

PLANNING BOARD OF THE CITY OF HACKENSACK

RESOLUTION

IN RE THE APPLICATION OF
K & S REAL ESTATE INVESTMENT, LLC
FOR PRELIMINARY AND FINAL SITE PLAN AND VARIANCE APPROVAL
109-115 GAMEWELL STREET, BLOCK 222.01, LOTS 34, 35 and 35.01
SP # 25-22 AND V #25-22

WHEREAS, K & S REAL ESTATE INVESTMENT, LLC (hereinafter referred to as the “Applicant”) has applied to the Planning Board of the City of Hackensack (hereinafter referred to as the “Board”) for Preliminary and Final Site Plan approval to raze the existing one-story garage and convert the existing vacant lot into an eleven (11) unit multi-family development consisting of eleven (11) two-bedroom residential units. Additionally, the Applicant proposes to construct a twenty-two (22) space parking lot, which consists of twenty-one standard parking spaces and one A.D.A. compliant parking space. Furthermore, the Applicant proposes on site drainage improvements. The following approvals are sought:

1. Preliminary and Final Site Plan review pursuant to Chapter 175§14.1et. seq.;
2. Variance/Waivers for the following deficiencies identified below as “Non-Conforming”:

a. Bulk regulations

Regulation	Ordinance Section	Required/Permitted	Proposed	Status⁽¹⁾⁽³⁾
Maximum Impervious Coverage	§175 – Attachment 3:3	70%	69.72%	Conforming
Driveway Width	§175 – 13.1(D)(1)(g)(1)	20 to 30 feet	20 feet	Conforming
Curblin Opening	§175 – 13.1(D)(1)(g)(1)	24 to 36 feet	24 feet	Conforming
Parking Area Layout	§175 – 13.1(D)(2)(b)(d)	No Parking space or driveway may be within 10 feet of any ground-level residential unit in a multifamily building	Closest Parking Space is 5 feet from residential unit	Non-Conforming

Regulation	Ordinance Section	Required/Permitted	Proposed	Status ⁽¹⁾⁽³⁾
Parking Area Layout	§175 – 13.1(D)(1)(e)(4)	Dead-end parking aisles shall have a turning area or cul-de-sac at end of such aisle with a min. turning radius of 35 ft.	Turnaround Space Provided	Conforming
Parking Area Lighting	§175 – 13.1(D)(2)(b)(1)	Nonattendant parking areas shall have a min. of one-footcandle-power lighting throughout the entire parking area	Not all areas have the minimum one-footcandle	Non-Conforming ⁽⁴⁾
Buffer Requirement	§175 – 13.2(C)(4)	5% of lot depth, but not less than 5 feet and not more than 10 feet = 7.9 feet ⁽²⁾	5 feet (West Lot Line) 6 feet (East Lot Line)	Non-Conforming
Parking Space Size	§175 – 13.1(D)(1)(a)	9 feet by 18 feet	< 9 feet at column locations	Non-Conforming
Accessory Structure Rear Yard Setback	§175 – 11.1(K)(2)	20 feet	N/A	N/A

- (1) Each item with a status of “non-conforming” will require a new variance.
- (2) The easterly property line has a depth of 157.94 feet abutting a residential use. Therefore, a 7.9 foot buffer is required.
- (3) The Applicant has eliminated the trash enclosure that was located adjacent to parking space #10.
- (4) **The Applicant shall amend the plans to comply with the minimum one footcandle requirement throughout the parking area.**

b. Parking Calculation

Regulation	Ordinance Section	Required/Permitted	Proposed	Status ⁽¹⁾
Required Parking Spaces	§175 – Attachment 5	2.0 parking spaces per each two-bedroom unit. 10 total two-bedroom units. (2.0 parking spaces) x (10 two-bedroom units) = 20 parking spaces.	21 Standard Parking Spaces and 1 A.D.A compliant parking space	Conforming
ADA Parking Spaces	2018 IBC 1106.2(4)	(1 ADA Space / 25 parking spaces) x (21 parking spaces) = 1 ADA compliant spaces	1 ADA Parking Space	Conforming

c. EV Parking Calculation

Regulation	Ordinance Section	Required/Permitted	Proposed	Status ⁽¹⁾
EV Parking Requirement	§175-13.1F(4)(a)[1]	22 required parking spaces * 15% = 3.3 = 4 required EV spaces	4	Non-Conforming
ADA EV Parking Requirement	§175-13.1F(4)(a)[4]	4 required EV parking spaces * 5% = 0.2 = 1 required ADA EV parking spaces	0	Non-Conforming

(1) Applicant shall amend the site plan to show the location of EV spaces to comply with EV and ADA EV parking requirements

WHEREAS, the subject property consists of three rectangularly shaped tax lot parcels with frontage on Gamewell Avenue, designated as Lot 34, 35, and 35.01 in Block 222.01, and is commonly known as 109-115 Gamewell Street (hereinafter referred to as the “subject property”). The subject property consists of a total lot area of 17,049 square feet (0.391 acres). It is currently vacant, and the only improvements consist of a chain-link fence and one-story garage.

WHEREAS, the properties surrounding the subject property consist of one- and two-family homes to the north, a two-family home to the east, a vacant lot to the west, and a multi-family dwelling to the south. The subject property is located within the **R-4 Transitional Single-Family Attached Zone**.

WHEREAS, the aforesaid application was duly made to the Planning Board of the City of Hackensack, notice of the application was duly published and made pursuant to the requirements of N.J.S.A. 40:55D-12, and the requirements of the City of Hackensack Code; and

WHEREAS, the Planning Board of the City of Hackensack held a public hearing on December 22, 2022, at which time it heard testimony and considered the subject application; and

WHEREAS, the Applicant is represented by Bruce R. Rosenberg, Esq., of the law firm of Winne, Banta, Basralian & Kahn, P.C.; and

WHEREAS, the Applicant presented the testimony of: Osvaldo Martinez, AIA, of OLMK Architects; Steven L. Koestner, P.E., L.S. of Koestner Associates; and Joseph Burgis, PP, ACIP,

of Burgis & Associates, in support of the application; and

WHEREAS, the Board reviewed the following documents in connection with the
Application:

- Zoning Permit Application consisting of the following forms:
 - Form ‘A’ – Pre-Application Concept Review Committee – Pre-Application Site Plan Check List
 - Form ‘B’ – Details of Site Plan- Ordinance §175-14;
 - Form ‘C’ – Subdivision Application Instructions;
 - Form ‘D’ – Site Plan / Subdivision / Variance Application;
 - Form ‘E’ – Zoning Permit Application (signed);
 - Form ‘F’ – Site Information;
 - Form ‘G’ – Corporate or Partnership / Ownership Disclosure;
 - Form ‘H’ – Variance Request: Action Requested;
 - Form ‘I’ – Support Documents – Signature Page;
 - Form ‘J’ – Site Plan/ Subdivision/ Variance Application Guidance;
 - Form ‘K’ – Land Use Application – Directions;
 - Form ‘L’ – Land Use Application Fees;
 - Form ‘M’ – Escrow Fee Structure;
 - Form ‘O’ – Certification By Tax Collector;
 - Form ‘P’ – Request for List of Proximity Property Owners;
 - Procedure for Release of Escrow Funds Instructions;
 - City of Hackensack Escrow Accounts Planning & Zoning Board Cases;
- Cover Letter, prepared by Bruce R. Rosenberg, from Winne Banta Basralian & Kahn Counsellors at Law, dated Aug. 4, 2022;
- A signed and sealed Engineering Plan Set, consisting of five (5) sheets, entitled: “Site Plan For Proposed Three Story/Multi-Family (11 Units) Building 109 – 115 Gamewell Street, Hackensack, NJ 07601, Tax Lot No(s). 34, 35, 35.01, Block No. 222.01, County of Bergen, State of New Jersey”, prepared by Steven L. Koestner N.J.P.E. & P.L.S., dated March 10, 2022 with revision dated June 28, 2022 (Marked as **Exhibit A-2** at the December 14, 2022 public hearing) **and latest revision dated January 19, 2023 to show the plan amendments discussed and approved at the December 14, 2022 public hearing;**

- A signed Drainage Calculations Report, prepared by Steven L. Koestner, P.E., L.S., dated March 11, 2022;
- A signed and sealed Architectural Plan Set consisting of three (3) sheets, entitled “Proposed three Story / Multi-Family (11 Units) Building at 109-115 Gamewell Street Hackensack, NJ 07601”, prepared by Osvaldo Martinez, dated June 7, 2022 (Marked as **Exhibit A-1** at the December 14, 2022 public hearing);
- City of Hackensack Fire Department Checklist Plan Review dated August 10, 2022; and
- City of Hackensack Police Department Interoffice Communication Review dated October 3, 2022.
- Turning Template prepared by Steven L. Koestner, P.E., L.S., undated, (Marked as on **Exhibit A-3** at the December 14, 2022 public hearing).

WHEREAS, the Board opened the meeting to the public for questions and comments at the time of the public hearing, and no one from the public appeared at the time of the public hearing; and

WHEREAS, at the December 14, 2022 public hearing the Applicant proposed site plan amendments to eliminate certain variances, which were subsequently included in the Engineering Site plan set prepared by Steven L. Koestner N.J.P.E. & P.L.S, dated March 10, 2022, **with latest revision dated January 19, 2023** and which revised plans were reviewed as set forth in the Completeness/Planning and Engineering review letter prepared by Gregory J. Polyniak, P.E., P.P., C.M.E. and David Juzmeski, P.E., P.P. of Neglia Engineering Associates, dated August 25, 2022, **as revised February 6, 2023**; and

WHEREAS, the Planning Board of the City of Hackensack makes the following findings of fact and conclusions with respect to the within application:

1. The subject property consists of three rectangularly shaped tax lot parcels with frontage on Gamewell Avenue. The subject property consists of a total lot area of 17,049 square feet (0.391 acres). It is currently vacant, and the only improvements consist of a chain-link fence and one-story garage. The properties surrounding the subject property consist of one- and two-family homes to the north, a two-family home to the east, a vacant lot to the west, and a multi-family dwelling to the south.
2. The subject property is designated as Lot 34, 35, and 35.01 in Block 222.01 and is commonly known as 109-115 Gamewell Street. It is located within the **R-4 Transitional Single-Family Attached Zone**.
3. The Applicant requests Preliminary and Final Site Plan approval to raze the existing one-story garage and convert the existing vacant lot into an eleven (11) unit multi-family development consisting of eleven (11) two-bedroom residential units. Additionally, the Applicant proposes to construct a twenty-two (22) space parking lot, which consists of twenty-one standard parking spaces and one A.D.A. compliant parking space. Furthermore, the Applicant proposes on site drainage improvements.
4. The Board incorporates herein as part of its findings of fact the sworn testimony of the Applicant's witnesses; the Board Engineer, Gregory J. Polyniak, P.E. P.P., C.M.E., C.P.W.M; and acting Hackensack Zoning Officer, Bridget McLaughlin, as set forth in the verbatim transcript of the proceedings conducted at the public meeting of the Board on **December 14, 2022**.
5. The Board finds that the testimony adduced by the Applicant's witnesses was credible and was based upon reliable and accurate data and information.
6. The Board finds that it is the objective of site plan review to work toward the development of an aesthetically acceptable and well-ordered community, serving the interest of public

health, safety and general welfare of the City residents, and ensuring that the scope of the development is within the infrastructure capacities of the City. The Board finds that the objective of site plan review as set forth above is consistent with the goals and objectives of the Hackensack Master Plan. Based upon the testimony presented by the Applicant's witnesses and the Board's review of the Exhibits and reports submitted in connection with the project, the testimony of the Board's Engineer and Planning consultant, and the Board's familiarity with the subject property and the surrounding community, the Board finds that the Applicant has provided sufficient information for the Board to determine that the proposed project will advance these objectives.

7. In considering the project in connection with the criteria outlined in the City's site plan review ordinance, the Board finds that the proposed Site Plan provides for adequate emergency, fire and police access and protection; adequate traffic circulation and access; safe and convenient pedestrian circulation; appropriate lighting and landscaping; and an attractive and convenient layout.
8. In considering the project in connection with the City's Master Plan and the Municipal Land Use Act, the Board finds that the proposed design and exterior look of the proposed building, and the proposed site improvements, advance the goals and objectives of the Hackensack Master Plan and the Municipal Land Use Law by providing for adequate light, air and open space; promoting a desirable visual environment through creative development techniques and design; and promoting the public health, safety and general welfare.
9. The Board finds that the Applicant has adduced testimony that the proposed development

can be constructed without any significant adverse or detrimental traffic impact upon the adjacent roadway system and that the proposed development will not exacerbate the existing conditions of the roadway and/or intersections, and, in fact, will improve existing conditions.

10. The Board finds that N.J.S.A. 40:55D-70(c)(2) of the MLUL allows variances to be granted “where an application or appeal relating to a specific piece of property the purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment”. Based upon the proofs presented, the Board finds that the Applicant has met the affirmative criteria under N.J.S.A. 40:55D-70(c)(2) for the granting of each of the requested variances as follows:

- Regarding the variance for the deficiency in the buffer requirement pursuant to §175–13.2(C)(4), the Board finds that the proposed plantings of the Emerald Green Arborvitaes with a planting height of 7’ to 8’ as shown on the revised plans will provide a sufficient buffer to ameliorate any negative impact upon the adjacent properties. In addition, the Applicant will be required to provide an irrigation system for all plant beds, lawn areas and rain gardens to ensure the proper maintenance of the green spaces. The Board finds that the overall landscaping plan advances the goals and objectives of the Hackensack Master Plan and the Municipal Land Use Law by promoting a desirable visual environment through creative development techniques and good civic design and arrangements, and that the benefits of the plan outweigh any detriment.
- Regarding the variance in connection with the parking area layout pursuant to

§175–13.1(D)(2)(b)(d), the Board finds that this is a technical deficiency in that the distance is measured to the hallway of the proposed building, and the parking area is more than 10 feet away from the nearest residential unit. The Board finds that there would be no detriment to granting this variance based upon the overall layout of the site.

- Regarding the variance for parking space size pursuant to §175–13.1(D)(1)(a), due to certain parking spaces measuring less than 9 feet in width due to the building columns, the Board finds that this occurs only at the location of the columns and only for 6 parking spaces. The Board finds that there would be no detriment to granting this variance given the overall parking scheme and the parking layout being proposed. In addition, based upon the testimony of the Applicant's witness that the parking spaces will be assigned to residents of the building and the appropriate vehicles, there would be no material detriment to granting this waiver.
- The Board finds that the proposed building design, and the associated site improvements, advance the goals and objectives of the Hackensack Master Plan and the Municipal Land Use Law by promoting a desirable visual environment through creative development techniques and good civic design and arrangements. The Board also finds that the proposed development of the subject property preserves adequate light, air and open space for the subject property and the adjacent properties. The Board finds that the project advances the goals and objectives of the Hackensack Master Plan and the Municipal Land Use Law by bringing the subject property in conformity with the permitted uses in the R-4

Transitional Single-Family Attached Zone and thereby, promoting health, safety and general welfare of the public.

- The Board finds that these benefits will accrue to the public by the granting of the requested variances as part of the development application. The Board further finds that these benefits are significant and that they substantially outweigh any potential detriment.

11. The Board finds that the benefits of the proposed project all further advance the goals and objectives of the Hackensack Master Plan and the Municipal Land Use Law, specifically, purpose (a) of the MLUL, by promoting the public health, safety and general welfare; purpose (e) of the MLUL, by promoting the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment; and purpose (i) of the MLUL, by promoting a desirable visual environment through creative development techniques and good civic design and arrangements.
12. The Board finds that the negative criteria of N.J.S.A. 40:55D-70(c) require applicants to show that the requested variances will not be substantially detrimental to the public good nor will they substantially impair the intent and purposes of the zone plan and zoning ordinance. Based upon the proofs presented, the Board finds that the Applicant is proposing a building and site lay out which is substantially consistent with the goals and purposes of the Hackensack Master Plan and the Municipal Land Use Law as aforesaid, and that this application satisfies the negative criteria in that none of the requested variances will cause a substantial detriment to the public good nor substantially impair the intent and purposes

of the City of Hackensack Master Plan and zoning ordinance. The Board further finds that the proposed Site Plan provides for adequate fire and police access and protection; adequate drainage and disposal of all wastes; adequate traffic circulation and access; safe pedestrian circulation; appropriate lighting and landscaping; and an attractive and convenient layout. The Board further finds that the Applicant has adduced testimony that the proposed development can be constructed without any significant adverse or detrimental traffic impact upon the adjacent roadway system.

NOW, THEREFORE, BE IT RESOLVED that the application for Preliminary and Final Site Plan approval to raze the existing one-story garage and convert the existing vacant lot into an eleven (11) unit multi-family development consisting of eleven (11) two-bedroom residential units, along with a twenty-two (22) space parking lot, which consists of twenty-one standard parking spaces and one A.D.A. compliant parking space, as well as proposed on site drainage improvements, at the premises identified as Lot 34, 35, and 35.01 in Block 222.01 on the official tax map of the City of Hackensack, County of Bergen, New Jersey, and commonly known as 109-115 Gamewell Street, located in the R-4 Transitional Single-Family Attached Zone, be and hereby is **GRANTED**.

BE IT FURTHER RESOLVED, that the granting of the above approval is conditioned upon the Applicant/Developer obtaining all necessary Federal, State, County and Regional Municipal approvals, permits and licenses necessary or applicable, including, but not limited to, municipal soil moving, Bergen County Planning Board, Bergen County Soil Conservation District, and Treatment Works Application, NJDEP Land Use Department, and NJDEP Safe Drinking Water Act approval, as applicable.

BE IT FURTHER RESOLVED, that the granting of the within approval is conditioned upon the Applicant/Developer complying with all comment letters and directives of the Board Engineer and Planner, as per the testimony during the public hearings, both prior to, and during construction, including, without limitation, all directives required to ensure that the proposed sanitary sewer and stormwater drainage systems will function properly as designed.

BE IT FURTHER RESOLVED, that the granting of the within approval is conditioned upon the recommendations and comments, received from the Police, Traffic Division; Fire Prevention; Sanitation Department; Health Department; Building Subcode Official; Construction Official; or other City departments required to review this project, as per the testimony during the public hearings.

BE IT FURTHER RESOLVED, that the granting of the within approval is conditioned upon the Applicant/Developer complying with all of the specific conditions, stipulations and agreements made throughout the course of this application, including, but not limited to the following:

Conditions Specific to this Application:

- A. That the applicant shall address all of the comments set forth in the Completeness/Planning and Engineering review letter prepared by Gregory J. Polyniak, P.E., P.P., C.M.E. and David Juzmeski, P.E., P.P. of Neglia Engineering Associates, dated August 25, 2022, as revised February 6, 2023, and as per the testimony at the Board meeting on December 14, 2022, or otherwise to the satisfaction of the Board Engineer.
- B. That the Applicant/Developer address all of the comments set forth in the City of

Hackensack Police Department Review Letters; and the Hackensack Fire Department Checklist Plan Reviews, consistent with this resolution and the variances granted herein. It shall be the Applicant's responsibility to address all current and future letter comments and required / requested improvements.

- C. Any exterior utility meters shall be properly screened from public view.
- D. Any rooftop mechanical equipment shall be properly screened, as may be required to shield such equipment from public view.
- E. The subject site will be serviced by a private trash and recycling hauler. Since the trash dumpster is being eliminated, all trash/recycling shall be contained within the building until the date and time of pick-up by the private hauler. As stipulated to by the Applicant, this will be coordinated with the private hauler and an off-site building superintendent so that trash/recycling pick-up will take place within a designated date and hour, and trash/recycling containers will not remain outside the building for an entire day or overnight.
- F. Parking spaces shall be assigned to residents as stipulated by the Applicant.

BE IT FURTHER RESOLVED, that the granting of the within approvals are specifically made subject to the following additional conditions:

General Conditions:

- A. This approval is subject to Applicant obtaining the required construction permit(s) and any other state, County, or City approvals, as required.
- B. All fees, costs, bonds and escrows shall be paid when due or becoming due, including without limitation, all Affordable Housing fees, and Residential or Non-

Residential Development fees, as applicable. Any monies are to be paid within twenty (20) days of the said request by the Zoning Officer or Construction Official, or their designee.

- C. All representations made by the Applicant or its agents shall be deemed conditions of this approval and any misrepresentations by Applicant contrary to the representations made before the Board shall be deemed a violation of this approval.
- D. The action of the Board in approving this application shall not relieve the Applicant of responsibility for any damages caused by this project, nor does the Board, or its reviewing professionals and agencies, accept any responsibility for design of the proposed improvements or for any damages that may be caused by this project.
- E. Applicant shall comply with all applicable federal, state, regional, county and local rules, regulations and requirements. In the event compliance with the requirements of any such governmental entity necessitates modifications to the site plan, Applicant shall submit revised plans to the Zoning Officer and Construction Official for their review and approval. If deemed by either of them to be so substantial or different as to warrant further review by the Board, such modifications shall be referred to the Board for its formal review, and Applicant shall be required to present same in compliance with the notice provisions of the Municipal Land Use Law.
- F. This approval is conditioned upon the truthfulness of the testimony of the Applicant and the Applicant's witnesses. In the event that said testimony is found to be willfully false, this approval may be voidable and may be nullified by the Board.

- G. The Applicant shall submit an original, with sufficient copies, of the plans hereby approved for the Board's authorized signatures. The Applicant shall also provide copies to the Board Engineer, the City Redevelopment Consultant, and the Construction Code Official, as applicable.
- H. The Applicant shall provide an as-built survey to the Construction Code Official, the Board Engineer, and the City Tax Assessor upon completion of all improvements. No TCO/CO will be issued without the issuance of as as-built survey and the approval of said survey by the City and its professionals.
- I. Any proposed structure(s) shall be constructed so as to be consistent with the architectural renderings, building elevations and material presented to the Board, including, without limitation, materials, design details, window type, colors and color schemes, and other window and façade features
- J. Subject to such performances and maintenance bonds as may be required by the Board Engineer consistent with applicable law and as may be further required by the Hackensack Code and consistent with the Municipal Land Use Law. If deemed necessary by the City or it's professionals to ensure compliance with the terms of the approvals granted herein; the proper installation/maintenance of the improvements in connection with the development of the subject property; and that the subject property will be improved and developed in such a manner that will ensure protection to the surrounding properties, as well as the public roads in and about the area of the subject property, the developer shall, if required by the City of Hackensack, enter into a Developer's Agreement with the City of Hackensack

in connection with the development of the subject property consistent with the Municipal Land Use Law.

- K. The Applicant will comply with the City ordinance regarding storm water runoff from the site, and, if requested, the Applicant will provide an additional drainage analysis to the Board's engineer to confirm the adequacy of the proposed drainage system.
- L. Applicant shall comply with all City Ordinances regarding the recycling of recyclable materials, removal of trash and garbage, including construction and demolition materials, if any.
- M. The Applicant shall provide the Zoning Officer with a copy of the approved plans digitally via e-mail.
- N. All outstanding property taxes for the Property shall be made current.
- O. A copy of the **signed** resolution shall be forwarded to the Applicant, the Board Engineer and the Building Department of the City of Hackensack; and the secretary shall publish the required notice.

BE IT FURTHER RESOLVED, that the Site Plan approval, variances and waivers granted herein are specifically made subject to any conditions referred to herein. In the event that any condition is held to be invalid, unenforceable, or unlawful, the entire approval granted herein shall be unenforceable. It is the intent of the Board that the approvals granted herein shall not be deemed approved if any condition is invalid, and that the conditions are not severable from the approvals granted herein.

Motion to Approve

Offered by:

M. Allegretta

Second by:

J. Labrosse

In Favor:

A. Dib

J. Martucci

M. Allegretta

J. Labrosse

K. Canestrino

R. Contini

K. Solomon

F. Garip

P. Iyamu

Opposed:

None

Abstain:

None

I certify that the foregoing is a true copy of a resolution adopted by the Planning Board of the City of Hackensack at the meeting of **February 8, 2023**.



_____, Planning Board Secretary

9/7/10
9/10/09
9/10/09
9/10/09