

**TOWNSHIP OF MIDDLETOWN**  
**Planning Board**

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Physical Address: 900 Leonardville Road (Croydon Hall), Leonardo, NJ 07737

**JAMES HINCKLEY**  
*Chairman*



**SANYOGITA S. CHAVAN, P.P., A.I.C.P.**  
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**TECHNICAL MEMORANDUM**

**DATE:** October 29, 2020  
**BOARD:** Zoning Board  
**APPLICATION:** General Plumbing Supply (#2020-003)  
170 Route 36 East  
Block 204, Lot 1 and Block 205, Lot 1  
B-2 Zone  
Preliminary and Final Major Site Plan  
“D-4” Variance for Floor Area Ratio and Bulk Variances

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**PROPOSAL**

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The applicant presently owns and operates General Plumbing Supply (GPS) located at 170 Route 36 East on Block 204, Lot 1. The neighboring lot Block 205, Lot 1, is currently vacant and is merged with Block 204, Lot 1. The applicant seeks to demolish the commercial GPS structure along with the appurtenant parking and construct a new, one story commercial GPS building to include warehouse and office use and associated parking.

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**PROPERTY DESCRIPTION, ZONING AND SURROUNDING LAND USE**

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The entire project site, Block 204, Lot 1 and Block 205, Lot 1, contains a total area of 51,269 square feet (1.18 acres) and is located in the B-2 Business Zone. The subject site has frontage along State Highway 36, Vineyard Avenue, and Thompson Avenue. The properties to the north, across State Highway 36, as well as to the west and south of Block 205, Lot 1 are located in the B-2 Zone District. Properties to the south of Block 204, Lot 1 are in the R-7 Zone District.

Block 204, Lot 1 and Block 205, Lot 1 were separated by Atlantic Avenue, an unimproved right of way. This was vacated by the Township of Middletown by ordinance on September 19, 2016. There is a 20-foot sanitary easement traversing along the center of the erstwhile unimproved right of way.

The existing GPS building is located at the corner of Vineyard Avenue and State Highway 36 East along the westerly portion of Block 204, Lot 1. The vacant lot is located on the corner of the exit ramp from Route 36 East onto Thompson Avenue to the south. The vacant lot, Block 205, Lot 1, previously contained a dwelling unit and associated parking, which were demolished sometime between 2019-2020. The properties to the south of Block 205, Lot 1 have frontage along Thompson Avenue, and although located in the B-2 zone district they are developed to contain residential uses.

GPS is a functioning commercial business with ingress and egress to the property from State Highway 36. Additionally, the existing building can be accessed via a small driveway from Vineyard Avenue (no through access). Along with the building, there is currently car and truck parking, storage bins/equipment, and dumpsters located on the lot.

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## PLANNING COMMENTS

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### A. Variances

#### 1) **FAR or D-4 Variance**

Per Section 540-921B(3), the maximum floor area ratio permitted in the B-2 Zone is 25%. The application is proposing a floor area ratio of 32%. The existing FAR is 20%, which will increase to 32% with the proposed improvements, thereby requiring variance relief pursuant to NJSA 40:5570(d)4 or a “D4” Variance.

#### **Statutory Requirements for granting a D-4 Variance**

For variance relief pursuant to NJSA 40:5570(d)4 the applicant must provide testimony satisfying both the “positive” and “negative” criteria. Relief can be granted only upon showing “special reasons”, however the strict “Medici” standard that the use is inherently beneficial or that the site is particularly suited does not apply. Instead, the “positive criteria” is somewhat relaxed. The applicant must demonstrate to the Board that the site will accommodate any problems associated with a FAR larger than what is permitted by ordinance and how the potential impacts of the proposed increase in development will be resolved. The applicant must also provide testimony satisfying the negative criteria wherein variance relief for more intensive development will not present a substantial detriment to the public good, specifically cause any negative impact to the surrounding area, and will not substantially impair the purpose or intent of the Master Plan and the Zoning Ordinance.

#### 2) **Bulk “C” Variances**

- a) **Front Yard Setback**: Section 540-921A(2) stipulates a minimum 50 foot front yard setback in the B-2 Zone District. The applicant is proposing 5.8 feet, which is an improvement from the 4.6 feet maintained by the existing GPS building; nevertheless, variance pursuant to NJSA 40:55D-70(c) is required.
- b) **Rear Yard Setback**: Section 540-921A(2) stipulates a minimum rear setback of 25 feet in the B-2 Zone District. The applicant is proposing 10 feet, which is an improvement from the 3.7 feet setback maintained by the existing GPS building; nevertheless, variance relief pursuant to NJSA 40:55D-70(c) is required.
- c) **Street Side Setback**: Section 540-921A(2) stipulates a minimum street side setback of 25 feet in the B-2 Zone District. The applicant is proposing 4.9 feet, which is an improvement from the 2.2 feet maintained by the existing GPS building; nevertheless, variance relief pursuant to NJSA 40:55D-7(c) is required.
- d) **Buffers Areas and Screening** - Section 540-921C.1 of the Ordinance states that a 50-foot buffer shall be required on the perimeter of all tracts of non-residential uses which abut areas that are zoned residential. The applicant is proposing a landscaped buffer of ten (10) feet along a portion of the northern property line, approximately eight (8) feet along the remaining portion of the northern property line as well as the easterly edge of the site, which is not in compliance with the

ordinance requirement and variance relief pursuant to N.J.S.A 40:55D-70(c) is required. This is an improvement from the existing condition where almost no buffer exists along the residential properties.

### **Statutory Requirements for the granting of bulk variance relief**

Based on the Municipal Land Use Law standard for granting bulk variance relief, the applicant shall indicate to the Board whether a “hardship” variance or “flexible C” variance will be sought for the bulk variance indicated above, and provide testimony supporting the chosen approach.

Physical Characteristics - N.J.S.A. 40:55D-70.C(1) (a/k/a Hardship Variance) – Testimony should indicate if strict application of the setback requirement would result in peculiar and exceptional difficulties, or exceptional and undue hardship, to the applicant.

- By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
- By reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property;
- By reason of an extraordinary or exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

Benefits Outweighing Detriments - N.J.S.A. 40:55D-70.C(2) (a/k/a Flexible C Variance) - The applicant may also establish, in the absence of proving “hardship,” whether the granting of a variance will further the purposes of the Municipal Land Use Law, and if the benefits of granting the variance will substantially outweigh any detriment.

Negative Criteria - Additionally, with any type of C variance, testimony should confirm that the proposed changes requiring bulk variance relief will not create a substantial detriment to the public good or substantial impairment of the intent and purpose of the Master Plan and the Zoning Ordinance.

## **B. Signage**

- 1) **Facade Signs (number):** Section 540-635L(1) states that one façade sign may be placed or inscribed upon the front facade of a building for each permitted use or activity not to exceed an area equal to 10% of the front wall area of the building or portion thereof devoted to such use or activity. Additionally, as per Section 540-635.A(12) a Board may permit additional signage for each street upon which the parcel fronts. The applicant is proposing a total of four façade signs, consisting of three signs advertising “GPS” use and one sign advertising “Kohler” products. Currently, GPS has one façade sign on the western side of the building and an awning running along the northern side of the building along Highway 36 with the company name and logo on it in three separate locations.

The applicant is proposing one GPS sign along façade facing Vineyard Avenue, one GPS and Kohler sign along the side facing Route 36, and one GPS sign along the side facing the parking lot. The two GPS signs along Vineyard Avenue and Route 36 are permitted if the board deems them appropriate and a variance is not required. However, the Kohler sign and the additional GPS sign along the side facing the parking lot would require variance relief pursuant to N.J.S.A. 40:55D-70(c). Testimony should be provided regarding the need for additional signage. The submitted architectural plans do not depict the area calculations for the sign but it appears that the four signs will contain an area of approximately 324 square feet, which is lower than 10% of the front façade area (511.6 square feet). The architectural plans should be revised to show the sign area of the proposed signs.

- 2) **Freestanding Sign:** The applicant is proposing one freestanding sign, which is noncompliant with the following requirements:
- a. **Sign Height:** As per Section 540-635L(2), one freestanding sign 10 feet high and containing an area of 50 square feet is permitted. The applicant is proposing a 12-foot monument sign containing an area of 70 square feet and therefore requires variance relief pursuant to N.J.S.A. 40:55D-70(c).
  - b. **Sign Setback:** As per Section 540-635A(4) no sign or any part thereof shall be located closer than 10 feet to any lot line. The applicant is proposing a sign 1.8 feet from the lot line thereby requiring variance relief pursuant to N.J.S.A. 40:55D-70(c).

## C. Circulation and Site Design

### 1) **Driveways and Access Aisles**

- a) Section 540-612D stipulates that no driveway to or from a parking area shall be located closer than 100 feet from the right of way line of an intersection collector or arterial street. The proposed exit driveway is located closer than 100 feet from the exit ramp to Thompson Avenue from State Highway 36 and thus requires waiver from the ordinance requirements. We defer to the Board Engineer for additional comments.
- b) Section 540-612E states that no part of any driveway may be located within 20 feet of a side property line. The proposed driveway is located at a distance of eight to ten feet along the westerly property line proximate to Thompson Avenue. Additionally, the driveway from the parking lot on the westerly portion of the site maintains a setback of one foot from the northerly property line along State Highway 36, requiring variance relief pursuant to 540-902(H) of the ordinance.
- c) Section 540-612O(3) states that aisles from which cars directly enter or leave parking spaces shall not be less than 18 feet for parking angled at 30 degrees. Three spaces on Block 205, Lot 1 back into a 16-foot wide aisle and requires waiver from the ordinance requirement.
- d) Per Section 540-622.D(8) (and portions of section 540-627 and 540-634), sidewalks and paved pathways shall be provided from each parking space or area to the appropriate destination, minimizing the crossing of streets and parking aisles. All pedestrian crosswalks, access aisles and streets shall be properly marked with striping or a change in the street paving material. The applicant should provide crosswalk markings to connect the proposed rows of parking to the proposed use.

### 2) **Parking Design**

- a) Section 540-627B(4) states that parking areas for non-residential uses shall not be located within 50 feet of any residential zone. At its shortest distance, the parking area for GPS is located 8.5 feet from the neighboring residential property line thereby requiring variance relief pursuant to N.J.S.A. 40:55D-70(c). It should be noted that the parking lot associated with the existing GPS building extends up to the rear property line.
- b) Section 540-627B(5) states that parking areas of five or more spaces shall not be located within 20 feet of any street or right of way line, Section 540-627B(6) states that parking facilities in

business or industrial zones may be located in any yard space but shall not be closer than 20 feet from any street line, and Section 540-627P(1) states that parking areas having 50 or less spaces shall not be located within 20 feet of any street or right of way line. At its shortest distance, the parking facilities of GPS are located approximately five feet from the Highway 36 right of way. This is an improvement from the existing condition; nevertheless, variance relief is required pursuant to NJSA 40:55D-70(c).

- c) Section 540-627(E) states that sidewalks with a minimum width of four feet and a minimum thickness of four inches shall be provided in all parking areas for five or more vehicles, between parking areas and principal structures, along aisles and driveways and wherever pedestrian traffic shall occur. The applicant is seeking variance relief from the sidewalk requirement. Testimony should be provided on the inability to do so.
- d) Section 540-627(F) states that the perimeter of all parking areas open to the general public shall have continuous cast-in-place concrete curbing with a six-inch face or such alternate types as may be approved by the Township. From the submitted plans it appears that no curbing is being proposed at this time. Testimony should be provided regarding the inability to do so.
- e) The parking calculation as per the applicant generates a requirement of 21 spaces while the applicant is proposing 30. The applicant's parking calculation was done using parking requirements for warehouse and office uses only but the proposal also includes retail space. If the application were to include calculations for all three uses to be located on the site, the required parking would be 17 spaces, as seen in the following table:

<b>Use</b>	<b>Requirement</b>	<b>Square footage proposed (appx.)</b>	<b>Calculation</b>	<b>Total parking spaces required</b>
<b>Office</b>	540-627R(9) Business offices and mixed use offices. One parking space for each 250 square feet of gross floor area.	650	$650/250=2.6$	<b>3</b>
<b>Retail</b>	540-627R(22) Hardware, auto supply stores. One parking space for each 400 square feet of gross floor area.	2,000	$2,000/400= 5$	<b>5</b>

<b>Warehouse</b>	540-627R(45) One parking space for each 1,500 square feet of gross floor area, plus one parking space for each vehicle used in connection with the business.	13,227	$13,227/1,500 = 8.8$	<b>9</b>
				<b>17</b>

In any event, the minimum required parking is 17 spaces while the applicant is proposing 30 spaces. The 30 proposed parking spaces do not include the four company van/fleet parking spaces located along the eastern side of the building. The applicant should provide testimony regarding the need for an additional 13 spaces, particularly since the proposed development will not only increase the lot coverage almost to the maximum, but other parking design variances and waivers are required which can be minimized by reducing the proposed parking spaces. At the present time, the site contains approximately 20 parking spaces, although due to fading striping, it is difficult to ascertain what is customer parking, any that are specifically ADA accessible, a separate loading zone, and van/fleet parking.

- f) The five parking spaces proposed on the easterly edge of Block 205 Lot 1 extend into the sight triangle easement. We have concerns regarding the visibility being blocked by the parked cars and recommend redesign. Furthermore, it is recommended that any parking located on Block 205 Lot 1 be designated as employee parking, due to the distance from the building. We defer to the Board Engineer for additional comments.
- g) We have concerns regarding the proximity of the dumpster enclosure and truck loading dock with each other and with respect to Highway 36: as the dumpster is located within 100 feet from Highway 36 and the truck loading dock is located within 60 feet of Highway 36. There is a potential circulation conflict should the garbage pickup and truck deliveries coincide, which could potentially cause cars entering the development to back up on to the highway. Testimony should be provided addressing how truck movement and garbage pickup timing conflicts would be avoided.
- h) Section 540-626A(1) states that loading areas shall not be less than 12 feet in width, 35 feet in length, and 14 feet in height. The applicant is proposing a 60-foot long truck loading area, which would overhang in the dumpster area by approximately 10 feet. The applicant should provide testimony regarding the need for a 60-foot long loading zone, particularly when there is a potential for conflict in truck movement. If the applicant were to reduce the size of the loading area, it would still comply with the ordinance and minimize any conflict. Testimony should be provided regarding the height of the loading dock.
- i) Section 540-627B(9) states that off-street parking areas shall be designed to prevent the maneuvering of vehicles in or out of parking spaces within any portion of an entrance driveway or driveway lane that is within 20 feet of the right of way line of a public street. The parking space closest to the property from Highway 36 appears to conflict with this requirement. The

applicant should consider removing this parking space, particularly considering the posted speed limit of Highway 36 and the potential for vehicles to enter the site at a higher speed which may conflict with the van backing out.

- j) The number of ADA accessible parking spaces is determined according to Section 540-627O of the ordinance. In regards to this application, the number of accessible spots would be determined by the chart below. Since the applicant is proposing 30 total parking spaces, the number of required accessible spaces would be two. The applicant is proposing only one and is therefore deficient.

Total Parking Spaces in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2

We have concerns regarding the location of the accessible parking spot as Section 540-627O of the ordinance requires that parking spaces for the physically handicapped should be located to provide convenient access to building entrances. However, the proposed location is not in compliance as in order to get to the main building, a customer would have to traverse across the access drive, dumpster location, the truck loading dock, and the four van/fleet loading spaces, which could potentially create pedestrian and vehicular conflicts. This is exacerbated by the lack of pedestrian crossings as required pursuant to Section 540-622D(8) and portions of Section 540-627 and Section 540-634 of the ordinance. Ideally these spaces should be provided closer to the building entrance but the proposed plans show van parking proximate to the entrance.

#### D. Landscaping and Lighting

- 1) Section 540-622A(2)(b) states that the exterior perimeter of all buildings shall include a landscaped strip at least four feet wide, suitably planted with shrubs, trees, and ground cover. The proposed building is lacking a landscaped strip along the eastern and western sides of the building and the proposed strip along the northern side located along Highway 36 does not meet the four-foot requirement along the entire length. Testimony should be provided regarding the inability to provide landscaping along the eastern and western side. This is especially pertinent as the landscape strip will provide a buffer between the building and the parking lot.
- 2) The Landscape Plan proposes four new trees be planted on the easterly edge of Block 205, Lot 1 within and/or along the boundary of the sight triangle easement. Per Section 540-507, no hedge, fence, screening strip or wall higher than 30 inches above curb level, nor any obstruction to vision, other than a post not exceeding one foot in diameter, shall be permitted on any lot within the triangular area formed by two intersecting street lines bounding said lot, or the projection of such lines, and by a line connecting a point, on each line located 50 feet from the intersection of the street lines. Testimony should be provided regarding the proposed landscaping complying with this ordinance requirement. Additionally, we have concerns about visibility due to the cars in the parking area, which must be addressed by the applicant.
- 3) Section 540-645C(2) states that pollution-resistant trees shall be planted along the frontage of all existing and proposed public streets, at intervals of not more than 30 feet. Part (4) of this Ordinance section states that plantings shall not be required within the sight easement. The Landscape Plan is

proposing nine trees along Highway 36 (aside from the easement area) spaced approximately 35 feet or more. The plans should be revised to be in compliance with the ordinance requirement.

4) Solid Waste Storage

- a. Section 540-638D states that a five-foot minimum width landscaping area shall be provided along the fence or wall enclosing the refuse storage area. The applicant is proposing a 10 foot landscaped buffer on only two sides of the refuse storage area thereby requiring waiver from this ordinance requirement. As noted in the site plans, the third side of the refuse storage area abuts the building and the required waiver relief is technical.
- b. It is recommended that the dumpster enclosure be constructed of masonry/concrete block in lieu of the proposed board on board fence, as given the type of refuse the site would generate, masonry would be a sturdier option. Colors and materials of the enclosure shall match the building.

5) Lighting:

- a. Section 540-623(A) requires all parking areas for five or more vehicles to be illuminated with approved exterior lighting with a minimum of ½ horizontal footcandle average lighting level at the surface of the lot. The plans appear to be in compliance with the majority of the site barring small portions of the site along the southeasterly portion of the site. Additionally, certain off site areas, containing residential uses, will have 0.4 footcandles. This should be reduced to the 0.0 footcandle value.
- b. Section 523-623(A)1 requires that the minimum lighting level within the parking areas shall be at a minimum of 75% of the average lighting level. Testimony should be provided regarding compliance with this ordinance requirement or a design waiver is required.
- c. Section 540-623A(2) requires that lighting poles do not exceed more than ten feet the height of the buildings. The applicant is proposing a pole height of 25 feet, which are not in compliance. The plans shall be revised to provide poles that are compliant with the ordinance requirement.
- d. Section 540-627P(6)(b) states that shielding shall be required where necessary to prevent glare upon adjacent properties or streets. Shields should be used on the lighting fixtures to protect the adjacent residential properties from glare after dusk. Additionally, timers are recommended for use during overnight hours when the building is not in use.

We defer to the Board Engineer for additional comments.

**E. Miscellaneous**

1. The applicant should testify to the business hours of the site and if hours will differ between the office space, storefront, and warehouse, and also, if clients will be seen by appointment in addition to regular counter retail during normal business hours.
2. The Drainage Study references the demolished structure that was once on Block 205, Lot 1 as part the existing land cover, and thus the runoff calculations may be incorrect in relation to impervious areas. This should be clarified by the applicant's engineer.
3. The Soil Boring Log reports of soil descriptions of depths from ground level to 78 inches or up to 6.5 feet. Per Section 540-410B(20)(b) of the Ordinance, soil analyses for borings should be done not



less than 15 feet below the proposed grade or 20 feet minimum depth. I would defer to the Zoning Board Engineer if this is acceptable.

4. The applicant is proposing to utilize the easterly edge of Block 205 Lot 1 to stockpile topsoil during construction. This location is the area of the sight triangle easement and mounds of topsoil could impact motorists making the right turn off of Route 36 onto Thompson Avenue. Has the applicant considered other locations?
5. The site plans show the entrance with steps while the architectural floor plan show the entrance at grade. Testimony should be provided regarding how the main entrance will be designed to comply with ADA requirements.
6. Upon site visit, we noticed various sized containers of materials, dumpsters, multiple trailers and hardware supplies/materials exposed on the lot. This is not permitted as per Section 540-519. Testimony should be provided regarding the proposed storage. Bulk storage must be in compliance as per Section 540-608 of the ordinance.
7. The applicant is proposing a one-way entrance to the site from Highway 36 and a one-way exit from the site on to Thompson Avenue. Templates for the one-way signs are shown on the Construction Details. The applicant should also consider a "No Left Turn" sign at the exit of the property onto Thompson Avenue (Route 36). The applicant should provide testimony regarding the cars exiting from the site and any potential conflict given the proximity of the exit with the Route 36 exit ramp and Wealthy Avenue.
8. The site is partially located within the AE Flood Zone. An approval from the Construction Official will be required.
9. Outside Agencies - Final approval or letter of no jurisdiction will be required from the following, and any other agencies with jurisdiction:
  - NJDOT
  - Monmouth County Planning Board
  - Freehold Soil Conservation District
  - TOMSA
  - Fire Advisory Board

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#### **DOCUMENTS REVIEWED**

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- Preliminary and Final Plan Major Site Plan for General Plumbing Supply Block 204, Lot 1 and Block 205, Lot 1, consisting of eight (8) pages, prepared by Nelson Engineering Associates Inc., dated December 26, 2019 and revised through July 10, 2020;
- Project Narrative, prepared by Bernard H. Shihar, dated July 20, 2020;
- Drainage Study, prepared by Nelson Engineering Associates Inc., dated December 26, 2019;
- Conceptual Floor Plan, prepared by Stephen W. Schwartz, AIA, dated January 12, 2020;
- Denial of Development Permit, dated February 2, 2020;
- Zoning Board Application;
- Copy of Tax Status;

- Soil boring logs, consisting of three (3) copies, prepared by Nelson Engineering Associates Inc., dated November 12, 2015;
- Monmouth County Planning Board Letter of No Interest dated January 13, 2020;
- Certification Letter from Freehold Soil Conservation District, dated June 11, 2020

I reserve the right to make additional comments based upon the submission of additional documents or testimony presented to the Board.

**Report Prepared by:**



Sanyogita Chavan, PP, AICP  
Director of Planning

