

# township of wayne

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## *Planning Department Review Memo*

**To:** Wayne Township Board of Adjustment: Chair and Board Members

**From:** Christopher J Kok, PP, AICP  
Township Planner

**Date:** October 10, 2019

**Subject:** **Board of Adjustment Case # BOA-2019-012**  
**1777 Hamburg Turnpike; Block 3305, Lot 3**  
**1777 Wayne Medical LLC**  
**Bifurcated Use Variance with Major Site Plan**

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The purpose of this memo is to provide the Board with guidance in review of application BOA-2019-012. Applicant has submitted a bifurcated application in which the required use variance relief will be reviewed prior to the submission of a full Preliminary and Final Site Plan. If the Board acts favorably on the use variance aspect of the application, Applicant will be required to provide updated drawings fulfilling the requirements of the Preliminary and Final Site Plan checklist prior to being heard for the site plan aspect of the application.

### *Reviewed Documents*

Application packet dated May 7, 2019, signed by Mahboob Bhatti.

Traffic Impact Study prepared by Corey M. Chase, P.E., and Craig W. Peregoy, P.E., dated January 14, 2019.

Proposed Use Variance drawings prepared by Ignatius Caramia, R.A. of ICON Architects Design Company, dated May 2, 2019, revised through August 16, 2019 consisting of nine pages.

### *Submission Waivers Required*

Required waivers are as follows:

- 134-111.7.2.c: Current, sealed surveys
- 134-111.7.23: Proposed building elevations (architectural renderings) of all sides of the proposed building. If the building exists, then architectural renderings of the proposed changes are to be submitted. If no changes to the building's facade are proposed, then there shall be a note to that affect on the plan.
- 134-111.7.27: With respect to the Environmental Protection ordinance, provide:  
location map of environmental factors; calculation of number of building lots/residential density; limit of disturbance lines showing areas to be

- disturbed by grading/construction; MAD/TADA calculations; tree removal plan showing: all trees over 18 inches in caliper; trees to be removed indicated by an x; replacement trees; entire wooded areas, if such exists
- 134-111.7.29: Signage plan
- 134-111.7.30: For all rights-of-way abutting the property in question, show existing edge of pavement for entire frontage
- 134-111.7.52: Loading areas
- 134-111.7.34: Wetlands and wetlands transition areas.
- 134-111.7.35: The limitation of the flood plain or a note stating that no flood plain exists

*Because this use variance application is being bifurcated, with the use being decided before the site plan, the Planning Division does not object to the granting of these submission waivers. Should the Board act favorably on this application, Applicant shall submit all required items as required by Section 134-111.5.*

### *Neighborhood Context*

The subject property is located on the west side of Hamburg Turnpike immediately to the south of the intersection with Colfax Road. The portion of Hamburg Turnpike between Jackson Avenue and Black Oak Ridge Road is primarily zoned single family residential, however there are a couple of areas zoned B-Business at either edge of this stretch of Hamburg Turnpike, as well as two properties zoned B-Business across Hamburg Turnpike, on either side of Colfax Road. These properties are occupied by a child care center and a gas station. Although most of the area is zoned residential, the west side of Hamburg Turnpike is characterized by a mix of commercial and institutional uses as opposed to single-family residential uses which would be expected based on the zoning. To the north of the property is Our Lady of Consolation Church and to the south of the property is the Rockledge farm and a garden center. Agricultural uses are permitted in all districts and the garden center has been in use for decades and expanded with use variance approval from the Board. To the south and west of the subject property is a single-family residential neighborhood.

### *Zoning*

The property is located within the R-30 Single-Family Residential district which permits single family dwellings on 30,000 square foot lots. Immediately to the west of the property is the R-15 Single-Family Residential district which permits single family dwellings on 15,000 square foot lots.

### *Site Conditions*

The subject site is currently occupied by a 30,500 square foot medical office building located at the center of the property. The majority of the site is developed as a surface parking lot. A driveway to the north of the building provides ingress and egress through channelized lanes, with left turns in and out of the property permitted. Based on a review of the submitted plans, it appears that previously the property was subject to a 17 foot right-of-way dedication, widening the Hamburg Turnpike right-of-way.

### *Prior Approval*

The construction of the office building was approved by the Board of Adjustment on March 29, 1971. At this time, the subject site was split zoned with Office Building District in the front of the property and Residential A (equivalent of R-30 District) in the rear of the property. Had the entire property been zoned Office Building District, no use variance would have been required, and part of the justification of granting the variance was that the Board would have created a land-locked

portion of the property, which would be effectively unusable had the variance not been granted.

### *Proposal*

Applicant proposes to construct a 4 story, 80 unit assisted living facility and a 4,102 square foot urgent care center. Additional parking spaces will be constructed near the front of the property to bring the total number of parking spaces to 192 spaces.

### *Variances and Waivers Required*

The following variances will be required by this application. This list of variances is intended to outline the various issues related to the proposed use and does not reflect a full analysis of all bulk variances required.

#### Variances required under NJSA 40:55D-70(d)

- Section 134-34.1: Permitted Uses
  - Permitted: Single-family residential uses
  - Proposed: Assisted living facility and urgent care facility
  - Variance Type: D(1)
- Section 134-34.1: Permitted Uses
  - Permitted: Single-family residential uses
  - Proposed: Intensification of pre-existing non-conforming use.
  - Variance Type: D(2)
  - Note: The addition of the assisted living facility and urgent care facility effectively decrease the amount of area available for the medical office building, and as such is considered to be an expansion of a pre-existing non-conforming use.

#### Variances required under NJSA 40:55D-70(c)

- Section 134-31.2: Accessory Parking
  - Required: 274 spaces
  - Proposed: 192 spaces

### *Criteria Required to Justify Granting of D(1) Use Variance Relief*

Variance relief may be granted for this application under the criteria established in NJSA 40:55D-70(D)(1). Variances granted under NJSA 40:55D-70(D) are subject to greater scrutiny and bear a higher burden of proof as compared to variances granted under NJSA 40:55D-70(C) because they have a greater potential to cause detriments to the public welfare and to impair sound zoning as established through the Master Plan and Zoning Ordinance. Variance relief under this section is under the sole jurisdiction of the Board of Adjustment. Variance relief may only be granted if testimony is provided to the Board's satisfaction showing the following:

1. Positive Criteria
  - a. The site is particularly suitable for the proposed use.
  - b. Because of the particular suitability of the use, there are special reasons to grant the variance. Special reasons for the granting of variance relief typically refers to undue hardship or to advancement of the purposes of the Municipal Land Use Law (NJSA 40:55D-2).
2. Negative Criteria
  - a. The granting of the variance relief will not cause a substantial detriment to the public good.
  - b. The granting of the variance relief will not substantially impair the intent and purpose of the zone plan and zoning ordinance. Because the variance requested can be granted only under NJSA 40:55D-70(d), the variance is subject to an enhanced burden of proof by which the board "must reconcile a proposed use variance with the provisions of the master

plan and zoning ordinance...” Medici v. BPR Co., 107 N.J. 1 (1987)

*Criteria Required to Justify Granting of C Bulk Variance Relief*

Bulk variance relief may be granted for this application under the criteria established in NJSA 40:55D-70(c). Testimony shall be required to prove to the Board’s satisfaction one of two potential criteria for granting relief. The criteria is as follows:

C(1) (hardship variance): Where;

- a. By reason of exceptional narrowness, shallowness or shape of a specific piece of property, or
- b. By reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or
- c. By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation... would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, and
- d. The granting of variance relief will not cause a substantial detriment to the public good, and
- e. The granting of variance relief will not substantially impair the intent and purpose of the zoning plan and zoning ordinance.

C(2) (flexible analysis): Where;

- a. In an application or appeal relating to a specific piece of property, and
- b. The purposes of the Municipal Land Use Law or the Educational Facilities Construction and Financing Act would be advanced by a deviation from the zoning ordinance requirements, and
- c. The benefits of the deviation would substantially outweigh any detriment, and
- d. The granting of variance relief will not cause a substantial detriment to the public good, and
- e. The granting of variance relief will not substantially impair the intent and purpose of the zoning plan and zoning ordinance.

*Planning Comments & Requested Testimony*

1. Jurisdictional Comments

- a. Applicant shall provide testimony as to whether this application has been presented to the Passaic County Planning Board, the Passaic County Engineering Department, or the Passaic County Planning Department for review. If Passaic County has reviewed the plans, Applicant shall provide a copy of any letters or correspondences with comments regarding the proposed application. In particular, it will be important to understand the County’s consideration of the traffic generated at this site and any traffic improvements or turning restrictions that the County will be requiring of the Applicant.

2. Use Comments

a. Clarification of Uses

- i. Applicant shall provide clarification as to the proposed assisted living facility. In particular, the application document states that 80 units are proposed, the traffic study states 80 beds are proposed, and the typical floor plan would appear to show 81 units.
- ii. The urgent care facility is being treated as “medical office” rather than “hospital” since the urgent care facility will not involve any in-patient services.
- b. The current use of the site is not in conformance with the requirements of the R-30 district, and applicant is now proposing to significantly intensify the non-conformity of the site.
- c. Given the limited number of single family residences on the western side of Hamburg Turnpike along with the high speed and volumes on Hamburg Turnpike, one could argue that the site is better suited for commercial uses. If this site were zoned B-Business, similar to other areas of Hamburg Turnpike, the urgent care center would be a permitted use,

however, the assisted living facility would still require a D(1) use variance. Furthermore, if the property was zoned B-Business, several bulk variances would be required including minimum front yard setback, minimum rear yard setback, minimum side yard setback, excessive height, and insufficient residential buffer.

- d. A substantial parking variance is required (30% deficiency). Applicant shall provide testimony regarding the rationale for granting such a significant parking variance. It should be noted that assisted living facilities only require one parking space per two beds. The medical office building and the urgent care facility generate a more significant parking requirement of one space per 150 square feet. Absent any justification for the substantial lack of parking, this significant variance request would point to a proposed over-utilization of the subject property.
  - e. Applicant shall provide testimony as to any efficiencies gained by the co-location of the proposed uses.
3. Master Plan Comments
- a. The 2010 Master Plan Re-examination report states on page 24, “the Board finds that there is sufficient housing provided for its senior population of active adults (55+ and older) and seniors 65 and older, who require specialized housing. Consequently, any new proposed housing development for this targeted age group should be discouraged except in appropriate locations uniquely suited to support such development. To prevent overdevelopment of sensitive land any such development should not occur at densities that exceed 5 units per acre.”
  - b. Applicant is proposing 80 units on a 3.61 acre site, which works out to a density of 22 units per acre. This proposed density does not include any adjustment to account for the intensity of the existing office use and proposed urgent care facility.
4. Site plan comments
- a. Should the Board act favorably on this application, Applicant shall take into consideration the below listed comments. These comments involve issues of site design that can be identified at the time of this Bifurcated Use Variance application. The comments are not intended to identify all site design items that would arise through a review of a complete site plan application.
    - i. The proposed design shows a lack of internal pedestrian circulation. Sidewalks shall be provided to create a safe path for pedestrians to access all three buildings from Hamburg Turnpike.
    - ii. Applicant should consider whether striping for a fire lane / ambulance access lane is required at the front of the urgent care facility.
    - iii. The widths of the parking aisles are irregular and oversized. This reflects both an inefficient site plan design and an opportunity to create better pedestrian access or landscaping.

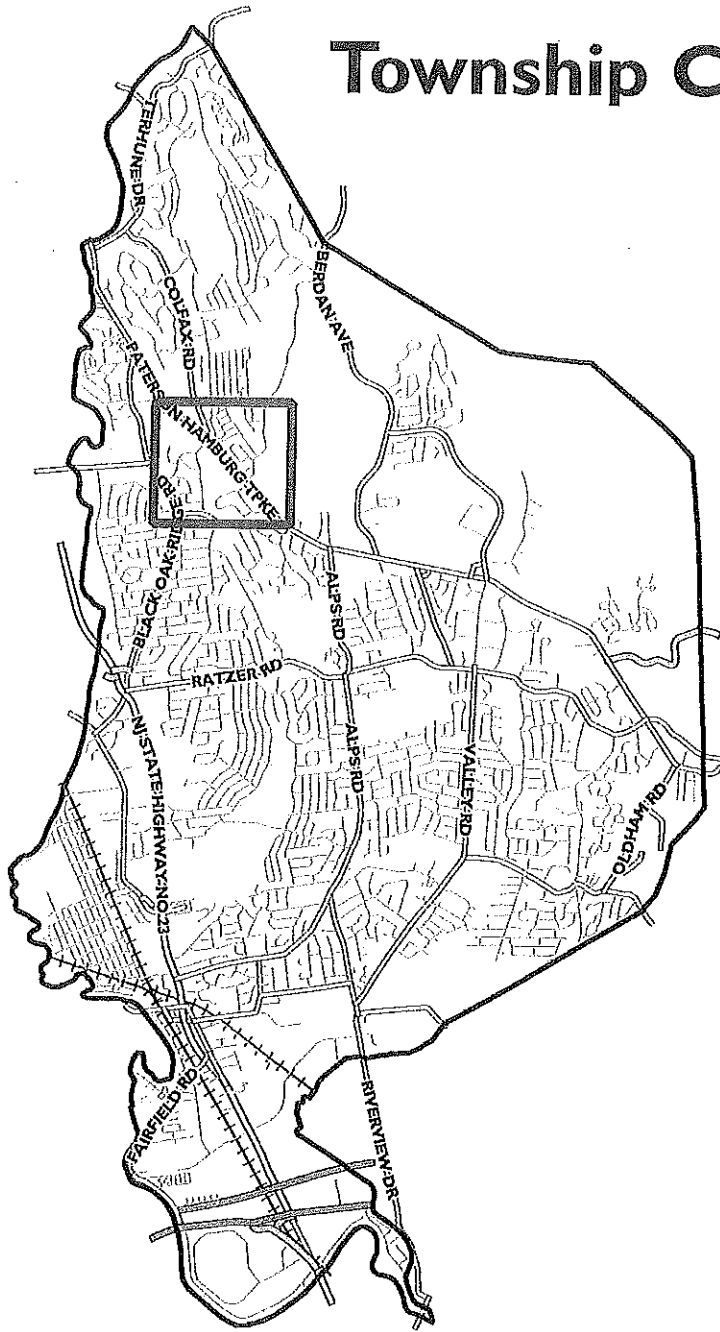
Respectfully submitted,










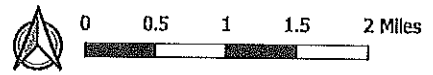
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Township Planner

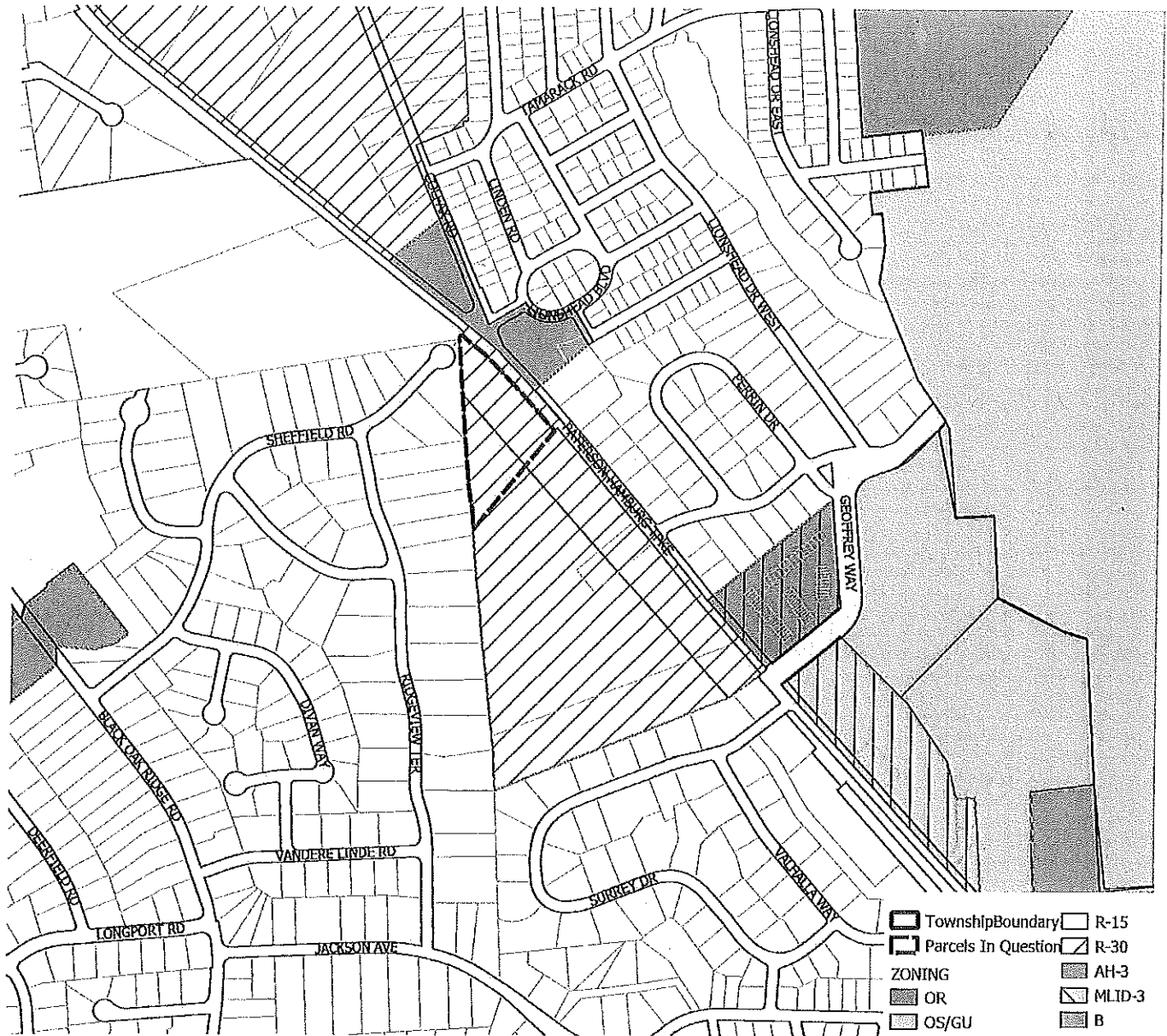
# Township Context Map

Board of Adjustment  
1777 Hamburg Turnpike  
Block: 3305, Lot 3  
Case BOA-2019-012: 1777 Wayne Medical LLC

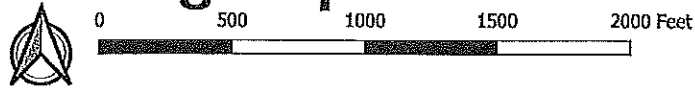


-  Township Boundary
- Transportation Network
-  CONRAIL
-  COUNTY
-  FEDERAL
-  Local
-  STATE
-  VACATED





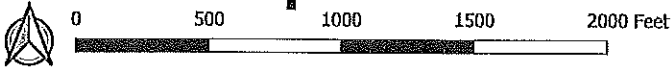
# Zoning Map



Board of Adjustment  
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# Aerial Map



Board of Adjustment  
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