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NEW JERSEY AS A CIVIL TRIAL ATTORNEY
⁺MEMBER OF NJ AND PA BAR
⁺MEMBER OF NJ AND NY BAR

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OF COUNSEL:

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SENDER'S DIRECT EMAIL
MSELVAGGI@LSACLAW.COM

March 31, 2020

Via Federal Express

Shannon Drylie
Hackettstown Land Use Board
215 Stiger Street
Hackettstown, NJ 07840

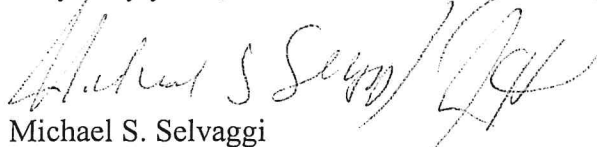
**Re: DeTombeur
Variance
Block 71 Lot 12**

Dear Ms. Drylie:

Enclosed please find an original and nineteen (19) copies of a Development Application, along with twenty (20) sets of plans in this matter. It is our understanding that our client will be delivering the application and escrow checks directly to your Office.

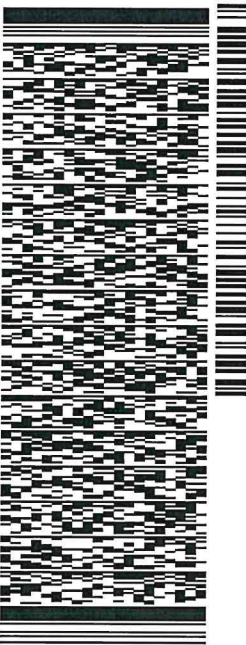
Kindly advise when the matter will be placed on the Board's agenda. Thank you.

Very truly yours,


Michael S. Selvaggi

MSS/jh
Enclosures

cc: Keith DeTombeur

ORIGIN ID: HWIA (908) 852-2600 JENNIFER HOFFMAN 1001 ROUTE 517 HACKETTSTOWN, NJ 07840 UNITED STATES US		SHIP DATE: 31MAR20 ACTWGT: 1.00 LB CAD: 5863174/INET4220
TO SHANNON DRYLIE HACKETTSTOWN LAND USE BD 215 STIGER ST HACKETTSTOWN NJ 07840 (908) 850-0660 INV: REF: 18134-20876 (MSS) PO: DEPT:		BILL SENDER
		
		
J201020011301uv		
TRK# 7701 3789 5409 0201		WED - 01 APR 3:00P STANDARD OVERNIGHT
E2 HWIA NJ-US EWR		07840
		

56BJ39C25/FE4A

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Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

TOWN OF HACKETTSTOWN

1. GENERAL INFORMATION

A. Applicant: Name Keith DeTombour
Street Address 238 Alphano Rd
Municipality Great Meadows, NJ 07838
Telephone 973-945-0401

B. Applicant Status:

Individual(s) ☒ Partnership ☐ Corporation ☐
Other ☐ Specify _____

C. If Applicant is a Partnership or Corporation, attach a list of the names of persons having a 10% interest or more in said partnership or Corporation.

Check here if list is attached. ☐

D. Applicant relationship to property: Owner ☒ Lessee ☐
Under Contract ☐ Other ☐ Specify _____

E. Property Owner (if other than Applicant): N/A

Name _____
Street Address _____
Municipality _____
Telephone _____

F. Engineer/Land Surveyor:

Name John E. Hansen, PE
Street Address E&LP, 140 W Main St, High Bridge, NJ
Telephone 908-238-0544

G. Attorney:

Name Michael S. Selvaggi, Esq., Lavery Selvaggi, Abromitis & Cohen, PC

Street Address 1001 Rt. 517

Municipality Hackettstown, NJ 07840

Telephone 908-852-2600

2. TYPE OF APPLICATION - check where appropriate

☐ Minor Site Plan	VARIANCES
☐ Minor Subdivision	☒ Use
☐ Preliminary Major Site Plan	☐ Bulk
☐ Preliminary Major Subdivision	
☐ Final Major Site Plan	☐ Interpretation (appeal from Administrative Officer)
☐ Final Major Subdivision	☐ Conditional Use

(REFER TO SECTION 200 OF
THE LAND USE ORDINANCE)

3. PROPERTY DATA

- A. STREET ADDRESS 217-221 Main St & 223 Main St
- B. BLOCK NUMBER 71 LOT NUMBER 12 & 12.01
- C. The location of the property is approximately _____ feet from
the intersection of Main Street and Plane Street
- D. Existing Use Commercial and residential
- E. Proposed Use Commercial and residential
- F. Zone District TCC
- G. Acreage of Entire Tract to be Subdivided N/A

H. Proposed Number of Lots N/A

I. Is the property located on a County of Warren Roadway?

Yes

☐

No

☒

J. Is the property located within 200' of a municipal boundary?

Yes

☐

No

☒

K. Was this property subject to a prior development application?

Yes

☒

No

☐

L. Is the property subject to any existing or proposed deed restrictions, easements, rights of way, private roads, or other dedications?

Yes

☒

No

☐

If so, attach all relevant information. Check here if such information is attached.

☐

4. DEVELOPMENT PROPOSAL - Describe the nature of the application being sought, including on-site improvements

See attached

5. SUBMISSIONS - List all maps, plats, sketches and other exhibits accompanying this application:

Description

Date Prepared

Prepared By

Variance Plan

3/19/20

EL&P

Waiver Request List

3/20/20

EL&P

6. VARIANCES

Describe any proposed variances requested, detail and/or location, proposed block and lot and the specific section(s) of the Zoning Ordinance of the Town of Hackettstown from which relief is sought and the basis for said relief:

See attached

7. VERIFICATION AND AUTHORIZATION

I hereby certify that the statements and information contained herein and attached hereto are true and correct.

Michael S. Selvaggi, Esq./attorney for
Applicant Applicant/Owner

3/30/20
Date

I hereby authorize the Applicant reference therein subject application and to proceed for approval of same.

Michael S. Selvaggi, Esq./attorney for
Property Owner(s) Applicant/Owner

3/30/20
Date

OFFICIAL USE ONLY

8. APPLICATION HISTORY

A. Date Filed: _____

B. Date Complete: _____

C. Fee Paid: _____ Date Paid: _____

B. Notice of Hearing: Date of Publication _____

Date of Mailing _____

Affidavit Received _____

9. DISPOSITION OF APPLICATION

A. _____ Application Denied

B. _____ Application Withdrawn

C. _____ Application Granted

DATE OF DISPOSITION: _____

To: Jennifer Hoffman

852-8225

CERTIFICATE OF PAID TAXES

TO: Tax Collector of the Town of Hackettstown

PLEASE CERTIFY THAT THE TAXES OF THE PROPERTY LISTED BELOW HAVE BEEN PAID.

Location: Block 71 Lot 12

Name of Owners: Keith DeTombour

I CERTIFY THAT THE REAL ESTATE TAXES ON THE ABOVE MENTIONED PROPERTY HAVE BEEN PAID THROUGH 2020 1st quarter

NEXT TAX PAYMENT DUE: 5-1-20

Tax Collector of
Town of Hackettstown
Warren County

Dated: 3-24-20

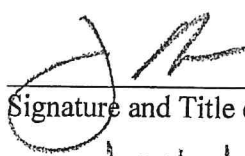
By: Patricia N. Hall

::::CHECK LIST::::
Details required for
Variance Applications

Note: See Section 802 C. of the Hackettstown Land Development Ordinance for further details of submission requirements and procedures.

- ☒ Application Form(s) and Checklist(s)(20 copies).
- ☒ Plats or Plans (20 copies) signed and sealed by a N.J.P.L.S. or N.J.P.E., as required, and folded into eighths with title block revealed.
- ☒ Scale of not less than 1" = 100' on one of four of the following standard sheet sizes (8 1/2" x 13"; 15" x 21"; 24" x 36"; or 30" x 42").
- ☒ Key map at less than 1"=1000'.
- ☒ Title block:
 - ☒ Name of subdivision or development, Town of Hackettstown, Warren County, with each sheet specifically titled with appropriately descriptive words;
 - ☒ Name, title, address and telephone number of subdivider or developer;
 - ☒ Name, title, address and license number of the professional or professionals who prepared the plot or plan;
 - ☒ Name, title and address of the owner or owners of record;
 - ☒ North arrow;
 - ☒ Scale (written and graphic);
 - ☒ Date of original preparation and of each subsequent revision thereof and a list of specific revisions entered on each sheet; and
 - ☒ Names and addresses of partners or stockholders as required by Ordinance.
- ☒ Acreage figures (both with and without areas within public rights-of-way).
- ☒ Approval signature lines.
- ☒ Existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the Town Tax Map, and proposed block and lot numbers as provided by the Town Tax Assessor upon written request.

- ☒ Tract boundary line (heavy solid line).
- PW The location of existing and proposed property lines (with bearings and distances), streets, structures (with their numerical dimensions and an indication as to whether existing structures will be retained or removed), parking spaces, loading areas, driveways, watercourses, railroads, bridges, culverts, drain pipes, any natural features such as wetlands and treed areas, both within the tract and within one hundred feet (100") of its boundary.
- ☒ The location and width of all existing and proposed utility easements, the use(s) for which they are intended, and the manner in which the easements will be controlled.
- ☒ Zoning districts affecting the tract, including district names and all area and bulk requirements, with a comparison to the proposed development.
- W Proposed buffer and landscaped areas.
- N/A Delineation of flood plains, including both floodway and flood fringe areas. Contours as shown on the U.S.G.S. topographic sheets.
- W Marshes, ponds and land subject to flooding within the tract and within one hundred feet (100') thereof.
- ☒ The names of all adjacent property owners as they appear on the most recent tax list prepared by the Clerk of the Planning Board or Clerk of the Zoning Board of Adjustment, as the case may be.
- ☒ Five (5) copies of a certification from the Town Tax Collector indicating that all taxes and assessments are paid to date.
- N/A Concerning subdivisions only, existing and proposed monuments.
- N/A Road right-of-way dedication and improvement, as applicable.
- N/A Sight triangle easements, as applicable.
- N/A Deed descriptions (including metes and bounds), easements, covenants, restrictions, and roadway dedications.
- ☒ A sixty-year title search dated within 6 months of the application date including copies of all deeds, easements, covenants, restrictions and other items affecting title to the property.
- ☒ Highlands Consistency Determination or, in the alternative, documentation per Section 807 of the Land Development Ordinance entitled "Highlands Area Exemption Ordinance" that shows that the application is exempt from the Highlands Act. *(APPLICATION INCLUDED)*
- N/A A "Major Development Stormwater Summary Sheet" shall be submitted when a stormwater management basin is proposed on a project.


 Signature and Title of person who prepared check list
JOHN HANSEN, PE

3/20/2020
 Date

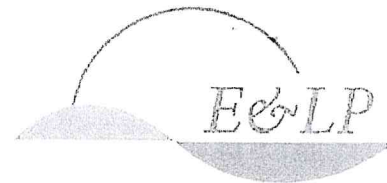
CIVIL ENGINEERING
ENVIRONMENTAL
SURVEYING
LANDSCAPE ARCHITECTURE
GEOTECHNICAL

March 20, 2020

Re: Checklist Waiver Request Details
Variance Application
Block 71, Lot 12
217-221 Main Street
Town of Hackettstown
E&LP Project No. 0120065

1. A Partial Waiver is requested for the showing all items within 100 feet of the property. The information shown on the plan should be sufficient for review of the application. By site inspection, there are no environmental land use constraints on the adjacent properties that would affect this application. No land disturbance or construction is proposed in connection with this application.
2. A Waiver is requested for providing any proposed buffer or landscape areas. The site contains landscaping and has existed with this level of landscaping for many years. No changes to the site are proposed that would affect the landscaping.
3. A Waiver is requested for showing any marshes, ponds and land subject to flooding within the tract and within 100 feet. By site inspection by my office and a review of the available maps, we do not believe that the subject property is constrained in any way by state regulated areas. Further, no land disturbance or construction is proposed in connection with this application.

Prepared by John Hansen, PE
Project Engineer



Headquarters
140 West Main Street | High Bridge, NJ 08829
T: 908.238.0544

Clinton | Asbury Park | Denville | Philadelphia

Town of Hackettstown
Highlands Exemption Determination Application



215 Stiger Street
Hackettstown, NJ 07840
(908) 852-3130

The purpose of this application is to determine whether or not a proposed project is exempt from the provisions of the Highlands Water Protection and Planning Act (see note below).

Instructions for Completing Form

1. Complete page 1.
2. Review the seven exemptions eligible for municipal determinations (see pages 2-3) to determine which may be applicable to the proposed project. Applicants need only qualify for one of the exemptions, although more than one may apply. Below each exemption is a list of documentation that is required to determine whether the exemption applies.
3. Initial as indicated by the applicable exemption.
4. Sign the application form.
5. Submit completed application along with all supporting documentation to the municipal office at the address above.

Important Note

This application will be evaluated by the municipality to determine whether a proposed activity, improvement or development project involving lands within the Highlands Region is exempt from the provisions of the Highlands Water Protection and Planning Act (N.J.S.A. 13:20-1 et seq., "Highlands Act"). Any proposal that is exempt from the Highlands Act is also exempt from the Highlands Water Protection and Planning Act Rules ("Highlands Rules," N.J.A.C. 7:38-1 et seq.) and any Highlands Area land use ordinance adopted by the municipality pursuant to approval of its Petition for Plan Conformance by the Highlands Water Protection and Planning Council ("Highlands Council"). The municipality has been authorized and certified by the Highlands Council to issue Highlands Exemption Determinations, pursuant to a July 19, 2012 Memorandum of Understanding (MOU) between the Highlands Council and the New Jersey Department of Environmental Protection (NJDEP). The local ordinance effectuating this delegation of authority is Ordinance #2016 -07, "Town of Hackettstown Highlands Area Exemption Ordinance," adopted December 8, 2016.

Please note that all references to professional preparers indicated in this application shall be construed to include any and all qualified individuals licensed, certified, or otherwise eligible and authorized to complete such work, in accordance with the applicable laws and legal requirements of the State of New Jersey including but not limited to the MLUL (N.J.S.A. 40:55D-1 et seq) and Title 13 of the New Jersey Administrative Code, Law and Public Safety.

Please note that this application only addresses whether or not your project is exempt from Highlands regulations (as listed above). Certification that a project is exempt from the Highlands Act does not relieve one from other regulatory requirements that may apply, including the need to apply for any other permits, whether under municipal, state or other jurisdictional authority. Please also note that in accordance with the MOU, Ordinance #2016 -07 requires that the municipal Exemption Designee retain Highlands Council certification to exercise the authority to issue Municipal Exemption Determinations. In the event of personnel changes or other extenuating circumstances that leave the municipality without the services of a certified municipal Exemption Designee, applicants seeking a Highlands Act Exemption Determination may apply to the NJDEP for projects located in the Preservation Area or to the Highlands Council for projects located in the Planning Area.

Town of Hackettstown**Highlands Exemption Determination Application**

215 Stiger Street
Hackettstown, NJ 07840
(908) 852-3130



Receipt Stamp - Municipal Use Only

Date: 3/20/2020

Application #:

Applicant Name: Keith DeTombour

Property Information

Street Address: 217-221 Main Street, Hackettstown, NJ 07840

Block(s) & Lot(s): Block 71, Lot 12

Date Lot Created: ☒ Prior to August 10, 2004

If after August 10, 2004:

Located in: ☒ Planning Area☐ Preservation Area☐ Planning and Preservation Area

Existing Uses: Commercial and Residential

Property Owner Information

☒ Same as Applicant Owner Name:

Owner Address:

Applicant Information

Applicant Address: 238 Alphano Road, Great Meadows, NJ 07838

Phone #: 973-945-0401

Fax #:

email: keithde17@hotmail.com

Engineer, Attorney or Other Principal Contact Information

Name: John Hansen, PE

Address: 140 West Main Street, High Bridge, NJ 08829

Phone #: 908-238-0544 x119

Fax #:

email: jhansen@elp-inc.com

Project Information

Brief Project
Description
(Attach
Additional as
Necessary):

The property was developed prior to the adoption of the Highlands Act, many years ago. The existing structure in the rear of the property (north corner) contains 3 residential apartment units. The Town does not show the residential use for this structure as "approved", although the owner confirms that it has been used exclusively for residential apartments for many years. No land disturbance or construction is proposed in connection with the Variance Application. The application simply proposes to formally legalize the existing use through Board action.

Exemption 1: *For the construction of a single-family dwelling for an individual's own use or the use of an immediate family member, on a lot owned by the individual on August 10, 2004, or on a lot for which the individual entered into a binding contract of sale to purchase on or before May 17, 2004.*

☐ I hereby certify that the single-family dwelling proposed for construction on the subject lot is intended for my own use or the use of the following immediate family member (as defined by Ordinance No. 2016 -07).

Applicant Initial:

Name of Family Member:

Relationship of Family Member:

Lot Legally Owned by the Applicant on August 10, 2004:

☐ Copy of a deed, closing or settlement statement, title policy, tax record, mortgage statement, or any other official document showing that the lot was legally owned by the applicant as of August 10, 2004 and indicating the street address and the lot and block as designated by the municipal tax mapping, the municipality, and county in which the lot is located.

☐ I hereby affirm that the metes and bounds of the subject property have not been altered from those lawfully existing as of August 10, 2004.

Applicant Initial:

Lot Under Contract of Sale to Applicant as of May 17, 2004:

☐ Copy of the binding contract of sale executed by the seller and the applicant on or before May 17, 2004 for the lot on which the house is to be constructed.

☐ I hereby affirm that the metes and bounds of the subject property have not been altered from those lawfully existing as of the date of the executed contract of sale.

Applicant Initial:

Exemption 2: *For the construction of a single-family dwelling on a lot that lawfully existed as of August 10, 2004, provided that construction does not result in the ultimate disturbance of 1 or more acres of land or a cumulative increase in impervious surface by 1/4 acre or more.*

☐ A copy of the recorded deed or plat showing that the lot was created on or before August 10, 2004.

☐ A property survey certified by a licensed New Jersey professional indicating the property boundary lines and overall lot size, showing what structures currently exist on the lot, if any.

☐ A parcel plan certified by a qualified licensed New Jersey professional showing all existing and proposed development, including all structures, grading, clearing, impervious surface and disturbance, areas of existing disturbance to be restored (if any), and including calculations demonstrating that impervious surfaces and areas of disturbance are within the 1/4 acre and 1 acre limit as prescribed.

☐ A metes and bounds description by a qualified licensed New Jersey professional showing the area of the lot to be disturbed, limited to less than one acre.

☐ I hereby affirm that the metes and bounds of the subject property have not been altered from those lawfully existing as of August 10, 2004.

Applicant Initial:

Exemption 4: *For the reconstruction of any building or structure for any reason within 125% of the footprint of the lawfully existing impervious surfaces* on the site, provided that the reconstruction does not increase the lawfully existing impervious surface by 1/4 acre or more.*

**The date of lawfully existing impervious surface is August 10, 2004 in the Preservation Area and March 8, 2012 in the Planning Area.*

☒ A parcel plan certified by a qualified licensed New Jersey professional showing all existing property improvements, including all structures, grading, clearing, impervious surfaces and limits of disturbance, existing on the site as of August 10, 2004 for the Preservation Area or March 8, 2012 for the Planning Area; and all proposed development, including all structures, impervious surfaces, grading, clearing limits, and limits of disturbance. Also include calculated values for existing and proposed impervious surfaces for the project/activity.

☒ A copy of any official documentation indicating the original date of construction of the existing buildings and/or structures or otherwise establishing the lawfulness of their existence, inclusive of existing impervious surfaces.

Exemption 5: For any improvement to a single family dwelling in existence as of August 10, 2004, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system. (Such improvements include only those that maintain the use as a single family dwelling; the exemption does not apply to or permit the creation of multiple dwelling units.)

☐ A copy of any official documentation proving the single family dwelling was in existence on August 10, 2004.

☐ A description of the proposed improvements.

☐ I hereby affirm that the subject property was in existence as of August 10, 2004 and that all proposed improvements are intended and will continue to be used for single family dwelling purposes.

Applicant Initial:

Exemption 6: For any improvement, for non-residential purposes, to a place of worship owned by a non-profit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on August 10, 2004, including, but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility.

☐ A copy of any official documentation indicating that the place of worship, public or private school, or hospital was in existence on August 10, 2004.

☐ For improvements to a place of worship, documentation showing that the entity, society or association, or association organized primarily for religious purposes has non-profit status.

☐ A site plan plan certified by a qualified licensed New Jersey professional showing all existing property improvements, including all structures, grading, clearing, impervious surface and limits of disturbance, existing on the site on August 10, 2004; and all proposed development including all structures, impervious surfaces, clearing limits, and limits of disturbance, including grading.

Exemption 7: For any activity conducted by a landowner in accordance with an approved woodland management plan issued pursuant to Section 3 of the Farmland Assessment Act, N.J.S.A. 54:4-23.3 or the normal harvesting of forest products in accordance with a forest management plan approved by the State Forester.

☐ A brief description of the total area of woodlands that is the subject of the approved woodland management plan and indication of the length of time that the area has been in woodland management (may be submitted in this form).

☐ A brief description of the activities for which the exemption is claimed (may be submitted in this form).

For a private landowner with an approved woodlot management plan:

☐ A copy of the applicant's tax bill showing that the site has farmland assessment tax status under the New Jersey Farmland Assessment Act, N.J.S.A. 54:4-23.1 et seq. if applicable.

☐ A copy of the approved woodland management plan.

For a forest management plan approved by the State Forester:

☐ A copy of the forest management plan approved by the State Forester.

Exemption 8: For the construction or extension of trails with non-impervious surfaces on publicly owned lands or on privately owned lands where a conservation or recreational use easement has been established.

☐ A site plan certified by the appropriate qualified licensed New Jersey professional showing the proposed trail construction with details including the location and width of existing and proposed trails and those off-site trails to which they connect, if any.

☐ A written description of the non-impervious materials to be used.

☐ For privately owned property, a copy of a deed for the property, including the language establishing the conservation or recreational use easement on the property.

I, the undersigned, hereby certify that the information given herein is correct to the best of my knowledge.

Applicant Signature:

Date:

I, the undersigned, hereby grant permission for the submission of this application for the property reference herein.

Owner Signature:

Date:

Municipal Use Only
Exemption Review Worksheet

Information
Submitted:

Project
Summary:

Exemption
Review:

Comments:

As the Certified Municipal Exemption Designee, I hereby
certify the following finding for this application

Date:

Signature:

**KEITH DETOMBEUR
BLOCK 71 LOT 12**

ADDENDUM TO APPLICATION

The Applicant is seeking use variance approval for the creation of a mixed commercial/residential use of the property. The property is located in the TCC (Town Center Commercial) District and contains a one-story three-unit apartment structure and a two story mixed use structure. While the 2-story mixed use structure is permitted in the zone, the standalone apartment building is not. Apartments are only allowed in mixed-use buildings on the second and on the second and/or third floor(s) only and/or third floor. Accordingly, the Applicant requires a use variance for the building that is housing the apartments only; a use variance relief for having 2 principal uses on the property; and a use variance for the floor area ratio.

The Applicant intends to address the positive and negative criteria in support of the use variance relief sought. He will demonstrate that the proposal advances the public welfare by providing housing in the downtown area. The proposal also provides space for a differing variety of housing and helps establish appropriate population concentrations. Moreover, the Applicant will show that his proposal will not substantially impair the public good since the property has been used in this same fashion for years without any adverse consequences. Moreover, the TCC zone does allow properties to be used for residential purposes albeit in the same structure with the commercial/retail use. The proposal also does not impair the intent of the Master Plan. Indeed, by introducing more residential housing in the center of Town the proposal is consistent with the Master Plan's efforts to revitalize the downtown area.

There are also various bulk variances required. These are justified by both the C1 and C2 standards in N.J.S.A. 40:55D-70(c). The bulk variances relate to setbacks requirements. These nonconforming conditions are the result of the location of the buildings on the property. These locations were set many years ago. The placement of these buildings coupled with the narrowness of the lot make compliance a hardship for the Applicant. Moreover, the proposal advances the purposes of zoning and represents a better alternative for the property by advancing several of the purposes of zoning as set forth above.