

PLANNING BOARD OF THE CITY OF HACKENSACK

RESOLUTION

IN RE THE APPLICATION OF
PETCO – HACKENSACK NJ STORE #2868
450 HACKENSACK AVENUE
BLOCK 504.02, LOT 13.01
SP# -22 & V# -22

WHEREAS PETCO – HACKENSACK NJ STORE #2868 (hereinafter referred to as the “Applicant”) has applied to the Planning Board of the City of Hackensack (hereinafter referred to as the “Board”) for Amended Site Plan approval with respect to internal modifications to remodel a Petco store to continue the retail store use, but additionally to allow for a veterinary office and to relocate the existing aquarium within the store. Furthermore, the Applicant proposes an additional four (4) signs; and

WHEREAS amended Site Plan review is required pursuant to the City of Hackensack Zoning Code; and

WHEREAS the Applicant proposes no exterior alterations to the existing building other than the proposed new signs, and no changes to the parking areas. As such, any bulk deficiencies that may currently exist will not be impacted by the proposed signage improvements; and

WHEREAS the following signage bulk deficiencies and existing parking deficiency have been identified for the retail store:

a. *Signage Bulk Deficiencies:*

Regulation	Ordinance Section	Required / Permitted	Proposed	Status⁽¹⁾
Maximum Wall Mounted Signs	§175-13.4 Table 1	One Wall-Mounted Sign per building or storefront	2 signs	Non-Conforming

Maximum Sign Area (Sign A)	§175-13.4 Table 1	24 square feet	126.98 square feet	Non-Conforming
Maximum Sign Area (Sign C)	§175-13.4 Table 1	18 square feet	32.33 square feet ⁽⁴⁾	Non-Conforming
Sign Illumination	§175-13.4.I.4.a	Illumination or backlighting shall not exceed seventy-five (75) foot candles	Less than 75 foot candles	Conforming
Window Sign	§175-13.4.K.1.a	Shall be limited to indicate membership, to show licenses, advertisements referable to internal sales, and menu of food items	Picture of Dog	Non-Conforming
Sign Colors	§175-13.4.I.2	4-Colors	Picture of Dog (Multi-Color)	Non-Conforming

(1) Each item with a status of “non-conforming” will require a new variance.

b. *Parking Calculation*

Regulation	Ordinance Section	Unit	Required/Permitted	Existing	Proposed	Status ⁽¹⁾
Shopping Center 150,000 – 500,000 square feet	§175-13.1.B Table	5 spaces per 1,000 sq. ft. of Gross Leasable Area	274,632 square feet / 5 space per 1,000 sq. ft. = 1,373 parking spaces	1,164 parking spaces (4.238 spaces / 1,000)	1,164 parking spaces (4.238 spaces / 1,000)	Existing Non-conforming (No Change)

(1) Each item with a status of “non-conforming” will require a new variance.

WHEREAS the subject property is located within Block 504.02, Lot 13.01 and is commonly known as 450 Hackensack Avenue. The property consists of a total lot area of 930,877 square feet. The site is currently occupied by five (5) separate structures, all used for commercial retail and restaurants, in conjunction with a community shopping center. The site has associated entrances along Hackensack Avenue and Commerce Way with asphalt parking areas on site., (hereinafter referred to as the “subject property”) located within the B-4 Shopping Center District, and

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 May 11, 2022, at which time it heard testimony and considered the subject application; and

WHEREAS, the Applicant was represented by Daniel Z. Rivlin, Esq. of the law firm of Buchanan Ingersoll & Rooney, P.C.; and

WHEREAS, Mr. Rivlin presented a sign plan set, showing renderings and dimensions of the proposed signs, consisting of 13 sheets, at the May 11, 2022 public hearing (marked as Exhibit A-1) in support of the application; and

WHEREAS, the Board reviewed the following documents:

- Zoning Permit Application consisting of the following forms:
 - Form ‘B’ – Site Plan Checklist;
 - Form ‘D’ – Site Plan / Subdivision / Variance Application (signed);
 - Form ‘E’ – Zoning Permit Application (signed);
 - Form ‘F’ – Site Information, undated;
 - Form ‘G’ – Corporate or Partnership / Ownership Disclosure;
 - Form ‘H’ – Variance Request;
 - Form ‘I’ – Support Documents, dated February 7, 2022; and
 - Form ‘O’ – Certification by Tax Collector.
- Site Plans consisting of sixty (60) sheets, entitled, “Petco – Hackensack NJ, Store #2868 – Tenant Improvements: New Veterinary Care Office & Relocation of Aquarium Area in An Existing Petco Store – 450 Hackensack Ave, Hackensack, NJ 07601” prepared by SBLM, Acertus Consulting Group, LLC., and BSE Structural Engineers, LLC., undated, last revised April 12, 2022;

- Sign Plans consisting of ten (10) sheets, entitled, “Petco, PC-2868, 450 Hackensack Avenue, Hackensack, NJ 07601” Prepared by Anchor Sign, undated, last revised January 21, 2022;
- Refusal of Permit, Office of the Zoning Enforcement Officer, City of Hackensack, dated June 10, 2021;
- Response Letter prepared by Melissa J. Bayly of Buchanan, Ingersoll, Rooney, dated April 19, 2022;
- City of Hackensack Police Department Review Letter dated March 10, 2022;
- City of Hackensack Fire Department Review Letter dated March 8, 2022; and
- Square footage breakdown by store exhibit, undated;
- Completeness/Planning and Engineering Review Report of Neglia Engineering Associates dated March 16, 2022, revised April 26, 2022; 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 one (1) irregular shaped tax parcel with frontage along Hackensack Avenue to the west. The site is bound to the south by the Avalon Apartment Building, to the northwest by Mavis Discount Tire (directly across Commerce Way), a commercial / office use to the west (directly across Hackensack Avenue), and the Hackensack River to the east. The subject property is located entirely within the b-4 Shopping Cener District.
2. The existing site currently utilizes a portion of one of the structures as a Petco retail store. The Applicant proposes internal modifications to remodel the Petco to continue the retail store use, but additionally to allow for a veterinary office and to relocate the existing

aquarium within the store. Furthermore, the Applicant proposes an additional four (4) signs.

3. The Board heard and considered the presentation made by Applicant’s counsel, Daniel Z. Rivlin, at the May 11, 2022 public hearing, and the Board incorporates herein as part of its findings of fact the statements made by Mr. Rivlin in support of the Application, and the testimony of the Board Engineer and Planning consultant, Gregory J. Polyniak, P.E., P.P., as set forth in the verbatim transcript of the proceedings conducted at the public hearing on May 11, 2022.
4. The Board finds that the presentation made by the Applicant’s counsel was credible and was based upon reliable and accurate data and information.
5. The Board finds that the proposed modifications to the existing PETCO retail store are to accommodate a new same day veterinary service use within the store, move the location of the existing aquarium, and change the storefront and window signage. The Applicant proposes no change to the footprint of the building or the existing size of the space that it currently occupies. The store is currently ADA compliant and will remain so. The retail use is a permitted use within the B-4 district, and the veterinary clinic is a permitted conditional use in the B-4 district. The Applicant has confirmed that all sub-sections of Ordinance §175-8.2 Standards for Conditional Uses will be met as follows:

§175-8.2 STANDARDS FOR CONDITIONAL USES				
Regulation	Ordinance Section	Required / Permitted	Proposed	Status
Minimum Residential Setback	§175-8.2.C	200 ft within a Residential District	>200 feet	Conforming
Overnight Boarding	§175-8.2.C	Unless needed, boarding services shall be limited to daytime	Same-day veterinary care	Conforming

Soundproofing	§175-8.2.C	Enclosed facilities shall be soundproof of construction and operated as to produce no objectionable odors at property line	Sound-proofing provided around affected areas, no objectionable odor at property line.	Conforming
Open Kennel, Pen, or Runways	§175-8.2.C	Not Permitted	No open kennels, pens, or runways proposed.	Conforming
Permitted Animal Species	§175-8.2.C	House pets only permitted	Office only cares for house pets.	Conforming

6. With respect to parking, the Board finds that the PETCO store is within a large shopping center. The existing approved parking is already nonconforming based upon the total spaces per square foot of gross leasable space, and the new veterinary clinic will not change the amount of parking spaces required or needed by the PETCO store.
7. Based upon the presentation made by Applicant’s counsel, the Board finds that the total maximum number of employees at the peak, combining both veterinary staff and retail store staff, will be 18 individuals. The hours of the veterinary clinic will be 8:00 AM to 6:00 PM, which matches the current grooming services that are provided at the location. All medical-related trash will be handled by a third-party vendor that the Applicant has already hired. All regular trash and all construction material related to the proposed remodel will be disposed of in accordance with all applicable regulations.
8. The Board finds that at the May 11, 2022 public hearing, the Applicant’s counsel adequately explained, through use of the renderings on Exhibit A-1, the proposed signs, including the dimensions, color schemes, proposed locations, and differences from the existing signs.
9. The Board finds that 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 and the Shops at Riverside Redevelopment Plan. Based upon the presentation made by the Applicant's counsel 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.

10. N.J.S.A. 40:55D-70(c)(1) of the Municipal Land Use Law (MLUL) allows variances to be granted "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, a 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." 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".

11. 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.
12. The Board finds that the subject shopping center provides a large variety of retail shopping opportunities and dining opportunities to the citizens and the public at large. The Board finds that the proposed signs are proportional to the space being occupied by the Applicant and are in similar proportion to the signage along the façades of the other retail and dining units at the shopping center. The Board finds that the number, locations, design and dimensions of the proposed signage are appropriate to effectively identify the Applicant's store and the veterinary clinic use, to both pedestrian and vehicular traffic.
13. The Board finds that all of the variances requested by the Applicant related to the proposed signage can be granted under the (c) (2) criteria. The Board finds that the granting of the variances in connection with the proposed signage improvements meet purpose (a) of the Municipal Land Use Law, which is to encourage municipal actions to guide the appropriate use of development of all lands in the state in a manner which will promote the public health, safety, morals of the general welfare. The Board finds that the proposed signage promotes efficient vehicular and pedestrian navigation of the site by providing a greater visibility for patrons looking for the Applicant's store and the veterinary clinic use, and allows the facility to exist in a safer manner. This promotes traffic safety at the subject property and provides a benefit to patrons and employees at the subject property, and to the public at large. The Board also finds that the granting of these variances advance purpose (i) of the MLUL by promoting a desirable visual environment through creative development techniques and good civic design and arrangements. The Board finds that the

proposed signs and are attractive and are consistent with the overall retail signage for the shopping center. The Board finds that the said signage improvements represent a reasonable design alternative than that required under Section §175-13.4 of the zoning code. Because granting the variances will produce a safer, more visually appealing site than would otherwise be possible, granting these variances represents an improvement over the existing zoning. In weighing the benefits and detriments, the Board finds that there are no detriments to the granting of the requested sign variances; and that the requested variances will not cause a substantial detrimental to the public good or substantially impair the intent and purposes of the City of Hackensack Master Plan and zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED that the application for Amended Site Plan approval with respect to internal modifications to remodel the Petco store to continue the retail store use, but additionally to allow for a veterinary office and to relocate the existing aquarium within the store; and for the requested variances in connection with the proposed new signs, as proposed by the Applicant, be and hereby is **GRANTED**.

BE IT FURTHER RESOLVED, that the granting of the above approval is conditioned upon the Applicant obtaining all necessary Federal, State, County and Regional Municipal approvals, permits and licenses necessary or applicable; and

BE IT FURTHER RESOLVED, that the granting of the within approval is conditioned upon the application complying with all comment letters and directives of the Board Engineer and Planner, both prior to, and during construction; and.

BE IT FURTHER RESOLVED, that the granting of the within approval is conditioned upon the recommendations and comments, if any, 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; and

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 before the Planning Board, including, but not limited to the following:

CONDITIONS SPECIFIC TO THE APPLICATION

- A. The Applicant shall comply with the recommendations and requirements as set forth in the April 26, 2022 Completeness/Planning and Engineering Review Report of Neglia Engineering Associates in connection with this application, and as further stated at the public hearing on May 11, 2022, including without limitation that the Applicant shall add the notations to the plans as set forth in the comments made by Neglia in its Review Report;
- B. The Applicant shall comply with any and all stipulations made by, or on behalf of, the Applicant by the Applicant's authorized representative at the public hearing on May 11, 2022.
- C. The Applicant shall submit the storefront elevation drawing showing the location(s) of the subject signage with all dimensions noted as verified to confirm that the signage has been installed in the correct locations

GENERAL CONDITIONS

- A. This approval is subject to Applicant obtaining the required construction permit(s) and any other state, County, or city approvals, if required.
- B. All fees, costs, bonds and escrows shall be paid when due or becoming due. Any monies are to be paid within twenty (20) days of the said request by the Hackensack

Land Use Administrator, or his 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 Planning Board in approving this application shall not relieve the Applicant of responsibility for any damages caused by this project, nor does the Planning Board of the City of Hackensack, 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. The 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 Planning Board, such modifications shall be referred to the Planning 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 Planning Board.
- G. 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.

H. The Applicant shall provide the Zoning Officer with a copy of the approved plans digitally via e-mail.

BE IT FURTHER RESOLVED, that Site Plan approval, and any 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 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
M. Allegretta
K. Canestrino
J. Labrosse
R. Contini
J. Martucci
K. Solomon
P. Iyamu
F. Garip

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 June 8, 2022.



, Planning Board Secretary