

Via: Email

September 20, 2023

Zoning Board of Adjustment
Township of Lyndhurst
253 Stuyvesant Avenue
Lyndhurst, NJ 07071

Re: **Site Plan Review – Proposed Multi-Family Dwelling (3 Units)**
615 Schuyler Avenue, Block 220, Lot 8
Township of Lyndhurst, Bergen County, NJ
Neglia Project No.: LYNDSP23.014

Dear Honorable Board Members:

As requested, the Neglia Group (“Neglia”) has reviewed the submitted documents related to the proposed improvements on the lot located along the western side of Schuyler Avenue. Specifically, we have reviewed the following:

- Signed Architectural Plans consisting of three (3) sheets entitled “Multi-Family Residence at 615 Schuyler Avenue,” prepared by Michael A. Bet, AIA, of Michael A. Bet Architect, P.C., dated March 6, 2023;
- Township of Lyndhurst Application for Use Variance and Related Variances;
- Township of Lyndhurst Application for Zoning Approval.

1. Project & Site Description

The subject property is located on a rectangular shaped lot located at the northwest corner of Schuyler Avenue and Elizabeth Avenue. The property in question, Block 220, Lot 8, is located within the R-A One-Family Residence District. The property is currently undeveloped. Additional existing features include fencing and two concrete driveways.

The Applicant proposes to construct a three-unit multi-family home with a detached three car garage. The ground floor of the multi-family home would also contain an attached four car garage.

2. Completeness Review

Our office has completed a review of the submitted documents as it relates to completeness established within Appendix A entitled “Completion Checklist - Subdivision and Site Plan Application (Section 19-6)” of the Township Code.

The following requirements are missing or incomplete and shall be submitted or a waiver shall be requested. The Applicant shall request a waiver from supplying requirements that are not applicable to this application.

REQUIREMENTS FOR SITE PLAN APPLICATIONS:

- 2.1. Item 9: Certification of any necessary approvals by the HMDC, DEP, County Planning, or any other agency. The Applicant shall acquire review letters from the necessary regulatory bodies. Testimony stating if approvals from additional regulatory bodies have been pursued.

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Aerial Site Mapping

3. Zoning Requirements

Based upon Neglia’s initial review of the application materials, we offer the following findings regarding zoning compliance per Township Code Section §21:

a. *Use / Jurisdiction*

Uses Permitted by Right in accordance with §21-4.2a:

1. Single family homes, not to exceed one such dwelling on each lot.
2. Accessory use as further defined in subsection 21-5.2.
3. Community residence for the developmentally disabled and community shelter for victims of domestic violence as defined by N.J.S.A. 40:55D-66.1 for not more than six persons exclusive of resident staff.
4. A professional office shall be permitted as conditional uses provided that:
 - a) The use is carried on wholly within the completely enclosed building; and
 - b) Not more than 50% of the floor space is devoted to the professional office with the remaining 50% to be devoted for residential use; and
 - c) One off-street parking space shall be provided for every 300 square feet of usable office area.
 - d) There shall be no exterior storage of materials and equipment; and
 - e) Such professional office must be in keeping with the residential character of the neighborhood and shall not materially depreciate property values in the immediate area.
 - f) There can be no more than two principal uses associated with the property in question, i.e., professional office and residence. A professional occupation includes, but is not limited to, architect, artist, accountant, contractor, dentist, surgeon or physician, chiropractor, engineer, land surveyor, and lawyer. A professional occupation for purposes of this section, does not include but is not limited to the occupation of cabinet making and furniture repair work, musician, real estate agent or broker, construction trades which include on site work areas, an animal hospital or kennel, an automotive repair shop, a barber shop, a restaurant, tearoom or tavern, a store, mortuary, limousine and livery services, or other similar uses. Also for purposes of this section, a professional office does not include any hospital, clinic, or outpatient treatment center. If the professional office to be located in a home is not stated as permitted, then it is prohibited. [Ord. No. 2913-15 §2]

Conditional Uses. Conditional uses permitted subject to approval by the board in accordance with §21-4.2b:

1. Nonprofit clubs, lodges and fraternal organizations.
2. Community residences for the developmentally disabled and victims of domestic violence as defined by N.J.S.A. 40:55D-66.1 for more than six residents excluding resident staff subject to provisions of subsection 21-5.12.

Accessory Buildings and Uses in Residential Districts (§21-5.2)

1. No accessory building or use shall be located in front yard, nor nearer than three feet to a rear or side lot line. In case of a corner lot fronting on two streets, no accessory building or use shall be located closer than 10 feet to the street side lot line. Accessory buildings shall be separated from the principal building by a distance of at least 10 feet.
2. Any accessory building attached to a principal building shall be considered part of the principal building and the total structure shall adhere to the yard requirements for the principal building regardless of the technique of connecting the principal and accessory building.
3. No accessory building shall exceed a height of 15 feet.
4. No accessory buildings except swimming pools shall occupy an area greater than 25% of the area of the required rear yard.
5. Accessory uses in residential districts shall be limited to the following:
 - a) Private garage for not more than four vehicles.
 - b) Garden house, tool house, playhouse, greenhouse, flagpole or other similar uses customarily incidental to residential use.
 - c) Private swimming pool provided same shall be subject to the swimming pool and health ordinances of the township.
 - d) Fences subject to subsection 21-5.3.
 - e) Signs as permitted by Section 21-9.
 - f) Driveways and parking spaces subject to subsections 21-8.11 and 21-8.18.
 - g) Recreational playground facilities or equipment.
6. A/C compressor units to be a minimum of three feet from property line in all districts.

Permitted uses within the R-A Zone include single family homes and Uses and Conditional Uses allowed in Any District; "Dwellings" are defined as residential units having a minimum of 700 square feet. The proposed use is not stated as a permitted use. Therefore a **D(1) Use Variance** will be required for this application.

b. *Bulk Deficiencies*

The following table reflects the R-A One-Family Residential District Bulk Requirements (Section §21-6) and Accessory Building Requirements (Section §21-5.2) as they pertain to the proposed improvements:

Description	Required	Existing	Proposed	Status ⁽¹⁾
Permitted Use	As Defined Above	Vacant Lot	Proposed Three Family Dwelling	Non-Conforming
Minimum Lot Area (square feet)	5,000 SF	10,710 SF	10,710 SF	Conforming
Minimum Lot Width (feet)	50 ft	51 ft	51 ft	Conforming
Minimum Lot Depth (feet)	100 ft	210 ft	210 ft	Conforming
Minimum Front Yard Setback (feet)	20 ft	N/A	48.1 ft	Conforming
Minimum Rear Yard Setback (feet)	20 ft	N/A	75.75 ft	Conforming

Description	Required	Existing	Proposed	Status ⁽¹⁾
Minimum Interior Side Yard Setback – Corner Lot (feet) ⁽²⁾	7 ft each / 16 ft both	N/A	6.83 ft / 17 ft both	Non-Conforming
Minimum Street Side Yard Setback – Corner Lot (feet) ⁽⁴⁾	10 ft	N/A	10.2 ft	Conforming
Maximum Principal Building Coverage (%)	30%	N/A	33%	Non-Conforming
Maximum Total Lot Coverage (%) ⁽³⁾	70%	N/A	55.0%	Conforming
Maximum Building Height (feet)	32 ft	N/A	31 ft	Conforming
Maximum Building Height (stories)	2 ½ stories	N/A	2 stories	Conforming
Minimum Rear Yard Setback (Accessory Building) (feet)	3 ft	N/A	25.7 ft	Conforming
Minimum Interior Side Yard Setback (Accessory Building) (feet)	3 ft	N/A	3.83 ft	Conforming
Minimum Street Side Yard Setback (Accessory Building) (feet)	10 ft	N/A	25 ft	Conforming
Maximum Rear Yard Area Coverage (Accessory Building) (%)	25%	N/A	0%	Conforming
Maximum Accessory Building Height (feet)	15 ft	N/A	< 15 ft	Conforming

- Each item with a status of “non-conforming” will require a variance/deviation.
- For lots which exceed 50 feet in width, the minimum side yard dimensions shall be as follows; **(1) Lot width of 51’: 7’ each side, 16’ both sides;** (2) Lot width of 52’: 8’ each side, 17 feet both sides; (3) Lot width of 53’: 9’ each side, 18 feet both sides; (4) Lot width of 54’: 9 feet each side, 19 feet both sides; (5) Lot width of 55 feet or greater: 10 feet each side, 20 feet both sides.
- The total lot coverage in R-A and R-B zones shall not exceed 60%. The maximum total lot coverage shall increase 5% for every 500 square feet in area over 5,500 square feet, but in no event shall exceed 70%.
- The yard requirements for a corner lot shall be 10 feet on the side facing the street. The yard dimensions on the other side shall be in accordance with the dimensions for interior lot.

c. *Additional Variances / Waivers*

- §21-5.14a1.(a): *In the R-A and R-C Zones, the entire main entrance wall of all residential structures shall face the approved street upon which they are located, and shall have an articulated facade and architectural setback sufficient to mitigate the bulk and size of the building.* The proposed entrances to two of the units face the adjoining lot to the north of the site. Therefore, a design waiver shall be required.
- §21-8.11a1: *Access to an egress from off-street parking areas shall be limited to one driveway for the following: (1) One, two, three family dwelling lots.* The Applicant proposes to construct two driveways along Elizabeth Avenue. Therefore, a design waiver shall be required.

4. **Parking Requirements**

The tables provided below identifies parking requirements associated with the Applicant’s new convenience store conversion:

Regulation	Ordinance	Units	Required/Permitted ⁽²⁾	Proposed	Status ⁽¹⁾
Off-Street Parking Spaces	RSIS (NJAC 5:21-4.14)	Garden Apartment: 1.8 spaces per One Bedroom Unit	3 Units x 1.8 = 6 Spaces	7 spaces	Conforming

1. Each item with a status of “non-conforming” above will require a new variance / design waiver.
2. All parking space calculations for shall be rounded up to the next full parking space.

5. Standards for Granting Variance Relief

The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70 sets forth the standards for variance in particular cases for special reasons to allow departure from regulations pursuant to Article 8 of this act to permit: **(1) a use or principal structure in a district restricted against such use or principal structure**, (2) an expansion of a nonconforming use, (3) deviation from a specification or standard pursuant to section 54 of P.L. 1975, c.291 (C.40:55D-67) pertaining solely to a conditional use, (4) an increase in the permitted floor area ratio as defined in section 3.1 of P.L. 1975, c.291 (C.40:55D-4), (5) an increase in the permitted density as defined in section 3.1 of P.L. 1975, c.291 (C.40:55D-4), except as applied to the required lot area for a lot of lots for detached one or two dwelling unit buildings, which lot or lots either an isolated undersized lot or lots resulting from a minor subdivision or (6) a height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure.

The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70c set forth the standards for variances from the bulk regulations of a zoning ordinance. A “c (1)” variance is for cases of hardship due to (a) exceptional narrowness, shallowness or shape of a specific property, or (b) 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 structures lawfully existing thereon.

A “c (2)” variance may be granted where the purposes of the Municipal Land Use Law would be advanced by deviation from the zoning ordinance requirements, that the variance can be granted without substantial detriment to the public good, that the benefits of the deviation would substantially outweigh any detriment and that the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The benefits identified in granting a “c (2)” variance must include benefits to the community as a whole, not only the Applicant of the property owner.

No variance of any other relief may be granted under the terms of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such a variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance.

6. Planning and Engineering Comments

- 6.1. The Applicant’s professionals shall provide testimony in support of all requested / required variances.
- 6.2. At such time as a hearing is scheduled regarding this matter, a representative or owner of the project site shall be present to address questions from the Board.
- 6.3. Our office recommends that the Applicant provide material boards and color renderings during the Board presentation to demonstrate that the proposed building and improvements will be aesthetically acceptable. The rendering shall include a view of all sides of the building.
- 6.4. The Applicant shall provide testimony with respect to the building articulation, siding materials, colors, traditional design elements, visual access, entrances, awnings, and roofing of the proposed three-family home.
- 6.5. The Applicant shall provide testimony that all ADA accessible routes, points of ingress/egress, parking spaces, etc. will conform to the current ADA Standards for Accessible Design provided by the Department of Justice, latest revised.

- 6.6. The Applicant shall be responsible for the expenses related to any reconstruction of pavement, curb, sidewalk, storm drainage or other public property damaged during construction activities to the satisfaction of the Township and Township Engineer, and in accordance with current design standards. A note stating the same shall be provided in the site plans.
- 6.7. The Applicant shall protect any perimeter fencing, curbs, walkways, plantings, and walls on adjacent properties during construction, if approved. The Applicant shall be responsible for any damage done to neighboring properties during the installation of proposed improvements. A note stating the same shall be provided in the site plans.

7. Grading, Drainage and Utility Comments

- 7.1. Our office recommends that the Applicant construct a dry well system in the front yard of the property. All roof leaders are proposed to discharge into this dry well. The provided Stormwater Management Report shows that the proposed dry well system has adequate storage capacity for a typical 2-, 10-, and 100-year storm event. The Applicant shall provide additional testimony supporting the proposed drainage system.
- 7.2. The Applicant shall ensure that on-site grading does not negatively impact any adjacent properties. Applicant shall ensure runoff is not directed onto adjacent property along property line. A note stating the same shall be provided in the site plans.
- 7.3. The Applicant shall ensure that all runoff is directed into proposed storm water collection structures and is not directed towards adjacent properties. The Applicant is responsible for any negative impacts to adjacent properties due to on-site improvements. Should a negative impact be identified upon completion of the project, the impact shall be addressed immediately. A note stating the same shall be provided in the site plans.
- 7.4. The Applicant shall provide testimony regarding any potential HVAC equipment, appurtenances, noise levels, screening, and soundproofing.
- 7.5. The Applicant shall ensure that stormwater runoff does not negatively impact neighboring properties. Any damage caused by an increase in runoff or improper drainage shall be repaired by the Applicant at no additional cost to the affected property owner.
- 7.6. The Applicant is responsible for ensuring that any and all soils imported to the site are certified clean soils as identified by the current NJDEP Residential Standards, with a copy of the said certificate provided to the Building Department and Neglia for all soils. No recommendation for a Certificate of Occupancy / Construction Completion will be provided without this certification, where applicable. A note stating the same shall be provided.
- 7.7. The Applicant shall ensure that the operations of soil movement vehicles are not to be utilized in a way that would deposit soil on any street, sidewalk, public place, or within any other private property. A note stating the same shall be provided in the site plans.
- 7.8. The Applicant shall secure and supply will serve letters for all utilities to ensure capacity and adequate service to the proposed development. The Applicant shall construct all on-site and off-site improvements as deemed necessary by said utilities at the sole cost of the Applicant.

8. Landscaping & Lighting Comments

- 8.1. The Applicant shall provide testimony addressing any proposed landscaping or lighting improvements.

9. Traffic Engineering Comments

- 9.1. The Applicant shall obtain and address any comments from the Township of Lyndhurst Fire, EMS, and Police Departments regarding emergency site access, site safety, or other concerns.
- 9.2. The Applicant shall provide testimony confirming that all ADA accessible routes, points of ingress/egress, parking spaces, etc. will conform to the current ADA Standards for Accessible Design provided by the Department of Justice, latest revised.

- 9.3. The Applicant shall note that Schuyler Avenue is under the jurisdiction of Bergen County and may require additional review and approval from Bergen County as part of the review process. Therefore, the Applicant shall submit all plans to Bergen County for review and/or exemption. All correspondence from Bergen County shall be forwarded to the Board and Board Professionals upon receipt.
- 9.4. Per RSIS and the Township Code, the minimum parking requirements for the proposed site equates to 6 spaces. The Applicant proposes to supply 7 parking spaces, which meet the minimum parking requirements. The Applicant shall provide testimony addressing the proposed off street parking supply and configuration.

10. Final Comments

- 10.1. The Applicant shall obtain any and all approvals required by outside agencies, including but not limited to Bergen County Planning, NJDOT, NJDEP, Bergen County, and Bergen Soil Conservation District, as well as the Township of Lyndhurst Police Department, Fire Department, Emergency Services and Department of Public Works. It is the Applicant's responsibility to determine what outside agency permits are required. Copies of said approvals shall be provided upon receipt.
- 10.2. New and revised materials shall be filed with the Township and shall not be sent directly to the Board's professionals. The Township will forward the application to and related materials to the Board's professionals when they are finished with their review. Materials submitted directly to Neglia will not be reviewed.
- 10.3. Revised reports, plans and exhibits which are to be considered at the hearing should be submitted ten days prior to the scheduled hearing.
- 10.4. The above comments are based on a review of materials submitted and/or testimony provided to date. Neglia reserves the right to provide new or updated comments as additional information becomes available.

We trust you will find the above in order. Should you have any questions or require additional information, please do not hesitate to contact the undersigned.

Very truly yours,

Neglia Group



Brian A. Intindola, P.E., P.P., C.M.E., C.P.W.M.
Zoning Board Engineer
Township of Lyndhurst

Very truly yours,

Neglia Group



David Juzmeski, P.E., P.P.
Zoning Board Planner
Township of Lyndhurst

Cc: Daniel R. Lagana, Esq. – Board Attorney (*via: email*)
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