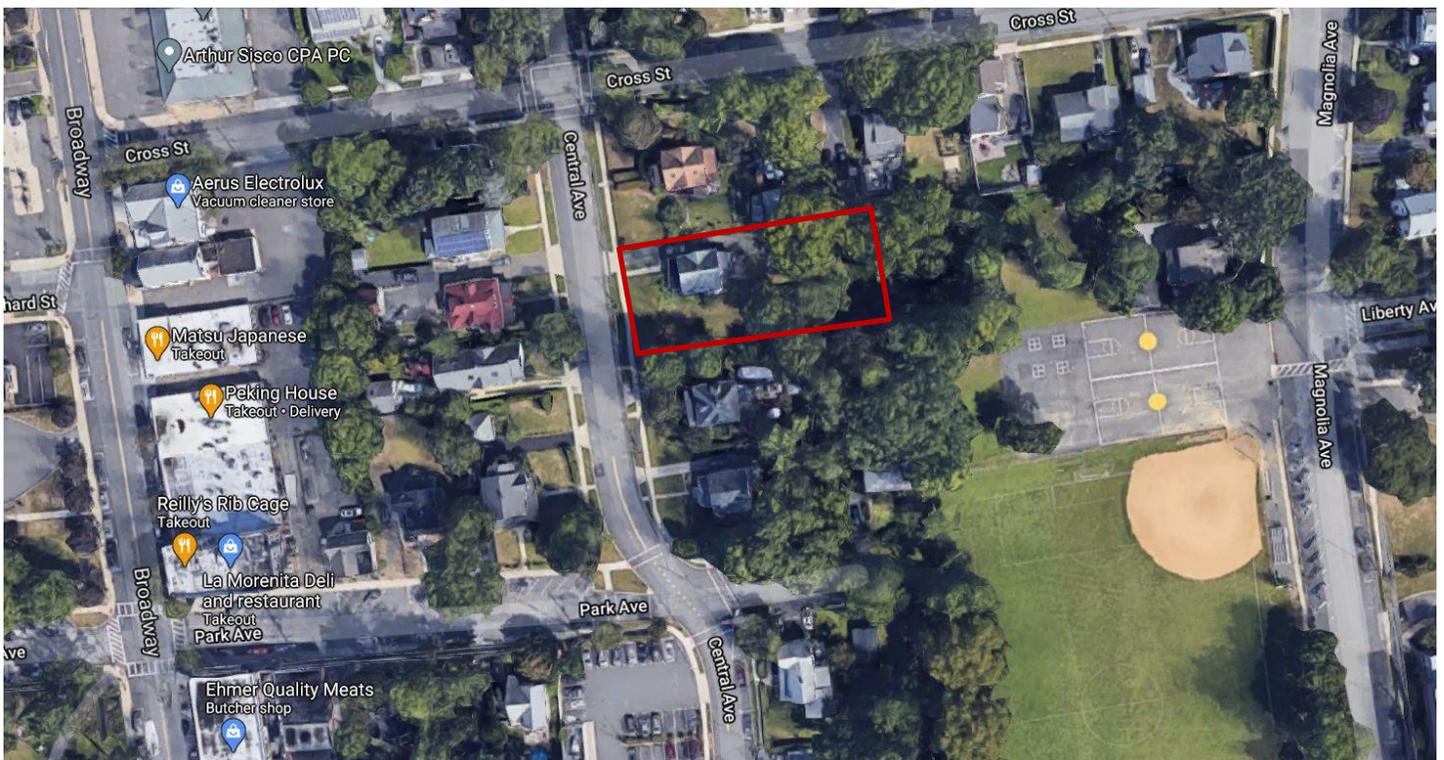
1. Application and accompanying materials.
2. Site plans (4 sheets) prepared by Schwanewede Hals Engineering dated revised September 23, 2020.
3. Architectural plans (3 sheets) prepared by Virgona & Virgona dated March 6, 2020.
4. Site photos.

## PROPERTY DESCRIPTION

The site, identified as Block 1407 Lot 6 in Borough tax records, is a 0.60-acre rectangular parcel with 100 feet of frontage on Central Avenue and a depth of 264 feet. The property slopes downward from the northwest corner to the southeast corner of the site. Lot 6 is currently developed with a two-story single-family dwelling with a paved driveway traversing the northerly portion of the property to a detached garage in the rear yard. There are several existing large trees in the center and around the periphery of the property.

Development surrounding the site primarily consists of detached single-family housing and outdoor recreation space associated with George G. White Middle School at the rear of the site. Lot 6 is located approximately one block away from the Borough's Broadway downtown area and is within walking distance to the Hillsdale Train Station along NJ Transit's Pascack Valley line. The following aerial image provides a general overview of the site and surrounding development pattern.

Image 1; Site Aerial Photograph



Source: Google Maps, October 6, 2020. Note: lot lines are approximate.

## PROPOSED DEVELOPMENT

The Applicant is requesting preliminary and final site plan approval to demolish the existing frame structure, detached garage and associated site improvements to develop a two-story residential building consisting of four group home bedrooms on the first floor and two one-bedroom units on the second floor. Associated site improvements include a two-way driveway on Central Avenue serving the front yard parking area, rear patio, landscaping and lighting improvements as detailed below.

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

1. Use. The proposed residential building will include three separate residential units: a four-bedroom group home on the first floor and two one-bedroom units on the second floor. The Applicant provided testimony at the Board's September 10, 2020 hearing indicating the two apartment units will be occupied by service providers who will support the residents of the group home. The Applicant further stated that the group home units will be dedicated to adults with developmental disabilities. Both the group home and affordable housing aspects of the development constitute inherently beneficial uses as regulated by the MLUL and applicable case law.
2. Affordable Housing. The Applicant provided testimony that the two apartment units will qualify as moderate-income affordable units. Group home bedrooms typically qualify as very-low income units quantified on a per bedroom basis. As such, it appears that the entirety of the project will satisfy a portion of the Borough's Third Round unmet need. The Applicant shall confirm the duration or extent to which the units will remain affordable for the intended use by deed restriction or other mechanism.
3. Building. As depicted on sheet A-2 of the architectural plans, there is programming on the basement and first and second stories of the building. The basement level will include spaces for storage, utilities and a multipurpose room with direct access to the rear yard. The first floor plan includes a central entryway, four bedrooms each having their own bathroom and a communal kitchen, family room, laundry room, office and den. The second floor contains two separate one-bedroom apartment units (866 sf and 970 sf) each with their own living/dining, kitchen and bathroom spaces. As testified to, the residential building will have a common main entrance shared by all of the residential units. However, the apartments on the second floor will function as separate self-contained dwelling units.

Sheet A-1 of the architectural plans illustrates the proposed building elevations. The applicant shall provide an overview of proposed building style, materials and colors as they relate to the surrounding community. Sheet Sk-1 provides a colorized rendering of the front of the site as observed from Central Avenue. This rendering depicts what appears to be a play structure in the rear yard. The applicant shall confirm all proposed accessory site features.

4. Parking and Circulation. The site plan revisions include the removal of the ingress and egress driveways on Central Avenue to a single 16 foot wide two-way driveway. The number of proposed off-street parking spaces has been reduced from 9 to 7 spaces, including 1 handicap space, which complies with the Residential Site Improvement Standards (RSIS). As a result of the parking area reconfiguration, setbacks have been increased to 24 feet from the northerly side lot line and 16 feet from the southerly side lot line. The modification of the parking area reduced the proposed impervious coverage from a nonconforming 37.0% to a conforming 29.7% where a maximum coverage of 30% is permitted.

There does not appear to be any walkway linking the public sidewalk to the dwelling requiring pedestrians to walk through the driveway or on the grass which should be addressed by the applicant.

5. Landscaping. The development will require the removal of 11 existing trees as depicted on the site plans while a number of existing trees around the periphery of the rear yard will be preserved. The proposed limit of disturbance is shown on sheet 3 of the site plans. An appropriate tree protection detail should be added to the site plans.

The landscape plan on sheet 2 of the site plans has been revised. It depicts 2 Zelkova and 2 Japanese Maple trees at the front of the site along Central Avenue. While there is no established street tree pattern on this block of Central Avenue, Japanese Maples tend to be more ornamental in nature, many of the varieties of which do not serve the function of a street tree. The Applicant should consider utilizing the same species of tree along the street frontage to establish a unified tree canopy unless it is demonstrated that the proposed configuration presents a better alternative.

In addition, 2 Red Bud trees are proposed in the rear yard. Staggered rows of Green Giant Arborvitae will be installed along the sides of the front parking area to serve as a buffer for the adjacent residential properties. Several varieties of evergreen shrubs will be installed including Yews in front of the parking area to provide screening, Boxwoods along the side walkways, and Hollies along the front foundation. There is a row of 5 Spirea, a flowering shrub, in one of the front foundation planting beds.

The applicant shall address the adequacy of proposed buffers and screening.

6. Fencing. The plans indicate the location of a 6 foot high solid PVC fence along the northerly lot line extending from the rear yard into the front yard where Section 310-56.B. permits a maximum fence height of 4 feet in front yard areas in residential zones. The Applicant shall revise this fence to conform with the Borough's fence requirements or request the appropriate variance relief.

The plans also appear to depict a fence along the southerly lot line, extending from the rear lot line up to the midpoint of the proposed dwelling, the details of which are unclear. It is recommended that the same solid fence used along the northerly lot line be utilized along the southerly lot line for screening extending to at least the front of the new dwelling.

7. Lighting. The lighting plan was revised to include 2 freestanding lighting fixtures with mounting height of 6 feet, the details for which are provided on sheet 2 of the site plans. The Applicant shall confirm the extent of all proposed exterior freestanding and building mounted lighting. All lighting fixtures shall have appropriate shielding to minimize glare. The Applicant should consider lighting fixtures that may be more residential in appearance while maintaining the desired functionality.

8. 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.
9. Trash and Recycling. A trash enclosure is proposed at the northwest corner of the building essentially formed by a wall connected to the principal building and composed of the same stone material as the base of the building. The Applicant shall discuss proposed means of storage and handling of trash and recycling.

## 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. The four group home bedrooms and two-apartment units will contribute 6 credits of affordable housing to the Borough's Third Round unmet need, if approved.

## ZONING

The site is located in the R-4 Residential Zone wherein the proposed group home is not specifically listed as a permitted use. However, in accordance with N.J.S.A. 40:55D-66.1 of the Municipal Land Use Law, 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."*

Table 1 below provides the bulk requirements of the R-4 Zone in comparison to the existing and proposed conditions. Again, it is noted that the reconfiguration of the parking area has eliminated the need for variance relief from the R-4 Zone impervious coverage requirement.

**Table 1: R-4 Zone District Requirements**

Requirement	R-4 Zone	Existing	Proposed
Min. Lot Area	7,500 sf	26,400 sf	No Change
Min. Frontage	75 ft	100 ft	No Change
Min. Lot Width	75 ft	100 ft	No Change
Min. Lot Depth	100 ft	264 ft	No Change
Min. Front Yard Setback	30 ft	31.78 ft	60.6 ft
Min. Rear Yard Setback	25 ft	187.66 ft	145.4 ft
Min. Side Yard Setback (One/Total)	10 ft/ 30% lot width	12.35 ft/ 70.04%	12.2 ft/ <b>25.8% (V)</b>
Max. Building Coverage	25%	5.7%	13.9%
Max. Impervious Coverage	30%	16.7%	29.7%
Max. FAR	35%	8.5%	22.0%
Max. Building Height	33 ft	31.83 ft	32.2 ft

(V) Variance relief required.

### Required Variance Relief

The proposed development requires the following variance relief:

1. 'd' Use Variance. The Applicant has applied for 'd'(1) use variance relief for the proposed development consisting of a four-bedroom group home and two one-bedroom apartment in the R-4 Zone. As noted above, the MLUL permits community residences for the developmentally disabled in all residential zones. The Applicant is applying for the use variance as the two apartments technically constitute two separate dwelling units within the larger group home structure though such units share common access to the principal building and communal spaces of the group home. The Applicant has provided testimony related to the local and regional need for the proposed group and indicated that the group home is intended to serve eligible individuals already living in and around Hillsdale.
2. 'c' Minimum Combined Side Yard Setback. The proposed building will have a combined side yard setback of 25.8% of the lot width (25.8 feet) where the R-4 Zone requires a minimum combined side yard setback of 30% of the lot width (30 feet). Variance relief is required. The Applicant shall address the adequacy of buffering for adjacent residential development as determined to be necessary.

## STATUTORY CRITERIA

As noted above, the Applicant is requesting 'd'(1) and 'c' variance relief for the proposed development. The applicable statutory criteria in addressing use 'd'(1) use variances for inherently beneficial uses and 'c' bulk variances is provided below.

### SICA Test for Inherently Beneficial Use Variances

Though typically applied to 'd'(1) use variances for inherently beneficial uses, the SICA balancing test should be considered in evaluating this development application for a house of worship. 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.