



THE BOROUGH OF JENKINTOWN

700 SUMMIT AVENUE
JENKINTOWN, PA 19046
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REQUEST FOR HEARING BEFORE ZONING HEARING BOARD

Date: _____ Residential Fee: \$1,000.00 Commercial Fee: \$1,500.00

Petition is made to the Zoning Hearing Board of the Borough of Jenkintown for:

_____ Special Exception

X Variance

_____ Appeal from decision of Code Enforcement Officer / Zoning Officer

1. Name, address and telephone number of petitioner:

459-471 Old York Road, LLC
10063 Sandmeyer Lane
Philadelphia, PA 19116

2. Location of property:

459-471 Old York Road
TMP: 10-00-05524-001; 10-00-05520-00-5; 10-00-05516-00-9

3. Name, address and telephone number of property owner:

(Deed, agreement of sale or lease to be produced at hearing)

Same as Petitioner

4. Name, address and telephone number of attorney, if any:

Matthew J. McHugh, Esquire & Leonard B. Altieri, III, Esquire
Klehr Harrison Harvey Branzburg, LLP
1835 Market Street, Suite 1400
Philadelphia, PA 19103

5. Brief description to include existing improvements and present use of property to
Be affected by the petition:

See attached addendum.

6. Present zoning classification of property:

NCR - Neighborhood Commerical Residential District

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Jenkintown Borough

7. Proposed improvements and/or use of property:

See attached addendum.

8. Specific reference to sections of the Zoning Code from which you seek relief:

See attached addendum.

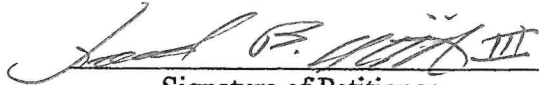
9. State briefly the extent to which your proposed use or construction does not meet requirements of the Zoning Code and the relief that you request:

See attached addendum.

10. State the decision and or action of the Code Enforcement / Zoning Officer that you are appealing:

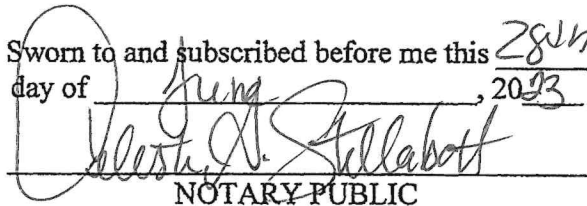
N/A

11. Ten (10) copies of a Plot Plan of the property must be submitted with the petition. The Plan shall be drawn to scale showing size of the lot, setback lines, parking required, and the location and size of improvements now erected and proposed to be erected.



Signature of Petitioner

Petitioner's Attorney

Sworn to and subscribed before me this 28th
day of June, 2023

NOTARY PUBLIC

My Commission Expires

Commonwealth of Pennsylvania - Notary Seal
Celeste A. Stellabott, Notary Public
Philadelphia County
My commission expires February 24, 2025
Commission number 1160045
Member, Pennsylvania Association of Notaries

BOROUGH OF JENKINTOWN

ADDENDUM TO THE ZONING HEARING BOARD APPLICATION

Applicant: 459-471 Old York Road, LLC
10063 Sandmeyer Lane
Philadelphia, PA 19116

Owner: Same as Applicant

Subject Property: 459-471 Old York Road
Jenkintown, PA
TMP: 10-00-05524-001; 10-00-05520-00-5; 10-00-05516-00-9

Attorney: Matthew J. McHugh, Esquire
Leonard B. Altieri, III, Esquire
KLEHR HARRISON HARVEY BRANZBURG LLP
1835 Market Street, Suite 1400
Philadelphia, PA 19102
mmchugh@klehr.com / laltieri@klehr.com
215-569-1662/215-569-4364

Relief Requested:

1. A variance from Section 181-50.A of the Borough of Jenkintown Zoning Ordinance (the “Zoning Ordinance”) to permit a minimum lot size of 3,057 square feet for Proposed Lot 2 where 15,000 SF is otherwise required.
2. A variance from Section 181.50.B of the Zoning Ordinance to permit a minimum lot width of 24.3 feet for Proposed Lot 2 where 50 feet is otherwise required.
3. A variance from Section 181.50.I of the Zoning Ordinance to permit a minimum lot area per dwelling unit of 25,732 square feet for Proposed Lot 1 where 54,300 SF is otherwise required.
4. A variance from Section 181.50.I of the Zoning Ordinance to permit a minimum lot area per dwelling unit of 3,057 SF for Proposed Lot 2, whereas 3,900 SF is otherwise required.
5. A variance from Section 181-50.J(2) of the Zoning Ordinance to permit a minimum commercial floor ratio of 15.89% for Proposed Lot 1 where 20% is otherwise required.
6. A variance from Section 181-54.A(1) of the Zoning Ordinance to permit a minimum street frontage sidewalk width of 4 feet along Cherry Street for Proposed Lot 1 where 8 feet is otherwise required.
7. A variance from Section 181-80 of the Zoning Ordinance to permit 51 off-street parking spaces for proposed Lot 1 whereas 73 off-street parking spaces are otherwise required.

8. A variance from Section 181-80 of the Zoning Ordinance to permit 2 off-street parking spaces for Proposed Lot 2 where 7 off-street parking spaces are otherwise required.

Summary of Application

The Applicant is the owner of the Subject Property, which consists of three separate parcels located at 459-471 Old York Road at the intersection of Old York Road and Cherry Street. The Applicant proposes to consolidate the parcels and then subdivide to create two new lots. The existing building located closest to the intersection will be demolished and proposed Lot 1 will be redeveloped as 4 story, 45 unit Apartment Building with commercial/retail space on the ground floor. The existing mixed-use building at 471 Old York Road will remain on proposed Lot 2. No new improvements or physical changes to the existing mixed-use building are contemplated on proposed Lot 2. The proposed development is shown on that certain Zoning Plan prepared by Holmes Cunningham Engineering dated October 6, 2022, last revised June 27, 2023 (collectively, the "Project").

An Apartment Building is permitted by Conditional Use in the NCR-Neighborhood Commercial Residential District pursuant to Section 181-49(B)(1) of the Borough of Jenkintown Zoning Ordinance. The Applicant has already submitted the necessary applications for conditional use approval but is pursuing the aforementioned variances before proceeding with the conditional use application

The requested variances for the Project can be broken down into 2 separate categories. The first set of variances relate to the proposed Apartment Building on proposed Lot 1 (the "Lot 1 Variances"). The Lot 1 Variances consist of variances for minimum lot area per dwelling unit, sidewalk width of Cherry Street, the amount first floor commercial/retail area and the required off-street parking spaces. The second set of variances relate to the creation of proposed Lot 2 (the "Lot 2 Variances"). The Lot 2 Variances consist of variances for minimum lot area (overall and per dwelling unit), minimum lot width and required off-street parking spaces.

Legal Standard:

In considering an application for a variance, the Zoning Hearing Board is required to apply the provisions of Section 10910.2 of the Pennsylvania Municipalities Planning Code. Section 10910.2 provides that the Zoning Hearing Board has the authority to grant a variance if it finds that the Applicant has met its burden with respect to the following five elements:

- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.

- (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (3) That such unnecessary hardship has not been created by the appellant.
- (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

53. P.S. §10910.2(a).

In determining whether the Applicant has established the existence of an unnecessary hardship, the Pennsylvania Supreme Court has stated that the Zoning Hearing Board may consider multiple factors including the economic detriment to the applicant if the variance was denied, the financial hardship created by any work necessary to bring the building into strict compliance with the zoning requirements and the characteristics of the surrounding neighborhood. Hertzberg v. Zoning Board of Adjustment of Pittsburgh, 721 A.2d 43, 50 (Pa. 1998).

Conclusion

At the hearing on this matter, the Applicant will present sufficient credible testimony and evidence to support its entitlement to the Relief Requested.