

**RESOLUTION TOWNSHIP OF WASHINGTON**  
**ZONING BOARD OF ADJUSTMENT**

Introduced by:

Grimaldi, Hanna, LaGratta, Moore, Ozment, Plantamura, Werfel, Toro, Goetz (Chairman)

Seconded by:

Grimaldi, Hanna, LaGratta, Moore, Ozment, Plantamura, Werfel, Toro, Goetz (Chairman)

WHEREAS, DLK PARTNERS, LLC (the "Applicant") has applied to the Zoning Board of Adjustment of the Township of Washington for preliminary and final site plan approval, together with use and related variance relief from the zoning code to allow the Applicant to convert the existing building from its prior use as A Bridal Dress Shop to the proposed Dental Office. The Applicant proposes to renovate the 2 ½ story building and construct limited site improvements consisting of parking lot improvements to provide a designated handicap accessible parking stall and access aisle and a concrete walkway providing barrier-free access to a new ADA Ramp structure situated at or about the southeast corner of the building. The property is known as 647 Pascack Road and designated as Lot 1, Block 3201 on the Tax and Assessment Map of the Township of Washington. The subject property is located at the southeast corner formed by the intersection of Washington Avenue and Pascack Road. The property exhibits a total frontage of 203.27 feet with 117.4 feet of said frontage being situated along Washington Avenue and 85.87 feet being situated along Pascack Road. The 10,145 square feet (0.23 acre) parcel is located in the within the "Class PRTD" Planned Residential Townhouse Development Zoning District. The Application seeks variance approval for a maximum lot coverage of initially 65.5% which will increase to approximately 72% for Phase II layout, which is the modified design when the County road improvements are done. The maximum lot coverage permitted 18.0%. The existing lot coverage is 60.0%. The Applicant also seeks variance approval for minimum number of parking spaces with 8 proposed spaces where the minimum number of

parking spaces required is 17 spaces. The existing parking lot has 6 parking spaces. The Applicant also seeks variance approval for the use of the property as a dental office which is not a permitted use for the Class PRTD Zoning District. The last known use of the property was as a Bridal Dress Shop; and

WHEREAS, the Township of Washington Zoning Board of Adjustment carefully considered the testimony of the Principal of DLK Partners, LLC, Dr. Kevin Ma, Applicant's Engineer, Daniel LaMothe, P.E., Engineer appearing on behalf of the County of Bergen, John G. Yakimik, P.E., C.M.E., C.P.W.M., Applicant's Traffic Expert, John Corak, P.E., Applicant's Architect, James JH Chai, A.I.A. and testimony of Applicant's Planner, Brigitte Bogart, PP, AICP, CGW, and evidence presented by the Applicants and their professionals and Board discussion and comments during the general public hearings held on March 19, 2019 and;

WHEREAS, the Township of Washington Zoning Board of Adjustment has reviewed the following:

- a. Township of Washington Application for Variance by applicant, DLK Partners, LLC, dated August 1, 2018 and consisting of fifty-eight (58) sheets;
- b. The report of the Township Engineer, Paul Azzolina, PE, CME, Azzolina & Feury Engineering, Inc. dated February 16, 2019 and consisting of twelve (12) sheets;
- c. A proposed Site Plan, prepared by Lapatka Associates, Inc., dated November 20, 2018 and consisting of one (1) sheet and marked into evidenced as Exhibit A-1;
- d. A Future Concept Layout Exhibit, prepared by Lapatka Associates, Inc., dated March 15, 2019 and consisting of one (1) sheet and marked into evidenced as Exhibit A-2;
- e. An Application for Soil Moving Permit, dated December 5, 2018 and consisting of

- one (1) sheet and marked into evidenced as Exhibit A-3;
- f. Stonefield Traffic and Parking Report prepared by Stonefield Engineering & Design, LLC, dated December 19, 2018 and consisting of four (4) sheets and marked into evidenced as Exhibit A-4;
  - g. Change of Use Building Alterations, prepared by James JH Chai & Associates, LLC, dated November 13, 2018 and consisting of one (1) sheet and marked into evidenced as Exhibit A-5;
  - h. Aerial and Street Level Photographs of site and surrounding development, prepared by Brigitte Bogart PP, AICP, CGW, dated March 19, 2019 and consisting of one (1) sheet and marked into evidenced as Exhibit A-6;
  - i. D(1) Use Variance and C(2) Parking and Coverage Variance Justification Analysis by Brigitte Bogart, PP, AICP, CGW, dated March 19, 2019 and consisting of two (2) sheets and marked into evidenced as Exhibit A-7;
  - j. Letter from Boswell Engineering, prepared by John G. Yakimik, P.E., C.M.E., C.P.W.M., dated March 15, 2019 and consisting of one (1) sheet;
  - k. Earthwork Cross-Section Location Plan, prepared by Lapatka Associates, Inc., dated November 28, 2018 and consisting of two (2) sheets;
  - l. Affidavit of Service, prepared by Stephen P. Sinisi, Esq., dated January 30, 2019 and consisting of nine (9) double sided sheets.

WHEREAS, the Township of Washington Zoning Board of Adjustment has made the

following findings of fact and conclusions of law:

1. The property designated as Lot 1, Block 3201 is presently vacant and was last occupied by the Helen Bohn Bridal Dress Shop which ceased operations several years ago. The property is located in the Class "PRTD" Planned Residential Townhouse Development Zoning District. The Applicant's proposed use of the property is not a permitted use in the PRTD Zone;

2. At the public hearing held on March 19, 2019 the Principal of Applicant, Dr. Kevin Ma, was sworn in. Dr. Ma testified that he is a Dentist, licensed in the State of New Jersey and the contract purchaser of the property. He testified that he intends to operate the existing building as a dental office. He further testified that he would see patients by appointment only and that it would not be an urgent care for walk in patients. He testified that the operating entity for the dental practice will be the Bergen Dental Group. He testified that he will have a general dental practice diagnosing and treating dental problems such as cleanings, x-rays, cosmetic fillings and dental implants. He testified that there will be total of four (4) people operating the office, one (1) dentist, one (1) receptionist, one (1) dental hygienist, and one (1) dental assistant. He further testified that he will be in charge of the office and the second floor will only be used as a bookkeeping office and a lounge for employees. He testified that his hours of operation will be Monday through Saturday 9:00 a.m. to 6:00 p.m. and patients will be scheduled by appointment only. He further testified that an unscheduled appointment will be the rare case where an existing patient may have an emergency that needs to be addressed during the normal business hours. He testified that his wife is a Dentist and they operate another Dental Practice in North Bergen. However, only one (1) dentist will be present in this office at a time. With regard to the waiting area and number of seats he testified that many times patients come with children or someone drives the patient to the office and additional seating is necessary.

3. The Applicant's Engineer, Daniel LaMothe, P.E was sworn in and accepted by the

Board as an expert witness. Mr. LaMothe testified that the property is located in the PRTD Zone and the proposed use is not a permitted use. He testified that the property is a pre-existing non-conforming property that is located across the street from a gas station and Seasons Catering Hall. Mr. LaMothe referred to the Site Plan, marked into evidence as A-1, and testified that the Applicant will not be expanding the current footprint and there will be very little change to the impervious coverage. He testified that the Applicant will make improvements by adding two (2) parking spaces, including restriping and the addition of a designated handicap space with a walkway along the side of the building to a deck and an ADA ramp entrance at the rear of the building. He further testified that there will be seven (7) parking spaces for patients at the front of the property and one (1) parking space for employees at the rear of the property. He testified that the Applicant will improve the flow of traffic in and out of the parking lot. He referred to the Future Concept Layout marked into evidence as A-2 and testified that the Applicant's improvements will complement the Future County of Bergen Intersection Improvement Project for that intersection which will improve vehicular and pedestrian traffic circulation to and from the property. He further referenced the Soil Movement Permit, marked into evidence as A-3 and testified that there will be minimal soil movement for the site plan and the Applicant's intended use works well for this property. He testified that the Applicant does not intend to use additional commercial signage and will use the existing free-standing illuminated sign frame. Mr. Lamothe also testified that the two (2) mature trees will remain but the Applicant can remove if Board requires them to do so.

4. John G. Yakimik, P.E., C.M.E., C.P.W.M. was sworn in and accepted by the Board as an expert witness. Mr. Yakimik is not a witness for the Applicant. He testified that he works for Boswell Engineering who is assisting the Township of Washington and County of Bergen in preparing the design plans and specifications for improvements to the intersection of Washington Avenue and Pascack Road. He further testified that he was asked by the Mayor and Council to comment on the

proposed site plan only within the context of the proposed intersection improvements. He testified that his only concern was the stacked parking at the rear of the property which could have vehicles backing into Washington Avenue on-coming traffic which would be an unsafe condition. The Applicant's Attorney advised that the Applicant's proposed plans were prepared in response to Mr. Yakimik's report and will make any necessary modifications to address this concern.

5. Paul Azzolina, P.E., the Township's Engineer, advised the Board that the Applicants revised plans and testimony has addressed the concerns set forth in his letter of February 16, 2019. He also advised the Board that it would be better to keep the handicapped parking space in the front of the property as there is greater vehicular access and the proposed walkway to the rear entrance is ADA compliant. He also noted that the Applicant did not propose any new lighting or landscaping. The Applicant's Attorney advised the Board that the Applicant will submit the plans to the Township's Emergency Departments for their comments as to the new use and will comply with the revisions/supplements noted in Appendix "A" of Mr. Azzolina's letter.

6. The Applicant's Traffic Expert, John Corak, P.E., was sworn in and accepted by the Board as an expert witness. Mr. Corak testified that he is a traffic engineer and works for Stonefield Engineering & Design, LLC and referred to their report marked into evidence as Exhibit A-4. He testified that the property was a good site for the new use with adequate parking to meet peak demand. He testified that this is a family practice by appointment only and not a corporate office which would have less control of people coming to and from the property. He further testified that five (5) to seven (7) parking spaces is sufficient for the operational use of the site and the proposed development would not have a significant impact on the traffic operations of the adjacent roadway network. He testified that the site driveways and on-site layout have been designed to provide for effective access to and from the subject property and the parking supply in conjunction with available on-street parking in the site vicinity would be sufficient to support the project. He testified that proper signage for staff only

parking and striping could address the concerns of other cars parking at the rear of the property and prevent cars from backing out on to Washington Avenue.

7. The Applicant's Architect, James JH Chai, A.I.A. was sworn in and accepted by the Board as an expert witness. He referred to the Change of Use Building Alteration Plans that he prepared and which has been marked into evidence as Exhibit A-5. Mr. Chai testified that the first floor will have a receptionist desk and waiting area with approximately eleven (11) chairs and there will be four (4) offices, each with their own dentist chair to be used by the dentist or hygienist. He testified that there will be an ADA compliant bathroom as well on the first floor. He testified that the second floor layout will remain the same and will have a private office, lounge, kitchenette and two (2) bathrooms. He testified that the Applicant will have an ADA compliant concrete walkway at the side of the property and will also have an ADA compliant ramp at the rear of the property. He testified that there will be no change to the footprint except for the extension of the entrance ramp for handicap patients. The Board asked about having a covered walkway, but Mr. Chai testified that they can be an eyesore and would also impact the impervious coverage which can trigger an additional variance. He further testified that the façade would not change so as to keep the existing character of the building but they will make aesthetic improvements by replacing the roof and siding with similar material. He testified that their intent was to refresh and renovate the exterior while not making drastic changes to the existing exterior appearance.

8. The Applicant's Planner, Brigitte Bogart, PP, AICP, CGW, was sworn in and accepted by the Board as an expert witness. Ms. Bogart referred to aerial and street level photographs of the property which have been marked into evidence as A-6. She testified that the proposed use as a dental office is not a permitted use in the PRTD zone, which is designed for multi-family residential homes and requires a D(1) use variance. Referring to the D(1) Use Variance and C(2) Parking and Coverage Variance Justification Analysis marked into evidence at Exhibit A-7 she testified as to the reasons she

believes that a D(1) use variance may be granted. She testified that the proposed use is suited for the sight. The property has been used as a commercial site for decades and a commercial office is more in keeping with the surrounding area than a residential use. She testified that a dentist office requires patients to make appointments to come to the site which will control the traffic to and from the sight as opposed to the zoned permitted use as a townhouse where the traffic to and from the site is sporadic and uncontrolled. She further testified that the iconic structure is suited for this type of use. She testified that the Applicant does not intend to drastically change the exterior to keep iconic appearance but will make aesthetic improvements to the exterior of the dwelling such as a new roof and siding. She testified that the Applicant will improve the parking and traffic circulation, adding a handicapped parking space and an ADA compliant ramp for handicapped patients as well as adding ADA compliant bathrooms which satisfy the positive criteria and promote the goals of the Municipal Land Use Law. She further testified that there is no substantial detriment to the public good, master plan or the current zoning ordinance as the property will be a less intensive use and is surrounded by commercial properties. She further testified that the applicant is also requesting two (C)2 variances. One (1) variance is for the parking and one (1) is for the lot coverage. In support of her opinion that the (C)2 variances can be granted she testified that while a variance is needed for parking it is an improvement to the current situation and the parking spaces proposed will accommodate the proposed use. She testified that a commercial use is more in keeping with the surrounding area and a dentist office which controls traffic to and from the site is more desirable than a permitted townhouse with sporadic and uncontrolled traffic to and from the site. The previous use as a retail store did not have the controlled traffic impacts as would be with a dental office. She further testified that the benefits of the proposed office outweigh any potential detriments and the board is justified in granting the requested variances.

9. Pursuant to N.J.S.A 40:55D-1, the Applicant seeks a use variance to allow a dental office which is not a permitted use in the PRTD Zone. Pursuant to N.J.S.A. 40:55D-70c(2), the applicant

seeks a variance approval for hardship for maximum lot coverage and minimum parking spaces.

10. Other than existing non conformities that will remain such as lot area, frontage, lot depth, front yard, side yard, and rear yard setbacks, the application complies in all other respects.

WHEREAS, the Zoning Board of Adjustment of the Township of Washington has determined that the Applicant has satisfied the criteria for granting a d(1) variance and has accepted the testimony of the Applicant's planner that certain purposes of the zoning as set forth in the MLUL will be advanced by granting the d(1) use variance. The Board finds that the property will be improved from an aesthetic perspective and parking spaces will be added as well as a walkway and ADA compliant ramp and the traffic flow will be improved. In addition, the Board finds that the property is better suited for a commercial use than residential use and the current use will have more control of the ingress and egress of traffic than the prior use or a permitted residential townhouse use. The requested variances for the maximum lot coverage and minimum parking spaces are justified under C2 of the statute, in light of the fact that the applicant is adding parking spaces and the additional lot coverage can be attributed to the impervious surface associated with the expanded and reconfigured front parking lot area, the proposed barrier free walkway and the ADA compliant ramp. The Board believes that the overall benefits of the Applicant's proposed plans outweigh any detriment. However, the Board Approves the Application under the following conditions:

- a) If it is determined that an additional on-site parking space is needed and can be added by removing a tree the Applicant will comply with this request;
- b) The Applicant and Architect must comply with all of the conditions noted in the report of the Township Engineer, Paul Azzolina, PE, CME, Azzolina & Feury Engineering, Inc. dated February 16, 2019.
- c) The Applicant will provide adequate lighting over walkway connecting the front parking

lot to the rear entrance.

d) The Applicant will extend the covered porch over the ADA ramp at the rear entrance if possible. The Board notes that this may trigger a setback variance to the already non-conforming setback variance. The Board approves this increased setback variance if it is necessary to extend the covered porch.

e) The Applicant will provide adequate signage in the rear parking lot to designate the parking spaces for employees only and provide adequate striping to prevent other cars from parking in the rear parking lot.

f) The Applicant will provide adequate signage and striping at the front parking lot to designate patient and handicapped parking and one-way traffic flow direction as well as a no left turn sign on to Washington Avenue.

g) The Applicant cannot have more than one (1) dentist providing dental services at the property at the same time.

WHEREAS, members of the public were invited to ask questions of the Applicant after testimony was given, and all questions offered by members of the public were answered to the satisfaction of the Zoning Board of Adjustment;

WHEREAS, the Zoning Board of Adjustment has determined that the relief requested by the Applicants can be granted without substantial detriment to the public good and without substantially impairing the intent purpose of the Zoning Ordinance of the Township of Washington, the enforcement of which would result in practical difficulty and unnecessary hardship in the renovation and use of applicants' property. Moreover, the Board finds that the plan represents a better planning alternative with the least impact on the property as a whole, and is not out of character, and

is not likely to be a substantial detrimental impact upon any other properties in the neighborhood, and would blend into the surrounding properties;

NOW THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Washington on this 16<sup>th</sup> day of April, 2019 that based upon the findings of fact, testimony presented and documents submitted for review as previously set forth, the application of DLK Partners, LLC is hereby granted to allow applicants to operate a dental practice and make alterations to their dwelling and property in conformity with the plans submitted to this Board as amended at the hearing and in compliance with the requirements outlined in the February 16, 2019 report of the Township of Washington Engineer, Paul Azzolina, P.E., C.M.E., Azzolina & Fuery Engineering Inc.;

BE IT FURTHER RESOLVED that the Applicant shall comply with all of the stipulations made during the hearing on this Application as set forth herein and on the record before the Board.

BE IT FURTHER RESOLVED the Applicant's failure to comply with conditions set forth in this Resolution shall constitute a failure of the conditions and may be the cause for the revocation of either a building permit and/or Certificate of Occupancy of the premises, subject to reasonable notice and the opportunity to cure.

BE IT FURTHER RESOLVED that pursuant to the Code of the Township of Washington, the variances granted will expire within one (1) year from the date of this Resolution if construction is not commenced, however, this Board reserves the right to grant extensions of time from this Resolution if circumstances warrant the same;

BE IT FURTHER RESOLVED, that the Secretary of the Zoning Board of Adjustment of the Township of Washington is hereby directed to mail a copy of this Resolution to applicant; to furnish a copy to the building department; to file a copy of this Resolution with the Township of Washington Clerk; and to cause a notice of this determination of the Zoning Board of Adjustment to be published

in the official newspaper of the Township of Washington within ten (10) days of the date hereof and thereafter published according to law.

BY THE BOARD

Dated: April 16, 2019

BY:   
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Frédéric Goetz, Chairman

Certified to be a true copy of the Resolution adopted by the Zoning Board of Adjustments of the Township of Washington at its meeting on Tuesday, April 16, 2019.

  
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BARBARA COLEMAN, Secretary

	<b>Ayes</b>	<b>Nays</b>	<b>Abstain</b>	<b>Absent</b>
<b>Moore</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Grimaldi</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Hanna</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>LaGratta</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Ozment</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Plantamura</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Werfel</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Toro</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Goetz</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>