

**RESOLUTION
LAND USE BOARD
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ**

DATE: 2/13/19

RESOLUTION# LUB 19-11

Land Use Board	Motion	Second	Yes	No	Abstain	Absent
Bergen			✓			
Daloisio					DA	✓
Davis		✓	✓			
Kistner			✓			
Lovisolo			✓			
Sasso	✓		✓			
Sirico			✓			
Bernstein			✓			
Quinn			✓			
Kearl – Alternate			✓			

Carried ☒ Defeated ☐ Tabled ☐

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**LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE AND AMENDED SITE PLAN APPROVAL
FOR HITACHI CHEMICAL ADVANCED
THERAPEUTICS SOLUTIONS, LLC
BLOCK 702, LOT 17
(a/k/a 75 COMMERCE DRIVE)**

WHEREAS, the applicant, HITACHI CHEMICAL ADVANCED THERAPEUTICS SOLUTIONS, LLC, with a business address of 75 Commerce Drive, Allendale, NJ, is a tenant at 75 Commerce Drive, Allendale, NJ, (Block 702, Lot 17) and has applied for variance and waiver relief, as well as preliminary and final site plan approval, in connection with this property (the "Property"); and

WHEREAS, the Land Use Board has reviewed the evidence and testimony of the Applicant, and its professionals, including Engineering and Architectural plans, and the

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testimony of other interested parties desiring to be heard at its public meeting on January 16, 2019, and Public Notice having been given by the Applicant in accordance with the requirements of the Municipal Land Use Law; and

WHEREAS, the Land Use Board has reviewed the testimony provided to it by its Engineer, and considered input from its public safety personnel and professionals; and

NOW THEREFORE BE IT RESOLVED by the Borough of Allendale Land Use Board that it hereby makes the following findings of fact and conclusions:

1. The Property is located in the EM Zone District, and it is pre-existing nonconforming. This zone provides for mixed industrial and low/moderate income residential dwelling development. The application was submitted in evidence.
2. The subject property is currently developed on 8.9 acres with a multi-tenant building and associated amenities. The building contains office, manufacturing and storage space. The applicant has been a tenant at the building since June 2018 and is expanding operations in the area.
3. There are three pre-existing non-conforming conditions on the site as follows: the number of existing parking spaces is less than required, as 403 are required by Code, and 308 are presently existing and 307 are proposed with this application; parking stalls on site are currently 9 ft by 18 ft, which is less than the 10 ft by 20 ft parking stalls required by Code; and the present building setback from Commerce Drive is 27 feet, which is less than the required 30 feet setback required by Code.
4. The application and plans propose minor site plan changes to the existing commercial building to accommodate the installation of two (2) emergency generators, a liquid nitrogen tank, and associated equipment at the site, which will result in a decrease of one (1) parking stall from 308 spaces to 307 spaces.
5. Thus, the application proposes to add to the pre-existing non-conformity by reducing parking stalls on site from 308 spaces to 307 spaces.

**RESOLUTION
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6. The Applicant presented testimony from its Engineering expert, Andrew Missey, P.E., of Lapatka Associates, and the Board accepted in evidence engineering plans showing the Minor Site Plan prepared by Lapatka Associates dated October 14, 2018, last revised October 30, 2018. Mr. Missey was sworn and recognized by the Board as an expert in his field. He testified as to the present conditions, and proposed site plan improvements, including the engineering and architectural plans submitted as part of the Application. Mr. Missey also testified as to operations and present parking conditions and counts on site. Mr. Missey's parking count study reveals that average use of parking stalls on site is only 132 spaces. He further testified that the loss of one (1) parking space would have no discernable impact on traffic on the site, and that there would be no detrimental impact on the site or the surrounding zone by the approval of the amended site plan and variance. He also testified that the proposed improvements would have no detriment to neighbors or the surrounding properties, particularly where the property is constrained by the presence of wetlands. Further, by not having to add parking spaces, the site has more landscaping and greenery, less stormwater runoff, and less visual impact. The actual use of the generators would only be in times of emergency in the event of electrical power failure, and during weekly testing, and this impact would be minimal.
7. The Applicant presented testimony from its Architectural expert, Barry Poskanzer, and reviewed Architectural Plans prepared by Poskanzer Scott Architects. Mr. Poskanzer testified that the generators proposed for the site were required for previously approved uses and operations of the applicant on site, and the liquid nitrogen tanks used by the applicant. Mr. Poskanzer noted that liquid nitrogen is a benign substance, it is not noxious, flammable, or otherwise harmful if spilled, and it is necessary to the storage and manufacturing of cell therapy, which is part of the Applicant's operations. The tanks and generator would be located in the rear of the site, do not affect any loading activities for the other two tenants, and the proposed improvements are consistent with other projects and uses in the EM Zone District.
8. Allendale Borough Engineer, Michael Vreeland, P.E. listened to the testimony of the applicant's experts and testified that in his opinion the parking counts and Mr. Missey's testimony were consistent with his multiple observations of the site. Mr. Vreeland also made recommendations to the Board in connection with appropriate conditions to apply to any approval of the application.
9. One member of the public appeared in connection with the application and expressed his support for the proposed site plan amendment.

**RESOLUTION
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10. Based upon the evidence and testimony presented, the Board concludes that the application and variance requested would improve the aesthetics and functionality of the property, the grant of the variance would promote or advance the purposes of the Municipal Land Use Law, and the benefits of such variance outweigh any detriment. It is determined that for the applicant to now comply with the parking space and parking stall size requirements would be a hardship, as the building is a lawfully existing structure in its current location, and parking space related issues have never presented a problem on site, nor does the evidence indicate that they will be in the future. The evidence and testimony support the fact that the hardship associated with the present condition of the property and premises greatly outweigh the negative criteria to the Borough zoning ordinances and the zone plan and surrounding neighborhood. In addition, the variance and waiver requested will not excessively expand the present non-conforming conditions. Further, there will be no detrimental impact on parking on the site.

BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby grants approval of the variance, and grants preliminary and final site plan approval, with a reduction in parking stalls from 308 stalls to 307 stalls on site, subject to the following conditions, which shall be complied with prior to the issuance of a construction permit:

- A. All fees and assessments required by ordinances, and due and owing to the Borough of Allendale for this site for professional review and approval of the applicant's plans, shall be paid in full to the Borough of Allendale by the applicant.
- B. Applicant shall comply in all respects with all applicable State, County and Municipal codes, ordinances, rules and regulations, and remain subject to all other governmental approvals prior to development.
- C. Approval by the Borough of Allendale Police Chief and the Borough of Allendale Fire Chief/Fire Prevention Bureau.
- D. Approval in the field by the Borough Engineer of appropriate arborvitae/landscaping to shield the generators from view of the Rio Vista development and the roadway to the greatest extent possible; the installation of curbing around the generators to avoid spread of any spillage; and adequate fencing around the existing Liquid Nitrogen tanks.

**RESOLUTION
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BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby determines that the variance hereby granted constitutes a "hardship" variance under N.J.S.A. 40:55 D-70C.(1), due to the unique characteristics of the property, the pre-existing approved conditions, and the existing non-conformities.

BE IT FURTHER RESOLVED that in granting such variance the Board finds and concludes that the grant of approval of this variance poses no substantial detriment to the public good and that the benefits of the deviations substantial outweigh any detriment. The Board also concludes that the grant of the variance will not substantially impair the intent and purpose of the Allendale zone plan and zoning Ordinances.

BE IT FURTHER RESOLVED construction shall proceed in accordance with this Resolution, the approved plans and drawings marked in evidence, the testimony of the applicant and its experts, and in accordance with all applicable State, County and Municipal codes, ordinances, rules and regulations.

BE IT FURTHER RESOLVED that the Land Use Board Secretary shall mail a copy of this Resolution within ten days from the date of adoption thereof to the applicant or to their attorney, if any, without charge; and to all other persons who request the same and pay the required fee therefore. The Secretary shall also file a copy of this Resolution in the offices of the Borough Clerk, Building Inspector, Construction Code Official, Tax Assessor and the Borough

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Attorney and shall publish a brief notice of the decision in the official newspaper, the cost of which shall be paid for by the applicant.

Approved:

ALLENDALE LAND USE BOARD



KEVIN QUINN, Chairman

Attest:



~~JOSEPH DALOISIO, SECRETARY~~

Michael Sirico Vice Chair

Adopted: February 13, 2019