



Engineers
Planners
Surveyors
Landscape Architects
Environmental Scientists

400 Valley Road, Suite 304
Mount Arlington, NJ 07856
T: 973.398.3110
F: 973.398.3199
www.maserconsulting.com

September 22, 2020

VIA EMAIL

Ms. Geraldine Entrup
Administrative Officer, Zoning Board
Township of Mahwah
475 Corporate Drive
Mahwah, NJ 07430

Re: **Review Letter – Letter #3**
Mahwah BP, LLC
65 Ramapo Valley Road
D Variance
Block 41, Lots 1, 2, 9, and 10
Docket No. 1472-19
MC Project No. MWZ-037

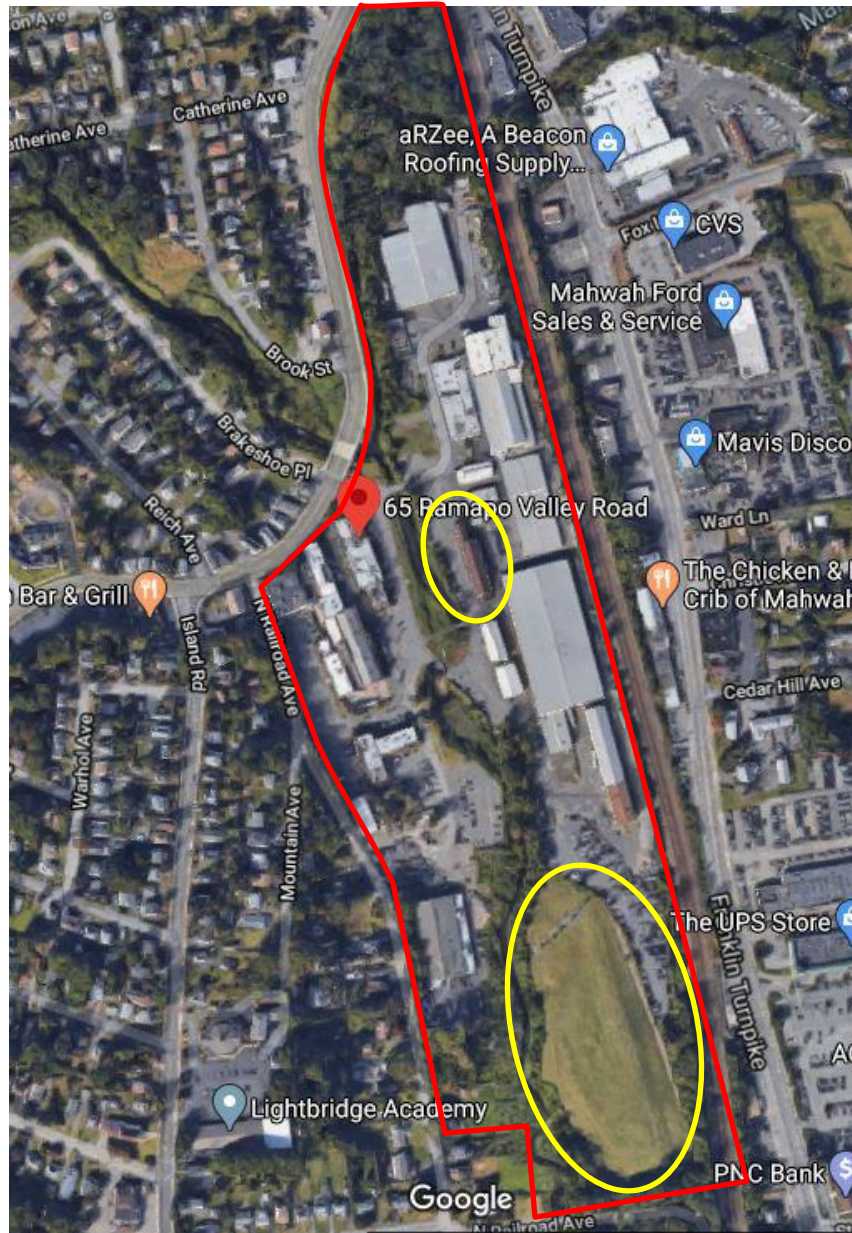
Dear Ms. Entrup:

We are in receipt of the above-referenced D Variance application for outdoor vehicle storage in the IP-120 (Industrial Park) zone. Outdoor storage is a conditional use in the zone, with which the Applicant does not comply. ***Comments in bold italic are new.*** We have reviewed the following documents submitted by the Applicant in support of this application:

1. Board of Adjustment Application;
2. Checklist, dated 12/11/18;
3. Exhibit A, undated;
4. Affidavit of Applicant, dated 10/23/19;
5. Soil Movement Permit Application, dated 11/26/19;
6. Historic Preservation Commission Application, dated 10/23/19;
7. Verification of Taxes Paid, dated 9/6/19 (***outdated***);
8. Highlands Exemption Determination Application, dated 1/9/2020;
9. Resolution of Denial of Minor Subdivision, dated 5/22/95;
10. Resolution for tenant approval, dated 8/14/95;
11. Resolution Approving Sign Plan, dated 1/24/96; and
12. Site Plans, prepared by James M. Ward for Bowman Consulting Group, Ltd., revised through ***9/11/2020***;
13. ***Cross section Exhibit, prepared by Bowman Consulting, dated 9/9/2020; and***
14. ***Site and Soil Control Plan Aerial, prepared by James M. Ward for Bowman Consulting, revised through 9/11/2020.***

A. Site Description

The subject application involves a site in the IP-120 (Industrial Park) zone. The 38.78-acre parcel is located on the south side of Ramapo Valley Road between Railroad Avenue and the railroad tracks. The site is extensively developed with many industrial buildings, surface parking, and similar uses in a large industrial-style complex.

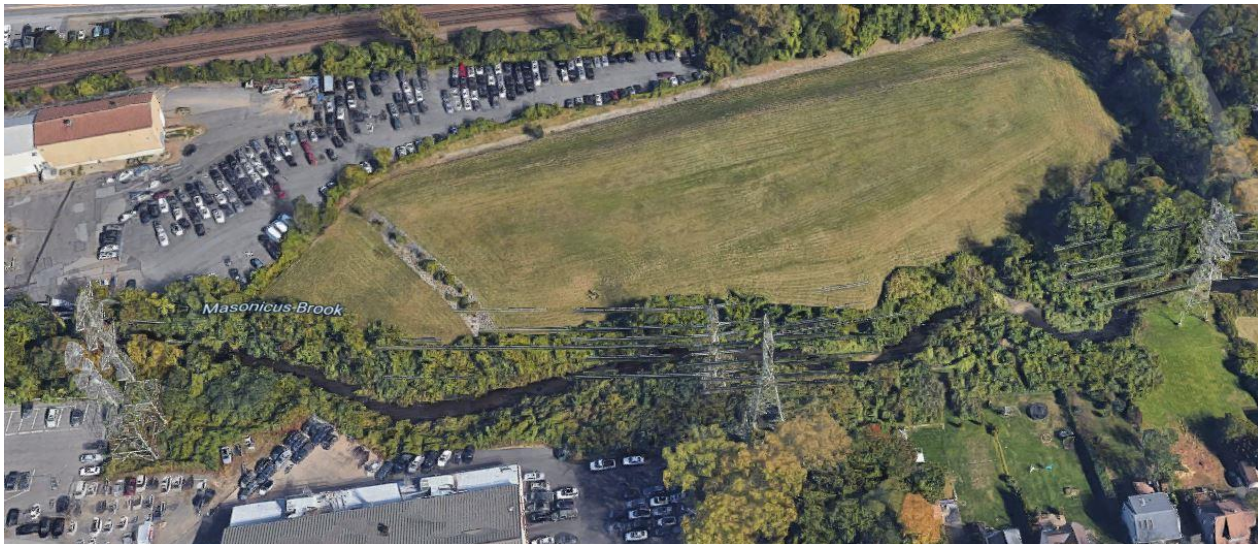


Google Aerial of lot in question. Red outline depicts property boundary.

Yellow circle shows areas subject to this application request.



Google Streetview of Subject Property – building to be removed for parking spaces



Google Streetview of Subject Property – area to be used for outdoor vehicle storage

B. Proposed Project

The Applicant proposes demolishing a building mid-site for future use as parking (which is permitted) and modifying an existing undeveloped portion at the south of the site for outdoor vehicle storage.

The undeveloped portion of the site is noted on plans as “landfill.” It has one sewer easement running north-south, and a second one in its northeast running east-west. Environmental constraints, including flood hazard areas, riparian corridors, and a water feature are close to the “landfill” area, but do not appear to encroach into it.



The Applicant proposes a reinforced turf parking surface for car dealer inventory. The existing landfill cap shall remain undisturbed. A 6-foot high chain link fence is proposed around the perimeter of the area, as well as 6-foot high evergreen planting on the west and south sides.

C. D Variance

Outdoor storage is conditionally permitted in the IP-120 zone according to the Mahwah Schedule of District Use Regulations. This use is governed by reference to the B-200 zone, which directs the reader to §24-6.8(c)(1-3) and sets forth the following conditions:

- c. Outdoor Storage Areas. Such uses, where permitted, shall not abut existing residential development, a residential street, or any R District, and the operation thereof shall be governed by the following provisions:*
 - 1. Flammable and Explosive Liquids. All flammable or explosive liquids, solids or gases shall be stored in appropriate containers as regulated in the Fire Prevention Code.*
 - 2. Fencing and Setbacks. All outdoor storage facilities shall be enclosed by a fence or wall adequate to conceal such facilities and the contents thereof from adjacent property and shall be subject to the provisions of subsection 24-6.11.*
 - 3. Deposit of Wastes. No material or wastes which might cause fumes or dust or which might constitute a fire hazard, or which may be edible by or otherwise attractive to animals or insects shall be stored outdoors unless in closed containers.*

The preamble requirement prohibiting adjacency to residential development has not been met in the subject application; along its western and southern property lines, the subject site is adjacent to residential development.

It is noted that at face value §24-6.8(c)(1-3) speaks to Accessory Uses. However, this office has consulted with a Township attorney as well as the Cox book on land use law (2020, pp. 743-744) and determined that the cross-referencing language does merit this section of code as applicable to the subject application.

As such, the application needs a d(3) variance for the Conditional Use. The Board has the power to grant d(3) variances to permit conditional uses that don't meet the conditions pursuant to N.J.S.A. 40:55D-70d(3) "in particular cases and for special reasons."

As pertains to the "positive criteria" of a d(3) variance, the Board's focus must be on whether the site remains appropriate for the conditional use despite the failure to conform to all of the ordinance's conditions. The standard does not require a finding that the site is particularly suitable for the use, as it is the *conditions* attached to the use from which deviations are sought.

The "negative criteria" must also be satisfied in order to grant a d(3) variance. The first prong of the negative criteria should focus on whether conditions can be imposed to ensure that the deviations from the conditional use requirements do not cause substantial detriment to the public good. The second prong must focus on whether conditions can be imposed in its approval to ensure that the deviations from the conditional use requirements do not cause substantial impairment of the intent and purpose of the master plan and zoning ordinance.



D. Waivers

- 22-6.2a - Parking
 - Required:

<i>Use</i>	<i>Required</i>	<i>Proposed</i>
<i>Industrial & Office uses (combined, same requirement)</i>	<i>1 space per 250 sf = 2,251 spaces</i>	<i>472 spaces</i>

- *The elimination of the building reduces the number of parking spaces required by 94 spaces. The site has significantly less than that which is required – a preexisting condition. 65 new spaces are proposed, bringing the total number of proposed parking spaces from 407 to 472, where 2,251 are required.*
- 22-6.2c.2 - Parking Stall size (for parking, not vehicle storage)
 - Required 9x20'. Proposed 9x18'.

E. General Comments

1. Applicant shall discuss the use of reinforced turf parking surface and how/why that material was selected, what leeching may occur both into the ground from vehicles and out of the ground from the landfill.
2. ***Parking schedule on sheet 1 of plans, bottom row, appears to be incorrectly identified and should just be “total parking spaces”.***

We reserve the right to make additional comments based upon further review or testimony presented before the Board. Should you have any questions on this correspondence, please do not hesitate to contact me.

Very truly yours,

MASER CONSULTING P.A.

Deborah Alaimo Lawlor, FAICP, PP
Discipline Leader, Planning Services
Principal Associate

DAL/kjr/dlp

- cc: Ben Cascio, Esq., Board Attorney (bencascio@aol.com)
 Andrew S. Kohut, Esq., Applicant’s Attorney (akohut@wellsllaw.com)
 Angela Dragone (adragone@mahwahtwp.org)
 Mike Kelly, Board Engineer (mkelly@boswellengineering.com)