

Applicant Demese of Urenton

Appl. No. ZB-2/22 + S-4/22

REFERRALS

	Date	Comments	Date	Comments	Additional Reports
	Referred	Dated	Referred	Dated	
a. Municipal Engineer	<u>1.4.23</u>	<u>1.23.23</u>			
b. Professional Planner	<u>1.4.23</u>	<u>2/2/23</u>			
c. Traffic Consultant					
d. Construction Official					
e. Shade Tree Advisory Comm.					
f. Health Officer					
g. Tax Collector		<u>1/20/23</u>			
h. Public Safety	<u>1.4.23</u>	<u>2/7/23</u>			
i. Environ. Res. Committee					
j. Mercer County Planning Bd.					
k. Ewing-Law. Sewer Auth.					
l. _____ Water Co.					
m. D & R Canal Commission					
n. U.S. Post Office					
o. NJDOT					
p. PSE&G Co.					
q. Board of Education					
r. Historic Preserv. Comm.					
s. NJDEPE/Wetlands					
t. NJDEPE/Stream Encroach.					
u. _____					
v. _____					
w. _____					
x. _____					
y. _____					
z. _____					

Township of Lawrence
ENGINEERING DEPARTMENT

TO: File

FROM: Brenda Kraemer, Assistant Municipal Engineer

SUBJECT: Bulk & Use Variance Application No. ZB-2/22
Minor Subdivision Application No. S-4/22
Diocese of Trenton, 2391 Lawrence Road
Tax Map Page 48, Block 4801, Lot 3

DATE: January 23, 2023

General:

The applicant has requested minor subdivision approval to create a new lot for the retired priests residence building Villa Vianney at the Morris Hall/St. Lawrence healthcare complex. The villa Vianney parcel will be located on the southeastern side of the property and will contain the existing cemetery, walkways and a limited number of parking spaces.

The Diocese of Trenton (applicant) shall provide information regarding the purpose of the subdivision as several variances are created. We will defer to the Planning Consultant for review of the required variances. We have no objection to the submission waivers requested in the application documents as no construction is planned and existing features will remain unchanged.

Detailed Report:

1. The applicant's attorney shall clarify if the minor subdivision will be recorded by filing deeds or a plat with the Mercer County Clerk's Office. All easements, including ownership and maintenance information, shall be included.
2. The Engineering Department will inspect the property corner markers. We have no objection to the requested waiver from setting corner markers along the rights-of-way of Interstate 295 and Denow Road surrounding proposed Lot 3.01 (Morris Hall / Villa Vianney). All markers for Villa Vianney will be set. Inspection is required prior to signing deeds / plans.
3. Township signature areas shall be added to Sheet 1 of 2 unless signature areas in accordance with the Map Filing Law will be provided to file the plat.
4. The applicant shall submit the required stormwater maintenance report for 2022.
5. The applicant shall indicate if an additional address is needed for Villa Vianney.
6. Mercer County Planning Board approval is required.

BK/sjs

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Documents Reviewed:

- Letter from the Spadaccini Law Firm, dated December 14, 2022
- Application No. ZB-2/22 and S-4/22
- Rider to Application, undated
- Villa Vianney Submission Checklist Waivers Rational, dated December 7, 2022
- Minor Subdivision Plan, Sheet 1 of 2, revision dated November 29, 2022
- Aerial Map, Sheet 2 of 2, revision dated November 29, 2022

February 2, 2023

Lawrence Township Zoning Board of Adjustment (via e-mail)
2207 Lawrenceville Road
PO Box 6006
Lawrence Township, NJ 08648



**Re: Diocese of Trenton – ZB-2/22 & S-4/22
Block 4801 Lot 3
D(1) Use Variance and Minor Subdivision Approval
EGI- Education, Government and Institutions District**

Dear Board Members:

Pursuant to the Board's request, we have reviewed the above captioned matter for compliance with the Land Use Ordinance of the Township of Lawrence. The material reviewed, as supplied by the applicant, included the following:

1. Land Use Application ZB-2/22 & S-4/22 and supporting documents.
2. Rider to Application of Diocese of Trenton.
3. Villa Vianney Submission Checklist Waivers Rationale, prepared by Princeton Junction Engineering, P.C., dated December 7, 2022.
4. Minor Subdivision Plan Diocese of Trenton, prepared by D. Geoffrey Brown, PE, PLS of Princeton Junction Engineering, P.C., dated July 7, 2022 and last revised November 29, 2022, consisting of 2 sheets.

Based on the information provided with the submission, the applicant seeks a variety of use variance relief as well as minor subdivision, bulk variance relief and an exception to permit subdivision of the existing Villa Vianney from the balance of the tract. There are no improvements or changes to the site proposed with the application. Easements are proposed for access and emergency access on both lots.

The subject property, known as Block 4801, Lot 3, with a street address of 2391 Lawrenceville Road, is located in the northwest corner of the intersection of Lawrenceville Road (US 206) and Interstate Route 295, and also has frontage on Denow Road and Lawrenceville-Pennington Road. Totalling 34.74 acres, the site is home to assisted living, skilled nursing and rehabilitation facilities as well as Villa Vianney, housing for retired priests. Able Medical Transportation and a medical office are also located on the tract.

Zoning

The subject property is located in the EGI Education, I District, which permits health care uses including, but not limited to, rehabilitation hospital, outpatient facilities, ancillary hospital

functions, residential health care facilities, long term care, and assisted living facilities on tracts of at least 25 acres, but not to include a regional hospital facility. Also permitted are houses of worship, convents, monasteries or abbeys, seminaries and charitable institutions. The district also permits medical offices as a conditional use.

The table below lists the bulk requirements for the EGI District and compares them to the applicant's proposal.

	Permitted	Proposed Lot 3.01	Proposed Lot 3.02
Minimum Lot Size	5 acres	31.723 acres	3.013 acres**
Minimum Lot Frontage	300'	4,738.73'	0'**
Minimum Lot Width	300'	1,800' +/-	695'
Minimum Lot Depth	600'	1,100' +/-	145.05'**
Minimum Front Yard	100'	59.3'*	135.1'
Minimum Side Yard	100'	254.2'	37.9'**
Minimum Rear Yard	100'	20.1'**	33.5'**
Minimum Setback for Accessory Uses	75'	N/A	N/A
Maximum Impervious Surface Ratio	0.60	33.4	51.1
Maximum Floor Area Ratio	0.20	20.4**	34.2**
Maximum Height	50'/80'/30'	85'*	30' +/-
Admin.& Faculty Housing Density	0.25 du/ac	N/A	N/A
Religious Congregate Housing Density	0.5 du/ac	N/A	11.62 du/ac**

*denotes legally existing nonconforming condition or variance previously granted

**denotes variance required

As noted in the table above, there are legally existing nonconforming conditions or conditions where previous relief was granted for minimum front yard setback and maximum building height. The applicant has applied for the following variance relief:

1. §426.E.8, d(4) use variance to permit a floor area ratio of 20.4 for Lot 3.01 and 34.2 for Lot 3.02 where 0.20 is permitted.
2. §426.E.10, d(5) use variance to allow a density of 11.62 units per acre for Villa Vianney where a maximum of 0.5 dwelling units per acre is permitted. The applicant should confirm the density proposed, as it appears there are 36 units existing and Lot 3.02 is proposed to be 3.013 acres, resulting in a density of 11.95 units per acre.
3. §426.E.5, bulk variance for minimum rear yard setback, where 100' is required and 20.1' is proposed for Lot 3.01.
4. §426.E.1, bulk variance for minimum lot area, where 5 acres is required and 3.013 acres is proposed for Lot 3.02.
5. §426.E.2, bulk variance for minimum lot frontage, where 300' is required and 0' is proposed for Lot 3.02.
6. §426.E.4, bulk variance for minimum lot depth, where 600' is required and 145.05' is proposed for Lot 3.02.
7. §426.E.5, bulk variance for minimum side yard, where 100' is required and 37.9' is proposed for Lot 3.02.

8. §426.E.5, bulk variance for minimum rear yard setback, where 100' is required and 33.5' is proposed for Lot 3.02.

Proposed Lot 3.02 has no frontage on a public street, which creates an issue when determining which portion of the lot should be considered the front yard, as the LDO references the area between the principal building and the streetline. The side and rear yards are based on the front yard. In the end, the front, side and rear yards required in the EGI District are all 100', so we suggest the Board consider front, side and rear yard relief for Lot 3.02 of 33.5', 36.7' and 37.9'.

Since the application proposes creation of a lot that does not front on a public street, relief is also required from N.J.S.A. 40:55D-35 of the New Jersey Municipal Land Use Law, which states "*No permit for the erection of any building or structure shall be issued unless the lot abuts a street giving access to such proposed building or structure.*" While the applicant is not proposing any construction or seeking a permit for the erection of a structure, it's best the Board consider this relief in conjunction with the application as Lot 3.02 does not presently exist and will not abut a street. There is corresponding relief from §100-110E of the LDO, which also requires every principal use to be located on a lot with frontage upon a public street.

Use Variance Considerations

The Board has the power to grant "d(4)" variances to permit an increase in permitted floor area and "d(5)" variances to permit an increase in density "in particular cases for special reasons." This case is markedly different than most such cases the Board would hear for similar relief as no additional floor area or units are proposed. Relief is required solely due to the subdivision. While both are technically use variances, the considerations are much different than those for a d(1) variance for a use not permitted in the District.

The Board should be guided by the case Randolph Town Center v. Tp. of Randolph, 324 N.J. Super at 416 as well as the case Coventry Square v. Westwood Board of Adjustment, 138 N.J. 285, 298-299 (1994). In its decision in the Randolph case, the Court held the standards in Coventry are applicable to the Board's consideration of d(4) variance relief rather than the strict standards for a d(1) use variance as outlined in Medici v. BPR Co. The applicant must show the site can accommodate the problems associated with an increase in permitted floor area; they need not show the site is particularly suited to more intense development. Considering the d(5) density variance, a similar test is applied, and the applicant must show the site can accommodate the problems associated with an increase in density.

On the negative criteria, the Board's focus in the first prong is on the effect increases in floor area and density will have on adjacent properties. It is worthwhile to note that no additional floor area or density is proposed, and the site will function no differently than it does today. As to the second prong of the negative criteria and consideration of whether the grant of the variances will cause substantial impairment to the intent and purpose of the zone plan and zoning ordinance, the Board must be satisfied that the applicant's proposal is reconcilable with the intent of the governing body relative to imposition of the floor area and density limitations in the first place.

Consideration of Bulk Variances

The Board has the power to grant c(1) or hardship variances "(a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, (b) or 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 structure lawfully existing thereon, the strict application of any regulations...would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property." The Board may also consider the grant of c(2) variances where the purposes of the New Jersey Municipal Land Use Law would be advanced and the benefits of the deviation would substantially outweigh any detriment. In either case, the Board cannot grant "c" or bulk variances unless the negative criteria are satisfied, or that there is no substantial impact to surrounding properties (first prong) and the grant of the variance will not cause substantial impairment to the intent and purpose of the zone plan (master plan) or zoning ordinance (second prong).

All bulk variance relief requested by the applicant is related to the position of proposed lot lines relative to structures that already exist on the site. As such, the consideration of impact relative to adjacent properties and the intent of the standards is somewhat parochial, as these impacts already exist and are unchanged with the subdivision. The only buildings impacted by these departures are currently part of the tract and are far from adjacent properties.

Building Lot to Abut a Street

The applicant requires relief from N.J.S.A. 40:55D-35, which the Board may grant if the requirements of 40:55D-36 are met. This section of the MLUL permits the Board of Adjustment to direct the issuance of a permit "*where the enforcement of section 26 of P.L. 1975, c.291 (C.40:55D-35) would entail practical difficulty or unnecessary hardship, or where the case does not require the building or structure to be related to a street....*". Such grant would be subject to demonstration that conditions "*will provide adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety and that will protect any future street layout shown on the official map or on a general circulation plan element of the municipal master plan....*". While we assume that emergency access to Villa Vianney is adequate today, testimony should be provided confirming this fact. It appears an access easement is proposed giving Lot 3.02 the right to traverse Lot 3.01 to all three public streets abutting the site. An emergency access easement is also proposed from the second driveway on Denow Road. The subdivision plan notes a portion of the access easement south of the Route 206 driveway where access is not permitted, but it is unclear upon whom the restriction is placed. Testimony should be provided.

We trust the Board will find this information useful in consideration of the matter at hand and reserve the right to provide additional comment based on the applicant's presentation at the public hearing. Should you wish to discuss this review memo, please feel free to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Kyle', with a stylized flourish at the end.


James T. Kyle, PP/AICP, Board Planner

attachment

Cc: Brenda Kraemer, PE (via e-mail)
Ed Schmierer, Esq., Board Attorney (via e-mail)

TOWNSHIP OF LAWRENCE
Division of Planning and Redevelopment

TO: Brenda Kraemer, Assistant Municipal Engineer
James Kyle, Planning Consultant
Edward Tencza, Public Safety Coordinating Committee

FROM: Susan Snook, Administrative Secretary 

SUBJECT: Bulk & Use Variance Application No. ZB-2/22
Minor Subdivision Application No. S-4/22
Diocese of Trenton, 2391 Lawrence Road
Tax Map Page 48, Block 4801, Lot 3

DATE: January 4, 2023

Attached are the following documents with regard to the above-referenced application for a bulk, use variance and minor subdivision to subdivide the existing retired priest residence (Villa Vianney):

- Letter from the Spadaccini Law Firm, dated December 14, 2022
- Application No. ZB-2/22 and S-4/22
- Rider to Application, undated
- Villa Vianney Submission Checklist Waivers Rational, dated December 7, 2022
- Minor Subdivision Plan, Sheet 1 of 2, revision dated November 29, 2022
- Aerial Map, Sheet 2 of 2, revision dated November 29, 2022

This application is scheduled for review by the Zoning Board of Adjustment at the next available meeting.


Please review these documents and submit your report to this office as soon as possible, but **no later than Tuesday, February 7, 2023** so that reports may be provided to the applicant and Board members prior to the meeting.

SJS

g:engineering/diocese/document dist. memo.doc

Attachments

cc: Edwin W. Schmierer, Esq., Zoning Board Attorney (w/attns.)

 No Comment
Sue Marshall
2/7/2023