

**RESOLUTION
BOROUGH OF BUTLER
PLANNING BOARD
IN THE MATTER OF AR REAL ESTATE, LLC
Application # SP19-77
PRELIMINARY & FINAL SITE PLAN WITH DIMENSIONAL VARIANCE**

WHEREAS, AR REAL ESTATE, LLC, (hereinafter referred to as the Applicant) has made application to the Butler Planning Board (hereinafter referred to as the Board), for an approval of dimensional variances for a conversion of the existing site to a beauty salon, for the property known as Lot 2.01, Block 204 as shown on the Tax Map of the Borough of Butler, and which is more specifically located at 1579 Route 23 South, in the highway commercial district; and

WHEREAS, the applicant submitted plans and applications, which were reviewed and commented in Thomas A. Boorady's letters dated June 17, 2019 and August 14, 2019; and

WHEREAS, a public hearing was conducted on July 18, 2019 and August 15, 2019; and

WHEREAS, the Board deemed said application complete by motion; and

WHEREAS, the Board heard comments and testimony from Applicant, Architect, Engineer and with the public having had a full opportunity to be heard; and

WHEREAS, all required fees were submitted and all jurisdictional matters were satisfied; and

NOW THEREFORE, the Planning Board makes the following findings of fact and conclusions of law based on evidence presented at the public hearing, at which a record was made;

1. The conversion of the existing site is from a retail sales store to a beauty salon.
2. The subject property is in a Highway commercial district.

3. Variances are listed in the Application and Thomas Boorady's letters of June 17, 2019 and August 14, 2019, attached hereto.

4. The exhibits are incorporated herein:

A1- Photo Board, (8) photos

A2- Disc of video presentation

A3- Architectural renderings and 8 ½ x 11" duplicates

5. All submissions have been reviewed by the Board. Applicant agreed to comply with all requirements of Mr. Boorady's letters dated June 17, 2019 and August 14, 2019.

NOW, THEREFORE, the Planning Board hereby makes the following conclusions of law, based upon the foregoing findings of fact;

1. The application before the Board is a request for a conversion of the premises and minor expansion of the building, to convert to a beauty salon and seeking preliminary and final site plan.

2. The Municipal Land Use Law provides that the Planning Board has the power to grant this approval when the Applicant satisfies certain criteria which are enunciated in the Statute and Ordinances.

3. Upon consideration of the exhibits, testimony and evidence, the Board finds that it has been furnished with sufficient information so as to enable it to make an informed decision with regard to approving the Application and requested dimensional variances. (See zoning data attached.)

NOW, THEREFORE, BE IT RESOLVED by the Planning Board that the application of AR Real Estate, LLC for an approval of a preliminary and final, site plan with dimensional variances, as shown on the zoning data sheet, which is granted pursuant to Borough Ordinances and N.J.S.A. 40:55D-et seq, with the following conditions:

1. The structure shall be ADA compliant.
2. Light shields shall be added to site, building and sign luminaries as may be required by the Board Engineer for up to one (1) year post construction.
3. All audible communication devices, if utilized, shall have the volume level adjusted so as not to be audible beyond the site perimeters.
4. An opaque fence, not less than 6 (six) feet in height shall be installed along the Westerly property line. An opaque fence, not less than 6 (six) feet in height shall be installed along both the Northerly and Southerly property lines. Beginning at the Westerly property and continuing East for 70 ±5 feet along the Northerly Property line. And beginning at the Westerly property and continuing East for 45 ±5 feet along the Southerly Property line.
5. The site curbing along the Southerly border shall be installed so as to properly align with the Right of Way across the Southerly property to Lincoln Road.
6. Any initial landscape plantings, for this application, which die within one year after installation shall be replaced with like kind.
7. A DVD recording of the Video shown during the application presentation shall be provided for the Board's records prior to the issuance of a Building Permit. The recording shall be submitted, in duplicate, on two (2) individual discs. This condition shall be completed to the satisfaction of the Board Recording Secretary.
8. The Westerly side of the proposed Raised Terrace shall be fitted with an opaque screening no less than 6 (six) feet in height.

9. A single dumpster enclosure shall be provided. The enclosure shall incorporate a locked gate. The enclosure shall provide separate storage containers for trash and for recycling material. It is recommended the containers are "bear-proof".
10. All exterior luminaries shall be identified and a lighting plan submitted incorporating description or "catalog cuts" of all of the exterior luminaries.
11. The single site sign shall be placed so as to not interfere with the Route 23 site triangle of the property to the South of the application property and with the approval of the Board Engineer.
12. All other sections of the Borough of Butler Ordinance Chapter 143 shall remain in effect.
13. Compliance with the Board's Engineer letters dated June 17, 2019 and August 14, 2019.
14. All State and County approvals as the Board's Engineer may require.

The undersigned certifies that the within Resolution was decided by this Board on August 15, 2018, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on September 19, 2019.



James C. Brown

For:

Against:

Abstain:

ZONING DATA

Zone: HC

Block 204 Lot 2.01

	REQUIRED	EXISTING	PROPOSED	Variance Req'd
Minimum Lot Area (SF)	30,000	21,642	21,642	Ex Non Conforming
Minimum Lot Front (Ft)	150	84.2	84.2	Ex Non Conforming
Minimum Lot Width (Ft)	150	83.78'	83.78'	Ex Non Conforming
Minimum Lot Depth (Ft)	200	260.0	260.0	No
Minimum Front Yard (Ft)	50	184.3	184.3	No
Minimum Rear Yard (Ft)	100	13.3	13.3/15.3	Yes
Minimum Side Yard (Each Ft)	50	9.7	9.7	EX Non Conforming
Minimum Side Yard (Each Ft)	50	26.7	26.0	Yes
Maximum Building Coverage (%)	20%	10.6%	10.8%	No
Maximum Building Height (Ft)	60'	24.08'	24.70'	No
Building Floor Area Ratio	N/A	0.19	0.19	No Change
Rear Yard Setback to Terrace	100'	N/A	15.3'	Yes
Side Yard Setback to Terrace	50'	N/A	44.3'	Yes
Rear Yard Setback to Canopy	100'	N/A	74.4'	Yes
Side Yard Setback to Canopy	50'	N/A	20.5'	Yes

PARKING & LOADING AREAS

From Buildings (Ft)	10	10.2	10.2	No Change
From Street R.O.W. (Ft)	25	37.1	27.5'	No
From Property Lines (Ft)	10	9.8	9.6	Ex Non Conforming
From Residential Districts (Ft)	50	9.7'	9.6	Yes
Parking Spaces	28	24	28	No

△ Variance Required.

143-135.1.B. Decks and Patios: Within all multifamily residential and non-residential zones, decks and platforms, whether freestanding or attached to a building, shall meet the side and rear yard setback requirements for the particular zone.

143 Attachment-4 Note-7; Rear Yard setback shall be 100' adjoining a residential zone

143 Attachment-4 Note-B; Side Yard setback shall be 50' adjoining a residential zone

143-87.C. Required Plantings in a buffer area

DARMOFALSKI ENGINEERING ASSOCIATES, INC.

CIVIL ENGINEERS

86 NEWARK POMPTON TURNPIKE
RIVERDALE, NJ 07457-1429
TEL: (973)835-8300 | FAX: (973)835-1117

June 17, 2019

Ms. Karen Becker
Planning Board Secretary
Borough of Butler
One Ace Road
Butler, NJ 07405

RE: Butler Planning Board Application #19-77SP

Preliminary and Final Major Site Plan Application, & Dimensional Variances

Applicant/Owner: AR Real Estate Holdings, LLC
c/o Ramunas Ziausys
830 Bond Street, Elizabeth, NJ 07201

Project Location: 1579 SH Route 23 South
Block 204, Lot 2.01
Butler Tax Map Sheet #4
Zone: Highway Commercial District (HC)

Dear Ms. Becker:

I am in receipt of the following documents in support for the above referenced application:

1. Borough of Butler Planning Board Application Form, signed by the Applicant, dated April 30, 2019;
2. W-9 Request for Taxpayer Identification Number and Certification for AR Real Estate Holdings, LLC, signed by the Applicant, dated April 30, 2019;
3. Borough of Butler Application Checklist 143-49B(1) and 143-49B(2), signed by the Applicant, dated April 30, 2019;
4. Topographic Survey, prepared by William T. Manning, PLS of PAX Surveying & Environmental Consultants, LLC, dated December 16, 2018;
5. Architectural Plans, Elevations and Renderings, consisting of five (5) sheets, prepared by Plan Architecture, dated January 8, 2019, bearing two (2) revisions, through April 26, 2019; and,
6. Preliminary and Final Site Plan, prepared by DJ Egarian & Associates Inc., consisting of two (2) sheet, dated December 17, 2018, bearing three (3) revisions, through May 29, 2019.

Brief Project Summary

The Applicant seeks to construct a raised outdoor terrace, a freestanding sign, a canopy, a building mounted sign, and to extend and re-stripe the paved parking area to allow four (4) additional parking stalls. In addition, the Applicant propose to renovate both the interior and exterior of the existing building for the proposed nail and beauty salon.

The subject property is a non-conforming lot located in the Highway Commercial District (HC); 21,642 SF of lot area exists where 30,000 SF is required; 84.2 feet of frontage exists where 150 feet is required; the lot is 83.78 feet wide where 150 feet is required; and, the lot is 260 feet deep where 200 feet is required. The subject property abuts an R-6 residential zone at the rear and right-side lot line which increases the yard requirements at these lot lines.

Even though the outdoor terrace is not considered a building it must meet the same setback requirements as the principal building per Borough Code §143-135.1. B. The outdoor terrace is located 15.3 feet from the rear lot line where 100 feet is required per Note 7 of the Bulk Requirements, and approximately 45 feet from the side property line where 50 feet is required per Note 8 of the Bulk Requirements. Variances are required for both the rear and side yards of the proposed outdoor terrace. Similarly, the proposed canopy does not meet the minimum rear (± 75 feet is proposed where 100 feet is required) and side yard (± 20 feet is proposed where 50 feet is required) requirements; a variance is required for both the rear and side yards of the propose canopy.

The proposed expansion of the parking lot increases the number of spaces from 24 to 28 spaces. Per Borough Code §143 Attachment 2, Schedule B a minimum of one parking space for every 200 SF of gross floor area for a non-food retail use is required. Alternatively, one parking space per 150 SF of gross floor area for a professional office is required. A minimum of 21 (non-food retail) or 28 (professional office) parking spaces are required for a gross floor area of 4,153 SF. In either case, the number of parking spaces provided is conforming. The proposed spaces are located a minimum of 9.6 feet from the side lot line where a minimum of 50 feet is required when a parking area abuts a residential zone; a variance for the proposed buffer width is required for the additional parking spaces. Per Borough Code §143-87.C. buffers used to screen parking shall consist of up to three rows of evergreen materials with staggered centers. Plant materials shall be of sufficiently large and planted in such a fashion that a screen at least eight feet in height shall be produced within growing seasons. The minimum depth of the planting areas, assuming growth to maturity, shall be 25 feet. The proposed plantings do not meet this requirement; a variance is required for the proposed buffer plantings.

The proposed freestanding sign has approximately 132 square feet of sign area (66 square feet per side) where §143-174. E. permits a maximum sign area of 250 square feet. The proposed freestanding sign is approximately 18 feet tall where a maximum of 25 feet is allowed (§143-174. V.). Per §143-174. U. a freestanding sign shall have a vertical clearance between the average ground level and the bottom edge of sign of eight feet or greater. The proposed clearance is approximately 8.3 feet from grade level to the bottom of the sign. The Applicant also proposes a three (3) foot tall masonry pedestal and cap at the grade level below the sign.

DARMOFALSKI ENGINEERING ASSOCIATES, INC.

TO: Butler Planning and Zoning Board
RE: Preliminary & Final Major Site Plan, & Bulk Variance, 1579 SH Route 23 South

June 17, 2019
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I reserve the right to amend and/or supplement this report should information not known to me at this time becomes known to me.

If you have any questions, please call (973) 835-8300 extension 112 or email tab@darmofalski.com.

Very truly yours,

Darmofalski Engineering Associates, Inc.



Thomas A. Boorady, PE, PP, CME, CFM

cc: John Barbarula, Esq. – Board Attorney
John J. Veteri Jr., Esq. – Applicant's Attorney

DARMOFALSKI ENGINEERING ASSOCIATES, INC.

CIVIL ENGINEERS

86 NEWARK POMPTON TURNPIKE
RIVERDALE, NJ 07457-1429
TEL: (973)835-8300 | FAX: (973)835-1117

August 14, 2019

Ms. Karen Becker
Planning Board Secretary
Borough of Butler
One Ace Road
Butler, NJ 07405

RE: Butler Planning Board Application #19-77SP

Preliminary and Final Major Site Plan Application, & Dimensional Variances

Applicant/Owner: AR Real Estate Holdings, LLC
c/o Ramunas Ziausys
830 Bond Street, Elizabeth, NJ 07201

Project Location: 1579 SH Route 23 South
Block 204, Lot 2.01
Butler Tax Map Sheet #4
Zone: Highway Commercial District (HC)

Dear Ms. Becker:

This report is supplemental to my report, dated June 17, 2019. Since the last public meeting on this application, I am in receipt of the following revised documents:

1. Architectural Plans, Elevations and Renderings, consisting of six (6) sheets, prepared by Plan Architecture, dated January 8, 2019, revised through August 5, 2019; and,
2. Preliminary and Final Site Plan, prepared by DJ Egarian & Associates Inc., consisting of three (3) sheet, dated December 17, 2018, bearing five (5) revisions, through August 5, 2019.

Technical Comments

1. Where nonresidential uses abut residential uses, Borough Code §143-87 C(2) requires up to three (3) rows of evergreen materials with staggered centers, at least eight (8) feet in height, and a minimum depth of planting area of 25 feet at full maturity. Applicant has proposed a single row of arborvitae at four (4) feet on center with a mature height of twelve (12') feet to fifteen (15') feet to shield their parking lot from the residential use adjacent and north, and from the commercial use adjacent and south. As such, a variance is required. Applicant shall provide testimony on the adequacy of proposed landscaping.
2. The proposed increase in impervious coverage totals 1,377 SF (236 SF for the terrace, 515 SF for the parking area, 6 SF for the AC pad, 3 SF concrete pad, and 617 SF for the concrete walkway around the building). The applicant shall confirm all runoff from the existing and proposed improvements will be discharged to existing stormwater facilities and not create erosion. We recommend all runoff from the existing and proposed building roofs be directed to stormwater management facilities, such as properly sized seepage pits, to offset the increase in impervious area. Stormwater facilities shall be sized to retain all runoff from a three (3) inch storm event.
3. The Applicant shall provide testimony on the existing 18-foot right-of-way terminating at the left property line. The Applicant shall clarify existing and proposed use(s), which parties have rights to use the right-of-way, and whether there are any existing or proposed limitations.
4. The Applicant shall provide testimony on the proposed travel path for the garbage disposal truck and any other truck accessing the property and loading space.
5. The proposed loading area conflicts with the 18-foot wide right-of-way.
6. Vinyl fence has been proposed along the entire back property line, and long partial right side and left side yards. Butler Borough Code §143-141 E requires the finished side of fence be placed facing the adjoining property line. Vinyl complies with this requirement as both sides are finished.
7. The Applicant shall revise the plans to include construction details for the proposed masonry walls. Top of wall and bottom of wall elevations shall be provided at all retaining walls.
8. The Applicant shall revise the plans as may be required to ensure the parking lot surface, drop curb, sidewalk ramp, and sidewalk meet federal ADA requirements between the ADA parking spaces and the first floor entrance.
9. The limit of disturbance is depicted as 7,939 square feet. A limit of disturbance line shall be added to the plans and certification from the Morris County Soil Conservation District should be made a condition of approval of this application.
10. NJ State Highway #23 is a NJDOT right-of-way. As such, the Applicant shall submit a Letter of No Interest for the proposed improvements from the NJDOT as a condition of approval.

Technical Comments - continued

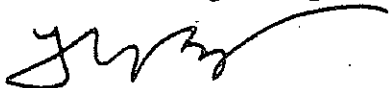
11. If this application is approved, there shall be no changes to the approved plans, including site plans, architectural plans, deck plans, landscaping plans, pool plans, driveway configuration, accessory structure locations, contours, spot elevations, stormwater management facilities, retaining wall plans, HVAC unit locations, generator locations, etc. If field conditions necessitate deviations from the approved plans, then all work shall stop until revised plans can be prepared by the owner's professionals and submitted to the Borough Engineer and Building Department for review and approval prior to constructing any modifications.
12. If this application is approved, applicant/owner and all contractors are responsible for contacting the Borough Engineer for site inspections prior to and during the construction of all improvements, including but not limited to: retaining walls, curbs, seepage pits, trench drains, storm drainage and associated piping, landscaping, guide rails, fence, etc. Adequate notice of at least three business days shall be provided prior to beginning construction of these improvements. This office will not approve improvements which have been constructed and backfilled without inspections.
13. If this application is approved, an as-built topographic survey, prepared by a licensed professional land surveyor and a final site inspection by the Construction Official and Borough Engineer will be necessary prior to issuance of a certificate of occupancy to ensure all items of construction are in conformance with the approved plans. The as-built survey shall provide the location of all aboveground and below ground improvements, including septic system, wells, drainage structures, and utilities.
14. If this application is approved, the applicant's escrow account should be kept current during the construction and until as-built drawings and a final site inspection are completed. Stop work orders will be issued on projects that do not maintain sufficient escrow for inspections.
15. If this application is approved, we recommend the Applicant agrees to post performance and buffer landscaping guarantees to the extent required by the Borough Code and NJSA 40:55D-53.

I reserve the right to amend and/or supplement this report should information not known to me at this time becomes known to me.

If you have any questions, please call (973) 835-8300 extension 112 or email tab@darmofalski.com.

Very truly yours,

Darmofalski Engineering Associates, Inc.



Thomas A. Boorady, PE, PP, CME, CFM

cc: John Barbarula, Esq. – Board Attorney
John J. Veteri Jr., Esq. – Applicant's Attorney