

ANDERSON & DENZLER ASSOCIATES, INC.

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DEC 18 2020

CARL E. DENZLER, PRES.
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December 18, 2020

Morris Plains Board of Adjustment
Borough of Morris Plains
531 Speedwell Avenue
Morris Plains, New Jersey 07950

Re: Two Glenbrook, LLC
BA-1-19
Block 27, Lot 22
26 Glenbrook Road
B-4 Zone

Revised Use Variance Application consisting of the following additional documents:

- December 11, 2020 letter from Martin Newmark
- December 15, 2020 letter from Martin Newmark
- Signed & sealed Property Survey, dated 3-13-2019
- Signed & sealed Floor Plan, dated 3-8-2019
- Copy of previous Final Site Plan Resolution
- Copy of Draft Notice
- Checklist F

Dear Board Members:

The applicant proposes to convert the existing vacant first floor office use into a 2-bedroom apartment. Apartments are a specifically prohibited use in the B-4 Zone. The second floor is currently an apartment. Our report #3 is as follows:

A. COMPLETENESS:

1. Checklist Item #2: Completed Application Form not provided based on the following:
 - Page 3, Item 10 not completed (specific sections of the Zoning Regulations not provided). Ordinance section is 13-5.2A(12.4)(a).
 - Page 5, Item 19: Draft notice does not provide sections of Zoning Ordinance from which relief is sought. Ordinance section is 13-5.2A(12.4)(a).
2. Checklist Item #25: Flood hazard areas, lakes, ponds, etc. Waiver requested and recommended.

e-mailed / HC applicant

e-mailed / mailed Bd-

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3. Checklist Item #26: Freshwater wetlands delineation or affidavit from qualified expert. Waiver requested and recommended.
4. Checklist Item #29: Steep Slope Map Details. Waiver requested and recommended.
5. Checklist Item #30: Delineation of Riparian Zones. Waiver requested and recommended.

Based on the above, we recommend that the Board deem the application complete from an engineering viewpoint. The Ordinance section should appear in the Notice.

When the hearing does occur, the Applicant should be prepared to address the following:

Variance Criteria – Use “d” Variances. Applicant must provide expert testimony addressing the relevant criteria to justify the use variance including:

- a. Site must be particularly suited for the proposed non-conforming use.
- b. “Special reasons” must be shown to justify the variance. Although the term is not specially defined in the statute, various court decisions have interpreted “special reasons” to generally mean that the variance would promote one or more of the purposes of the MLUL listed in N.J.S.A. 40:55D-2, or that a denial would result in an undue hardship.
- c. The grant of the variance must not result in substantial detriment to the public good. Typically, this relates to the effect of the development upon the surrounding area.
- d. The grant of the variance must not substantially impair the intent and purpose of the zone plan and zoning ordinance. Although all variances, by definition, involve a departure from the literal language of the zoning regulations, relief may be granted when the underlying intent of the plan and the regulations are not substantially impaired.

As part of the negative criteria and in addition to the proof of special reasons, an enhanced quality of proof as stipulated within the Medici decision is also required. This decision requires that the applicant must reconcile the proposed use variance with the zone plans omission of this particular use from permitted uses in the zone district.

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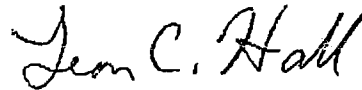
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Provide testimony as to potential impacts to adjoining properties.
I will be present at the December 21, 2020 meeting to discuss completeness.

Very truly yours,
ANDERSON & DENZLER ASSOC., INC.



Leon C. Hall, P.E.
Borough Engineer

LCH:dm/MP5230

c: M. Sullivan, E. Leheny, via email