PLANNING REVIEW REPORT

TO: Borough of Ridgefield Planning Board
Ms. Sue Taffaro, Planning Board Secretary

FROM: Daniel Hauben, PP, AICP, DMR Architects

DATE: December 2, 2020

RE: Applicant: IFONS Corporation

Location: 646 Grand Avenue
Block 1701, Lot 1

DMR # 4736

Dear Members of the Planning / Zoning Board:

This office has been requested to review the above referenced application to convert an existing warehouse building to a multi-tenant retail use whereas the rear half of the lot is zoned O-5 Office Mid-Rise, which does not permit retail. The Applicant requires d(1) variance relief to permit a nonconforming use.

This office reviewed the following documents:

1. Planning Board Application Form, signed by the Applicant on October 5, 2020
2. Topographic Survey, 1 sheet, prepared by John J. Bezuyen, PLS of Booker Engineering, PLLC, dated February 8, 2019, revised on March 1, 2019
3. Concept Site Plan, 1 sheets, prepared by Dennis J. Rocks, PE of Booker Engineering, PLLC, dated September 24, 2020, Revised on October 18, 2020
4. Architectural and Lighting Plans, 3 sheets, prepared by Soyu Architecture, Inc. and D&K Design, LLC, dated November 20, 2018, revised on October 15, 2020.

Image 1: Existing front yard parking area, viewed from Industrial Avenue

Application:

1. Existing Conditions: The property is a 396,211 square-foot (9.09-acre) lot containing two large industrial buildings and one smaller accessory building and having frontages on Grand Avenue, Industrial Avenue, and Railroad Avenue. This application specifically concerns the warehouse building on the southerly side of the property. A macadam parking area separates that building from Grand Avenue. Loading docks are located on the south and north sides of the subject building. There is a gated driveway providing access onto Grand Avenue from the site. The site has a downward slope leading away from Grand Avenue. The elevation on Grand Avenue is approximately 25 feet. That elevation drops to approximately 7.5 feet at the front of the subject building and further decreases to approximately 5 feet at the rear of the building.

   The site is unusual in that it is a split-lot zone, with the front of the lot being in the D Office/Commercial Zone District and the rear being in the O-5 Office Mid-Rise Zone District.

Image 2: Existing front building façade and parking area, viewed from Industrial Avenue

2. Proposal: The Applicant proposes to convert the existing warehouse building to a multi-tenant retail use having one 34,219 square foot anchor store with a 493 square-foot mezzanine floor office, and eight (8) smaller stores with 1,873 square-feet of ground level floor area plus 541 square feet of mezzanine floor area each.

   The Applicant also proposes to demolish the adjacent accessory building and to provide 178 parking spaces in the front yard and in the side yards of the building.

3. Zoning: The front of the lot is located in the D Office/Commercial Zone District and the rear of the lot is in the O-5 Office Mid-Rise Zone District. Retail store uses are permitted in the D district, but prohibited in the O-5 District. Consequently, the Applicant requires "d(1)" variance relief to allow for a non-permitted use.

Nonconforming Conditions:

1. The Following Nonconformities Relate to the O-5 Zone District
   a. Retail Use - §390-39.4.D
      i. Standard: Retail uses are not a permitted use
      ii. Proposed: Retail use - **Variance relief (D(1)) is required**

b. Landscaping Area - §390-39.4.H
   i. Standard: 20%
   ii. Proposed: None ***Existing nonconformity to remain***
c. Front Yard Setback -§390-39.4.H
   i. Standard: 25 feet
   ii. Existing: 19.7 feet ***Existing nonconformity to remain***

2. The Following Nonconformities Relate to the D Zone District
   a. Front Yard Setback -§390-39.C(3)
      i. Standard: 20 feet
      ii. Existing: 19.7 feet ***Existing nonconformity to remain***
3. Shade Trees - §390-137.A(5)(a)
   a. Standard: Parking areas with 10 or more parking spaces are required to provide one shade tree for ever 10 cars, distributed evenly throughout the site.
   b. Proposed: No even distribution of shade trees meeting that required rate. ***Design waiver is required.***
4. Parking Aisles - §390-137.A(11)(b)
   a. Standard: Aisles shall be 25 feet wide
   b. Proposed: One aisle is 24 feet wide ***Variance relief is required.***
5. Parking Space Dimensions - §390-137. A(11)(b)
   a. Standard: Parking spaces shall be 9 feet wide by 20 feet deep
   b. Proposed: Parking spaces that are 9 feet wide and 18 feet deep ***Variance relief is required.***

Image 3: South side of building, from Industrial Avenue

Comments and Recommendations

1. D(1) Use Variance: The Applicant requires d(1) variance relief to permit a multi-tenant retail use because the rear portion of the lot is in the O-5 Zone District, where such use is not permitted. The required testimony for such variance is located in the next section of this Report. The portion of the lot that is zoned O-5 is the rear of the lot, which is adjacent to a railroad right-of-way. There are no adjacent residential zones.

2. Expected Tenants: The Applicant should specify any known tenants or tenant types that are likely to occupy the main sales space or any of the smaller retail units. The Applicant

should also state if the spaces will be designed in such a way that they can be converted to restaurants or any other type of non-retail use if prospective non-retail tenants express interest.

3. Refuse Storage and Collection: The site plan shows one approximately 145 square-foot refuse storage area for the whole site. The Applicant should testify as to whether this storage is adequate. The Applicant should also discuss whether the site will use a private hauler and testify as to the ability of a garbage truck to safely access the collection area.

4. Adjacent Buildings: The Applicant should identify for the Board the uses that are currently occupying the adjacent buildings, particularly 686 Grand Avenue.

5. Emergency Vehicle Access: The Applicant should testify regarding the ease of emergency vehicle access to all circulation areas on the lot.

6. Side Yard Parking: The Applicant should indicate whether the parking spaces in the north side yard of the building will be reserved for employees.

    a. Additionally, the Applicant should clarify whether the 22 parking spaces shown in the plans adjacent to the other building on the lot will be used for parking by the retail use. How will the applicant ensure that those parking spaces will not be taken up or used by the current or future occupants of that building?

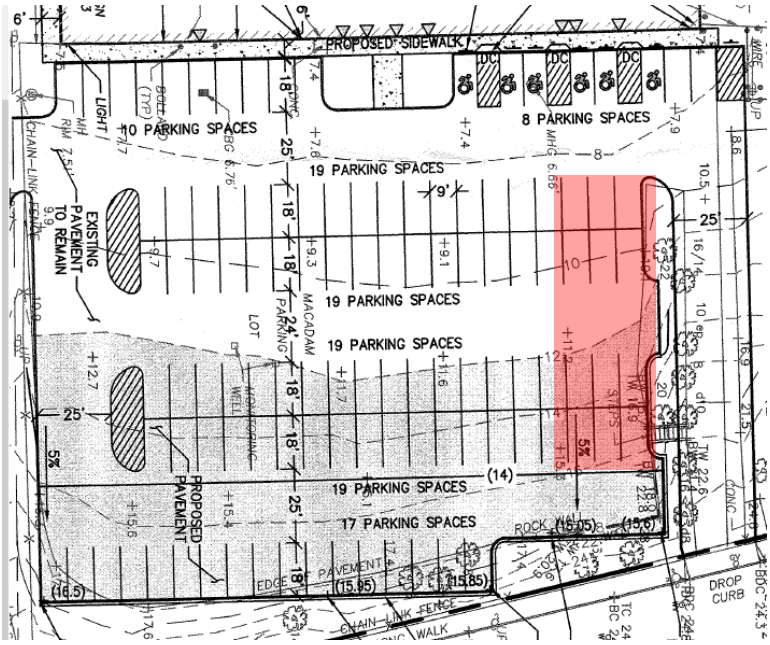
7. Visibility: The Applicant should describe the visibility of the site from Grand Avenue from a wayfinding perspective.

8. Signage - Detached: Although no signage is currently proposed, the Applicant should indicate if freestanding business identification or wayfinding signage will be provided in the front yard.

9. Signage on Plans: The Concept Site Plan indicates the locations of several proposed wall-mounted signs ranging from 1.5 s.f. to 12 s.f. in area along the building perimeter. The Applicant should clarify what these sign locations are intended to represent.

10. Other Signage: The Applicant should testify that any signage not shown on these plans will comply with all applicable signage standards.

11. Parking Lot Circulation: The Applicant is proposing two rows of parking to dead-end with turning bump-outs. DMR recommends that the Board consider requesting that the Applicant remove parking spaces at the dead end in order to provide an aisle connecting the



two rear rows of parking to the main aisle in front of the store entrance. This would improve circulation in the parking area, but result in the loss of up to 16 parking spaces.

12. Lighting: The Applicant is not currently proposing adequate lighting in the side or rear yards of the site for vehicular or pedestrian circulation or parking purposes. The Applicant should revise the plans on sheet ST.01-00 to increase lighting in those areas.

13. Pavement Condition: The parking and circulation areas on the site are in bad condition. The Applicant should confirm that the pavement will be resurfaced or replaced with high quality material.

14. Stormwater Issues and Drainage: Given the elevation of the site compared to Grand Avenue, the Applicant should provide testimony regarding stormwater runoff on the site and what mechanisms will be put in place to ensure that all stormwater is collected and drained away from the parking and circulation areas. This office defers to the Board Engineer to request any documentation or exhibits at this time.

15. Tree Removal: The Applicant should indicate the number of trees that would be removed from the site and whether any of those removed trees would be replaced or relocated.

Image 4: Rear driveway behind building, also known as Railroad Avenue.

D(1) Use Variance

1. Where an applicant requires a d(1) variance to permit a nonconforming use, such variance relief must be granted in accordance with the MLUL at N.J.S.A. 40:55-70d(1) and applicable case law. The Zoning Board of Adjustment may approve a nonconforming use zone "in particular cases and for special reasons," which the Court in Medici clarified to mean the promotion of the general welfare. In addition to proving that the proposed use is beneficial to the general welfare, the applicant must also prove that the property in question is suited for the proposed use.

2. The Applicant must also testify to the negative criteria. Pursuant to the last unlettered paragraph of N.J.S.A. 40:55D-70, no variance or other relief may be granted unless the Applicant must prove that: (i) the variances could be granted without substantial detriment to the public good; and (ii) that the variances will not substantially impair the intent and purposes of the zone plan and zone ordinance. *See*, Jacoby v. Englewood Cliffs

ZBA, 442 N.J. Super. 450, 471 (App. Div. 2015). The phrase "zone plan" as used in the N.J.S.A. 40:55D-70 means the Township "master plan." Medici v. BPR Co., 107 N.J. 1, 4, 21 (1987).

C Variance Relief

The Applicant requires "c" bulk variances to deviate from the municipality's land use standards. An application requiring variance relief from bulk standards must demonstrate that it meets the criteria established in the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55-70c(1) or c(2).

Pursuant to this statutory provision, in the case of the c(1) variance, the relevant analysis for the Board is whether, based on the proofs offered by the Applicant, strict adherence to the zoning provisions is impractical due to:

1. An exceptionally narrow, shallow, or oddly shaped parcel;
2. Exceptional topographic features or conditions of the property; or
3. Other exceptional or extraordinary situations or circumstances that uniquely affect the property or legally existing structures located thereon.

In the case of the c(2) variance, the relevant analysis for the Board is whether, based on the proofs offered by the Applicant, the purposes of the Municipal Land Use Law (MLUL) would be advanced by the deviation from the zoning ordinance requirements and if the benefits of the deviation from the zoning ordinance requirements would substantially outweigh any detriment.

If an Applicant proves the "positive" criteria of a "c(1)" or "c(2)" variance, the Board may not exercise its power to grant the variance unless the so-called "negative criteria" has been satisfied. Pursuant to the last unlettered paragraph of N.J.S.A. 40:55D-70, no variance or other relief may be granted unless the Applicant can prove that: (i) the variances could be granted without substantial detriment to the public good; and (ii) that the variances will not substantially impair the intent and purposes of the zone plan and zone ordinance. *See,* Jacoby v. Englewood Cliffs ZBA, 442 N.J. Super. 450, 471 (App. Div. 2015). The phrase "zone plan" as used in the N.J.S.A. 40:55D-70 means the Township "master plan." Medici v. BPR Co., 107 N.J. 1, 4, 21 (1987).

Conclusion

The Applicant should present testimony pertaining to the proofs necessary for the Board to consider granting variance relief for the nonconforming conditions identified and summarized in this report. The Applicant should also provide testimony relating to the items discussed in the **Comments and Recommendations** section of this report.

Sincerely,

Daniel Hauben, PP, AICP
DMR Architects

CC: Richard Arango, PE, CME, Board Engineer
Francis Reiner, PP, LLA, Borough Planner
John Schettino, Esq., Board Attorney
Diane Testa, Esq., Applicant's Attorney