



More than a Legend

Village of Sleepy Hollow

Department of Architecture, Land Use Development,
Buildings & Building Compliance
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MEMORANDUM

Date: October 15, 2012
To: Chairman Koffler and members of the Zoning Board of Appeals
From: Sean E. McCarthy, Building Inspector
Cc: Janet Gandolfo, Village Attorney
Re: **Open Door Family Medical Center**

The purpose of this memorandum is to outline the required variances for the proposed Open Door Family Medical Facility and clarify the requirements for each item listed in the Public Notice.

1. Article IV, 62-7.B. Application of regulations.

Front yard (New Broadway) required	10.0 ft.
Front yard (New Broadway) existing	0.5 ft.
Front yard (North Broadway) required	20.0 ft.
Front yard (North Broadway) existing	0.5 ft.
Rear yard required	20.0 ft.
Rear yard existing	8.8 ft.
Side yard required	10.0 ft.
Side yard existing	5.4 ft.

- B. No building shall hereafter be erected and no *existing building* shall be moved, *altered, added to or enlarged*, nor shall any land or building or portion of a building be used, designed or arranged to be used for any purpose *unless in conformity with all of the regulations* herein specified for the district in which it is located (emphasis added).

Although not requested by the applicant, the requirements of this section of Chapter 62 are applicable to this application as a result of the applicant's proposal to alter, enlarge, and add to the existing building. Specifically, the applicant proposes to alter 100% of the upper level of the existing building; eliminate the interior parking spaces, and enlarge the office area to the lower level of the existing building; and construct a multistory stair and entrance addition.

Currently, the existing building has four non-conforming bulk requirements. The Board will need to consider granting variances for each non-conforming condition.

2. Article IV, Section 62-8.: Schedule of regulations.

Side yard required	10.0 ft.
Side yard proposed	5.4 ft.

The regulations applying to the use of buildings and land, the bulk and arrangement of buildings, the area of lots, the open spaces or yards to be preserved and the provisions for off-street parking are set forth in the attached Schedule of Regulations, included at the end of this chapter.

Although not requested by the applicant, the requirement for this variance is based on the proposed new multistory entry stair addition. The location of the proposed addition requires a variance because the proposed side yard setback encroaches into the required 10 ft. building setback.

Currently, the location of the proposed addition is used as a loading space, as approved by the planning board under the Grotto Holding Corp. application dated November 20, 2008.

The Board will need to consider granting a variance to permit a 5.4 ft. side yard where a minimum of 10 ft. is required. Although the north side of the existing building is currently 5.4 ft. from the property line, the proposed addition extends into the existing parking and loading area. The Board will need to determine that there is no other alternate solution to create an entrance and stair; and recognize that the addition will compromise the existing parking and loading area configuration.

3. Article V, Section 62-9.C. (1): Buffer area.

Required buffer width is	5 ft.
Proposed buffer width is	0 ft.

- C. Buffer area. A buffer area shall be provided on every lot in a C-1 or C-2 District that abuts a residence district and as specified in connection with certain other uses. This buffer strip shall extend along all side and rear lines abutting residence district properties, but shall not be required in any front yard. This buffer strip shall more particularly be provided and maintained as follows:

(1) The width of the buffer strip shall be five feet.

Although not requested by the applicant, the requirements of 62-9.C. are applicable to this project because the scope of work requires a new site plan approval from the Planning Board.

Planning Board Resolution dated November 20, 2008 condition #5:

Approval shall not be transferrable to a subsequent owner/ purchaser unless said owner/ purchaser agrees to the same conditions spelled out herein and does not change the use or occupancy of the premises. As per Village Code, any change of use would require revisiting the site plan approval.

Although a reduced buffer area was approved by the ZBA under the Grotto proposal, based on the proposed change of use, alterations to the building, proposed addition, and change to the parking lot, the ZBA will need to consider if these changes merit the requirement for the buffer area specifications to be implemented in this project.

4. Article V, Section 62-14.A. (2): Off-street loading.

Minimum required loading space	1
Proposed loading space	0

- A. In all districts, in connection with every use therein, there shall be provided, at the time any structure is erected, *enlarged or increased in capacity*, off-street parking and loading space and access thereto in accordance with the requirements set forth below:

(2) Off-street loading spaces shall have a minimum area of 350 square feet, *exclusive of access roads*, with a minimum width of 10 feet and a clear height of 14 feet (emphasis added).

Although the proposed site plan represents a loading zone in the rear parking area, the space has not been recognized by the Building Department based on the fact that the space is situated directly in the middle of the parking lot access drive. The Village Ordinance specifically states that the required area of the loading space be "*exclusive of access roads*". As currently proposed, the use of the loading space will obstruct vehicles from entering the parking area and prevent parked cars from maneuvering and exiting the site.

5. Article V, Section 62-14.A. (3): Nontransient parking.

Permitted spaces are	0
Proposed space is	1

(3) Stalls may be provided for nontransient parking, for office use only, *when the total number of parking spaces required by zoning is in excess of 20*. Nontransient stalls may be 8 1/2 feet wide, measured at right angles to the direction of the stall, and 18 feet long, measured parallel to the direction of the stall. Nontransient spaces shall be striped with white traffic pavement marking paint. When incorporating a mix of transient and nontransient spaces, the transient spaces shall be signed for visitors and the number of nontransient spaces may not exceed 20% of the total number of spaces required (emphasis added).

The proposed site plan indicates (1) transient parking space. Since the Village Code only permits transient spaces when the total number of spaces required is in "*excess of 20 spaces*", a variance from Section 62-14.A. (3) is required.

The ZBA needs to consider if transient spaces should be permitted when the applicant has not met the minimum parking requirements for full size space first. In addition, the ZBA needs to find that the applicant has explored all design possibilities to eliminate the need for the variance.

6. Article V, Section 62-14.A. (4): Compact cars.

Permitted spaces are	0
Proposed spaces are	5

(4) Stalls may be provided for small-size cars, *provided that a parking layout provides for not less than 60% of spaces required under this chapter for full-size parking*. All additional parking may be for small-size cars. Small car spaces shall be provided in continuous bays and shall be not less than 7 1/2 feet wide, measured at right angles to the direction of the stall, and 15 feet long, measured parallel to the direction of the stall. The rear boundary of any small car space shall be striped so as to define the exact limits for parking. Small car spaces shall be striped with yellow traffic pavement marking paint.

Signing shall be placed in appropriate locations throughout the facility indicating **YELLOW PARKING SPACES FOR COMPACT CARS ONLY**. Cars using compact spaces must not extend over pavement markings (emphasis added).

The proposed site plan indicates (5) compact parking spaces. Since the Village Code only permits compact spaces when at least 60% of full –size spaces have been provided, a variance from Section 62-14.A. (4) is required.

The ZBA needs to consider if compact spaces should be permitted when the applicant has not met the minimum parking requirements for full size space first. In addition, the ZBA needs to find that the applicant has explored all design possibilities to reduce or eliminate the need for the variance.

7. Article V, Section 62-14.E.: Off-street parking and loading spaces.

Required parking spaces are	40
Proposed parking spaces are	4

E. Required parking spaces. The number of off-street parking spaces required shall be as set forth in the following schedule:

Office uses in commercial or residential buildings	1 for each 300 square feet of floor area
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The proposed site plan indicates (10) onsite parking spaces. The Building Department has only recognized (4) spaces, including (1) accessible space, because Section 62-14.E. requires the parking spaces to be full size spaces. In accordance with the Village Code, the (5) compact spaces and (1) transient space has been subtracted from the total number of full sized spaces provide and will require variances as described above (see variances #5 & #6).

The ZBA needs to consider if a variance for (36) onsite spaces should be granted based on the type of use, and intensity of the use on the property. Using the criteria for granting an area variance, the Board should consider whether the removal of the existing (12) interior parking spaces and the expansion of 5,228 sf of office space will negatively impact the site and surrounding neighborhood. See Planning Board Resolution dated November 20, 2008 conditions #3, #4 & #9:

#3 Building occupancy shall be restricted to a maximum of three tenants (as currently contemplated by the site plan).

#4 Tenancy shall be restricted to professional office service or offices, excluding medical or dental offices

#9 The internal spaces will be signed and dedicated to employee parking use, in order to ensure maximum visitor space available in the surface lot. The applicant will direct all employees and tenants to park within the designated spaces and not on the street.

8. Article VI, Section 62-14.B. (1) Parking location.

Required parking spaces shall be provided on the same lot.
Required parking is proposed off-site.

B. Location.

(1) General. Any off-street parking space and any off-street loading space *required by this chapter shall be provided on the same lot* as the use to which it is appurtenant, and shall comply with the regulations for the location of accessory uses and structures as described above (emphasis added).

The Building Department finds that Section 62-14.B. (1) requires “*any off-street parking*” spaces required by the Code to be on the “*same lot*” that the parking is servicing. The Department finds that the purpose and intent of Section 62-14.B. (1) is to provide parking that is near to the principal use it is serving so that the access to the use is convenient, recognizable, safe, and reduces parking on the public streets.

The applicant is seeking an interpretation in alleging that no variances are needed from the requirements of Chapter 62-14.B. (1) and 62-21.A. & B., or in the alternative, the following variances are required:

9. Article VI, Section 62-21.A. Off-site parking.

An off-site parking area shall be located on the land in the same ownership or leasehold as that of the land on which is located the use to which it is appurtenant.

The proposed off-site parking area is not located on the land in the same ownership or leasehold as that of the land on which is located the use to which it is appurtenant.

A. Ownership of site. An off-site parking area, as described in § 62-14B (4), shall be located on land in the *same ownership or leasehold* as that of the land on which is located the use to which it is appurtenant (emphasis added).

The proposed off-site parking area at Phelps Memorial Hospital is not owned by the applicant. Prior to considering the variance from Section 62-21.A., the applicant will need to demonstrate by means of a site plan and zoning compliance analysis, that all required parking currently exists on the off-site property. Additionally, the applicant will need to show the maximum potential development and associated required parking on the Phelps property to ensure that future projects on the leased property will not create the need for variances for Phelps at a later date.

Ultimately, the Board will need to consider whether any lease agreement for *off-site* parking will be an acceptable, practicable, and an enforceable, permanent solution to the lack of required *on-site* parking.

10. Article VI, Section 62-21.B. Off-site parking.

An off-site parking area shall be so located that its pedestrian access shall be within two hundred fifty (250) feet from the effective entrance to the use which it serves.

The proposed off-site parking area is greater than two hundred fifty (250) feet away from the effective entrance to the use which it serves.

B. Location. An off-site parking area shall be so located that its pedestrian access shall be *within 250 feet from the effective entrance* to the use which it serves (emphasis added).

The distance of the proposed off-site parking area is approximately 1.4 miles or 7,392 feet from the entrance of the proposed Open Door Facility. In accordance with Section 62-14.B. (4), the Board of Appeals may authorize off-site parking, “*subject to stated conditions, as described in Section 62-21.*”

The purpose of Section 62-21.B. is to allow the ZBA to authorize off-street parking on another property "*within 250 feet*", so as to provide convenient, recognizable, and safe access for vehicles and pedestrians, similar to the intent to provide "on-site" parking. Provisions for taxi cab drop off, public transportation, shuttle buses, and carpooling are not recognized in the Village Ordinance and should be included in satisfying the specific distance requirement.

The Board will need to consider if the distance from the proposed parking area at Phelps Hospital is too far from the Open Door Facility to accomplish the intent of the off-street parking requirement.

Please review and contact me with your questions.

END OF MEMORANDUM