

TO: Borough of Fair Haven Zoning Board of Adjustment

FROM: Elena Gable, PP, AICP, CFM
Leigh Fleming, PP, AICP

RE: Bruiser Woods, LLC
611 River Road
Block 25 Lot 12
Completeness & Preliminary and Final Major Site Plan v2

DATE: July 2, 2020

As requested, we have reviewed the following new materials in preparation of this report:

- 3-page letter from applicant's attorney, dated March 19, 2020;
- Boundary and Topographic Survey prepared by InSite Surveying, dated February 20, 2020;
- Preliminary and Final Major Site Plan prepared by Insite Engineering, dated March 6, 2020, revised May 14, 2020;
- Architectural Plans prepared by Anthony M. Condouris, Architect, dated January 22, 2020, revised May 18, 2020;
- Application to the Zoning Board of Adjustment of the Borough of Fair Haven, dated March 13, 2020.
- 2 pages from the American Land Title Association, Commitment for Title Insurance, entitled "Schedule B, Part II", dated May 23, 2017;
- Letter from Anthony M. Condouris, AIA, dated May 18, 2020;
- Photographs of the property, no date; and
- Letter from Jason Fichter, PE, PP, CFM, CME, dated May 18, 2020

Completeness Review

The application has been checked for compliance with the Borough of Fair Haven Land Development Application checklist. The applicant has completed all required submissions. The application has been deemed **complete**.

- Item #9- Completed Monmouth County Planning Board Application- The applicant has requested a waiver and has indicated that they will obtain upon Fair Haven Zoning Board approval. We take no exception to the granting of the waiver for completeness purposes only. Should the Board act favorably upon the application, it shall be submitted as a condition of approval.

- Item #10- Completed Freehold Soil Conservation District (FSCD) Application- The applicant has requested a waiver for this item, indicating that they will obtain upon Fair Haven Zoning Board approval. We take no exception to the granting of the waiver for completeness purposes only as the applicant has stated that this requirement would not be applicable because this project involves a disturbance of less than 5,000 square feet of soil. The applicant shall provide testimony confirm.
- Item #11- Completed Monmouth County Health Department Application- The applicant has not requested a waiver for this item. We take no exception to the granting of the waiver for completeness purposes only as the Monmouth County Health Department application only relates to public recreational bathing places, body art establishments, food establishments, pet shops, septic system construction and alterations, tobacco retail establishments, food and beverage vending machines and construction/alteration of private wells.
- Item #12 – Public Utility “will serve” letters – The applicant has not indicated whether a waiver is requested for this item. We take no exception to the granting of the waiver for completeness purposes only. The applicant shall provide testimony regarding these items at the hearing.
- Item #13 – Environmental Impact Statement – The applicant has listed “N/A” on the application. We take no exception for the granting of this waiver for completeness purposes only as the site is already developed with a 1-story building and parking area. Should the Board request additional information, that information shall be provided.
- Item #14 – Freshwater Wetlands Letter of Interpretation - The applicant has not indicated whether a waiver is requested for this item. We take no exception to the granting of the waiver for completeness purposes only as the property is already developed with 94.7% impervious coverage. The applicant shall provide testimony regarding this item at the hearing.
- Item #15 – List of Federal, State, regional, and/or municipal approvals or permits required- The applicant has not indicated whether a waiver is requested for this item. We take no exception to the granting of the waiver for completeness purposes only. The applicant has stated they will submit an application to the Monmouth County Planning Board. It is recommended that a letter of no interest or a decision from the Monmouth County

Planning Board be a resolution compliance condition, should the Board approve the project.

- Item # 18 – A digital copy of the plan in .dwg format (ACAD 2007 or later) and .pdf format (Adobe) – The applicant stated they will provide upon Fair Haven Zoning Board approval. We take no exception to the granting of the waiver for completeness purposes only.
- Item #22 – An engineer's estimate of all the improvements identified on the approved preliminary plan, which remain to be completed at the time of final plat - The applicant stated they will provide upon Fair Haven Zoning Board approval. We take no exception to the granting of the waiver for completeness purposes only. Should the Board request this information, that information shall be provided.
- Item #23 – An engineer's estimate of all the improvements identified on the approved preliminary plan, whether completed or remaining to be completed. The applicant stated they will provide this upon Fair Haven Zoning Board approval. We take no exception to the granting of the waiver for completeness purposes only. The applicant shall provide this information upon Board approval.
- Item #25 – Six (6) copies of the Stormwater Management Plans and Reports in accordance with N.J.A.C 7:8 including pre and post development calculations and drainage area maps - The applicant has not indicated whether a waiver is requested for this item. We take no exception to the granting of the waiver for completeness purposes only. Should the Board request this information, that information shall be provided.
- Item #26 – As built drawing/survey depicting all proposed site improvements approved during the preliminary site plan application and any deviations noted in the actual constructed improvements - The applicant has noted that this item is not applicable to their application. We take no exception to the granting of the waiver for completeness purposes only. Should the Board request additional information, that information shall be provided.
- Item #47 – Size and location of all existing structures within 200' of the site boundaries. – the applicant is requesting a waiver and has stated that an exhibit will be provided during the hearing. We take no exception to the granting of the waiver for completeness purposes only. The applicant has updated their application to state this item will be

presented at the hearing, and that the information has been included on the revised title sheet.

- Item #58 – Phasing plan as applicable – The applicant has not indicated whether a waiver is requested for this item. We take no exception to the granting of this waiver for completeness purposes only as it appears the applicant is not proposing to Phase the plan.
- Item #59 – Solid waste management plan showing holding location and provisions for waste and recyclables – The applicant has not indicated whether a waiver is requested for this item. We take no exception to the granting of this waiver for completeness purposes only. The plans depict the location of refuse containers.
- Item #61 – Grading and utility plan – The applicant has not indicated whether a waiver is requested for this item. We take no exception to the granting of this waiver for completeness purposes only. The applicant has included elevation points on the proposed plans and has stated they will be using existing utility connections.
- Item #62—Profiles of existing and proposed roadway including all utilities and stormwater facilities. Roadway cross section at 50' intervals—The applicant has not requested a waiver for this item. We take no exception to the granting of this waiver for completeness purposes only. The applicant has noted in their revised materials that this item is not applicable to the project.
- Item #64 – Soil Erosion and Sediment Control Plan - We take no exception to the granting of the waiver for completeness purposes only as it appears this requirement would not be applicable because this project involves a disturbance of less than 5,000 square feet of soil.
- Item #65 – Lighting plan - The applicant has not indicated whether a waiver is requested for this item. We take no exception to the granting of the waiver for completeness purposes only. The applicant will not be changing the lighting on the site. Should the Board request additional information, that information shall be provided.

Application Guidelines

- Letter from Zoning Officer- The applicant has not provided a Zoning Officer's Determination Letter as the applicant applied directly to the Zoning Board. We take no exception to the granting of this waiver for completeness purposes only. Should the Board request additional information, that information shall be provided.

Property and Project Description

The subject property is known as Lot 12 in Block 25, located at 611 River Road. The property is a rectangular shaped through lot with frontage and access on River Road and rear access from Navesink Road. The site is currently developed with a single-story commercial building and associated surface parking lot containing 14 spaces. Surrounding land uses are primarily commercial.

The applicant is proposing additions and renovations to the principal structure as well as other lot improvements. The applicant is proposing expand the building footprint with a two-story addition at the rear of the building that will provide a secondary stairwell in the building. the first floor is proposed to consist of two dance rooms, a reception area, waiting area, dressing room, two bathrooms, and two stairwells which lead to the proposed second floor. The new second-floor addition is proposed to be located over the existing first floor. The second story is proposed to contain two dance rooms and a storage area. The proposed materials for the exterior consist of brick on the first floor and stucco on the second floor.

Zoning

The property is located in the B-1 Zone where dance studios are a permitted use.

Bulk Standards for the B-1 Zone				
Lot Requirements				
	Required	Existing	Proposed	Variance
Minimum Lot Area	5,000 SF	9, 315.42 SF	9, 315.42 SF	No
Minimum Lot Width/ Frontage (River Road)	50 ft.	48.9 ft. / 49.03 ft.	48.9 ft. / 49.03 ft.	Yes (ENC)
Minimum Lot Width/ Frontage (Navesink Road)	50 ft.	47.9 ft / 47.77 ft.	47.9 ft / 47.77 ft.	Yes (ENC)
Minimum Lot Depth	100 ft.	193.03 ft.	193.03 ft.	No
Principal Building				
Minimum Front Yard Setback	35 ft.	1.5 ft	1.5 ft.	Yes
Minimum Side Yard Setback (one)	5 ft.	1.5 ft	1.48 ft	Yes
Minimum Side Yard Setback (both)*	10 ft.	12.2 ft.	12.2 ft.	No
Minimum Rear Yard Setback	10 ft.	137.7 ft.	128.21 ft.	No
Maximum Building Height	35 ft.	Not Provided	30.22 ft.	No
Maximum Stories	2.5	1	2	No

Maximum Allotments				
	Required	Existing	Proposed	Variance
Maximum Habitable Floor Area	2,200 SF	1,960	3,872 SF	Yes
Maximum Habitable Floor Area Ratio	0.4	0.21	0.45	Yes
Maximum Building Coverage	50%	21.1%	22.5%	No
Maximum Lot Coverage	80%	94.7%	93.4%	Yes (ENC)

Parking and Loading Compliance			
	Required	Proposed	Variance
Standard Stall Size	9 ft. x 18 ft.	9 ft. x 18 ft.	No
ADA Stall Size	12 ft. x 20 ft.	16 ft. x 18 ft.	Yes
Number of Parking Spaces	1 space per 200 SF Gross Floor Area= 4,052 SF/200SF= 20.26 → 21 spaces	15 spaces	Yes
Minimum Front Yard Parking Setback	10 ft.	>10 ft.	No
Minimum Side Yard Parking Setback	3 ft.	0 ft.	Yes
Minimum Rear Yard Parking Setback	3 ft.	1.5 ft.	Yes
Minimum Aisle Width (60 degrees)	18 ft.	13.95 ft.	Yes
Minimum Driveway Width	12 ft.	10.7 ft.	Yes
Maximum Driveway Width	36 ft.	22.7 ft.	No

Variations

The property has the following existing conformities:

- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements- Minimum Lot Width/ Frontage (River Road) – The minimum required lot width/frontage is 50 feet where 49.03 feet exist and are not proposed to change along the River Road frontage. This is a preexisting nonconforming condition of the property.
- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements- Minimum Lot Width/ Frontage (Navesink Road) – The minimum required lot width/frontage is 50 feet where 48.9

feet exist and are not proposed to change along the Navesink Road frontage. This is a preexisting nonconforming condition of the property.

New variances and existing non-conformities which will be exacerbated based upon the proposed improvements require the following variances:

- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements – Maximum Habitable Floor Area Ratio. The maximum permitted habitable floor area ratio is 0.4, whereas 0.21 is existing and 0.43 is proposed.
- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements- Minimum Front Yard - The minimum front yard setback is 35 feet, where 1.5 feet is existing and will be exacerbated based upon the proposed improvements.
- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements- Minimum Side Yard - The minimum side yard setback is 5 feet, where 1.5 feet is existing and 1.48 feet is proposed for the stairwell addition to the rear of the building along the western property line. This existing nonconformity will be exacerbated based upon the proposed improvements.
- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements – Maximum Lot Coverage. The maximum permitted lot coverage is 80% whereas 94.7% is existing and not proposed to change. This is a preexisting nonconforming condition.
- §30-7.24.b.14(e) Permitted signs in Business Zones- Where the permitted sign area of a sign on an awning is 10 square feet, and approximately 24.75 square feet is proposed.
- §30-9.2.b.2. – ADA Parking Space Size – Whereas ADA spaces are required to be 12 feet x 20 feet and an ADA space measuring 16 feet x 18 feet is proposed.
- §30-9.2.a – Number of Parking Spaces – Whereas the application requires 21 parking spaces and 15 spaces are proposed.
- §30-9.2.b.5(b)– Minimum Side Yard Parking Setback – Whereas a minimum of 3 feet is required and 0 feet is proposed
- §30-9.2.b.5(b) – Minimum Rear Yard Parking Setback – Whereas a minimum of 3 feet is required and 1.5 feet is proposed.
- §30-9.2.b.3(c) – Minimum Aisle Width – Whereas a minimum of 18 feet is required for 60 degree angle parking spaces and 13.95 feet is proposed.

- §30-9.2.b.6(c) – Minimum Driveway Width – Whereas a minimum of 12 feet is required and 10.7 feet is existing and not proposed to change.

Planning Comments

Variances

1. The applicant is seeking a d(4) Floor Area Ratio variance to permit an increase in the permitted habitable floor area ratio. In order to grant a 'd' variance, the applicant must satisfy both the positive and negative criteria.

For a d(4) Floor Area Ratio variance, the applicant has a lesser burden of proof than a d(1) use variance. The applicant must demonstrate that the property can accommodate the problems associated with the proposed permitted use with a larger floor area than permitted by the ordinance. The applicant must also demonstrate that there will be no substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The Board may consider imposing conditions to ensure that the deviations from the FAR requirement does not cause substantial detriment to the public good and substantial impairment of the intent and purpose of the zone plan and zoning ordinance.

- a. The applicant has indicated in their application that the depth of the lot is almost double the required lot depth for the B-1 Zone.
 - b. Our office notes that the exiting lot is nearly double the minimum lot size required for the zone.
2. In addition to the d(4) variance, the applicant shall provide testimony addressing the positive and negative criteria for each variance being sought. It is the Applicant's responsibility to bear the burden of proof. In order to satisfy the positive and negative criteria for each c variance enumerated above, the applicant should provide testimony that satisfies either the c(1) hardship criterion or c(2) flexible criterion as set forth in the MLUL.

- a. Positive criteria: There are two types of c variances- c(1) hardship and c(2) flexible variances.

The c(1) hardship criteria states that a "hardship" will occur if the variance is not granted. The hardship relates to the physical or topographical features of the

property and cannot relate to financial or personal hardship. Hardship relating to property can include:

- i. Narrowness, shallowness, or irregular shape
- ii. An exceptional topographic condition
- iii. Other unique conditions or features affecting the property

The c(2) flexible variance states that by granting the variance, the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirement and that the variance can be granted without substantial detriment to the public good.

- b. Negative criteria: The applicant must satisfy the two-prong test of the negative criteria; 1) the variance can be granted without substantial detriment to the public good; and 2) the variance can be granted without causing substantial detriment to the zone plan. The negative criteria focus on the potential impacts that the proposed use may have on the community.

The applicant's testimony regarding the negative criteria should address any potential impacts that the proposed use may have on the neighborhood, as well as how the proposed use is consistent with, or in potential conflict with, both the zoning ordinance and the Master Plan of the Borough.

Master Plan

3. The Borough adopted its last Master Plan in 1991, and subsequent Reexamination Reports, with the most recent occurring in 2016. These planning documents set forth policies to guide the development in the Borough.

The 2016 Master Plan Reexamination Report included several objectives pertaining to the B-1 Business District including traffic safety, compatibility with adjacent residential neighborhoods, design character of commercial buildings, impervious coverage, and parking regulation and improvements.

The applicant should provide testimony regarding the visual impact of the proposed development on neighboring properties, the existing setbacks and building area of the surrounding neighboring dwellings, and number of driveway curb cuts as a means to address the negative criteria listed above.

Operations

4. Although this is an existing business within the Borough, the applicant shall provide testimony pertaining to the hours of operation and the number of employees proposed to be on site at any given time.
5. The applicant shall provide testimony regarding on-site storage and disposal of refuse and recyclables.
6. The applicant shall provide testimony pertaining to whether any deliveries are proposed to occur, how deliveries will be handled, and the time of day deliveries are proposed to occur.

Architectural

7. The applicant is proposing a second story addition above the existing first story and an addition consisting of a stairwell located at the rear of the building to serve as a secondary exit. The second floor is proposed to contain two dance rooms and a storage area.
8. The architectural plans include length and width dimensions for each of the rooms on each floor; however, some of these spaces are oddly shaped. The plans shall be revised to include the square footage of each room.
 - a. We note the applicant has provided the area of the first floor and second floor as means to provide occupancy calculations, however, these calculations differ from what is submitted in the application. The revised architectural drawings indicate the proposed building will consist of 4,184 sq. ft whereas the application notes the building will consist of 4,052 square feet. The applicant shall provide the breakdown of the floor area of the first floor and second floor pursuant to the Borough's definition of habitable floor area.
9. The applicant has labeled the proposed materials as brick on the first floor and stucco on the second floor. We recommend the applicant provide sample of materials and/or colored renderings of the building for the Board's review during the hearing.
10. It does not appear that a basement or cellar is existing or proposed within the building. The applicant shall confirm.
11. The applicant has proposed several windows along the left- and right-side elevations on both the first and second floors as a means to help break up the façade.

- a. There is an ornamental decoration labeled "trim line" that runs between the first and second floors along the length of the left- and right- elevations. The applicant shall confirm the material.

Signs

12. The proposed sign on the front façade of the building is 20 square feet.
 - a. Per §30-7.24b14(e) Permitted Signs in Business Zones, wall signs, window signs, projected signs, and signs on awnings are permitted in the Business Zone. It appears the proposed sign would be a conforming wall sign should it be flush against the wall, rather than positioned on the awning. However, because the sign is located on the awning, a variance is required.

Signs are permitted on awnings in business districts provided the maximum area is 5% up to 10 sq. ft., which the proposed sign exceeds.

Lighting

13. The applicant has not submitted a lighting plan. The applicant is proposing to maintain the existing lighting. The applicant shall provide testimony that the existing lighting is in conformance with the ordinance.

Circulation/Parking

14. The applicant is requesting a variance to provide 15 parking spaces where 21 spaces are required. The site today has 14 spaces. The applicant is doubling the size of the building, but only increasing the parking by one space. The applicant shall provide testimony to the parking needs of the dance studio.
15. It appears as though the applicant is proposing to restripe the existing parking lot. The applicant shall confirm.
16. The applicant shall provide testimony pertaining to the movement of cars entering and exiting the site.

Landscaping

17. 93.7% of the property is impervious coverage. The applicant shall provide testimony regarding the proposed landscaping and any measures which are being taken to mitigate the impact of 14.7% more impervious coverage than what is permitted.

18. The applicant shall provide testimony regarding any proposed landscaping improvements, as well as the removal of mature trees and whether tree removal permits are required.
19. The site plan shows refuse containers located behind the building on the western side. The applicant shall provide testimony regarding where refuse and recycling are stored and how they are disposed of.
20. There appears to an existing street tree located in front of the existing building which has been labeled on the plans to remain. The applicant shall provide testimony confirming that no changes are proposed in the right-of-way.

Misc. Comments

21. We defer to the Board Engineer regarding comments associated with grading, utilities, and stormwater management.

Aerial Map of Property

