

**PLANNING & ZONING ANALYSIS
BLOCK 2409, LOT 8
TEANECK, NEW JERSEY**

REPORT

November 23, 2009

**Prepared for:
554 Queen Anne Road, Inc.**

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This copy conforms to the original copy of this report which is stamped and signed by Michael F. Kauker, Professional Planner's License Number 993; in accordance with *N.J.S.A. 45:14A* regulating the practice of Professional Planning in the State of New Jersey.

Michael F. Kauker

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INTRODUCTION

The applicant, 554 Queen Anne Road, Inc., has submitted an application to the Township of Teaneck Zoning Board of Adjustment for a use variance to allow for the use of part of a residential structure as a synagogue for prayer services (House of Worship) at 544 Queen Anne Road. Kauker & Kauker, LLC, has been retained by the applicant to evaluate their application for the requested variances and to prepare a planning and zoning analysis in support of the application for variances.

The following report consists of 3 major sections. The first section describes the subject property, surrounding area and the proposed project. The second section documents the proposal's relationship to the Township's Zoning Ordinance. The third section addresses the substantive planning and zoning issues as they relate to the application for the use variance and the statutory requirements of the MLUL.

PROJECT REVIEW AND ANALYSIS

Property Description

The subject property is located in South Cedar section of the Township of Teaneck on the west side of Queen Anne Road. It is located within the Township's R-S – Residential Single-Family Detached District and is identified as Block 2409, Lot 8 in Teaneck's tax records.

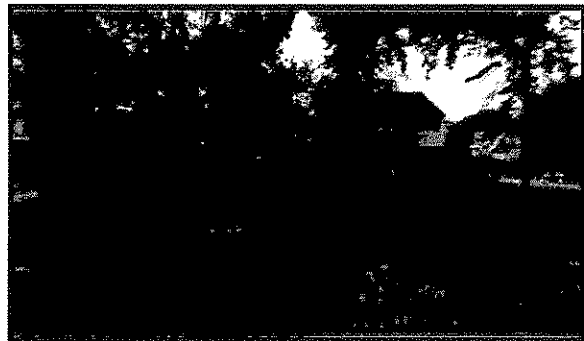
The property is corner lot with a rectangular shape, having 110 feet fronting along Queen Anne Road and 130 feet fronting along Van Buren Avenue. The lot has an area of 14,300 square feet. The subject property is currently occupied by a 2 ½-story frame dwelling. There is a driveway located off of Van Buren Avenue, to the rear of the structure, which provides vehicular ingress and egress for the site. The topography of the property is generally flat. The following is an aerial photograph of the site in its current condition.



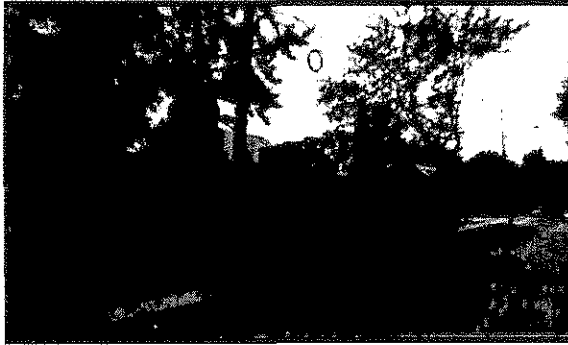
Source: Microsoft Live Search Maps

Surrounding Conditions

The subject property is located in the South Cedar neighborhood of Teaneck that is predominately single-family residential in nature. Many of the single-family homes in the neighborhood are also utilized as Houses of Worship (for prayer services), as is being proposed by the applicant. The following photographs depict the subject property and the surrounding area:



Property in Question (P.Q.)

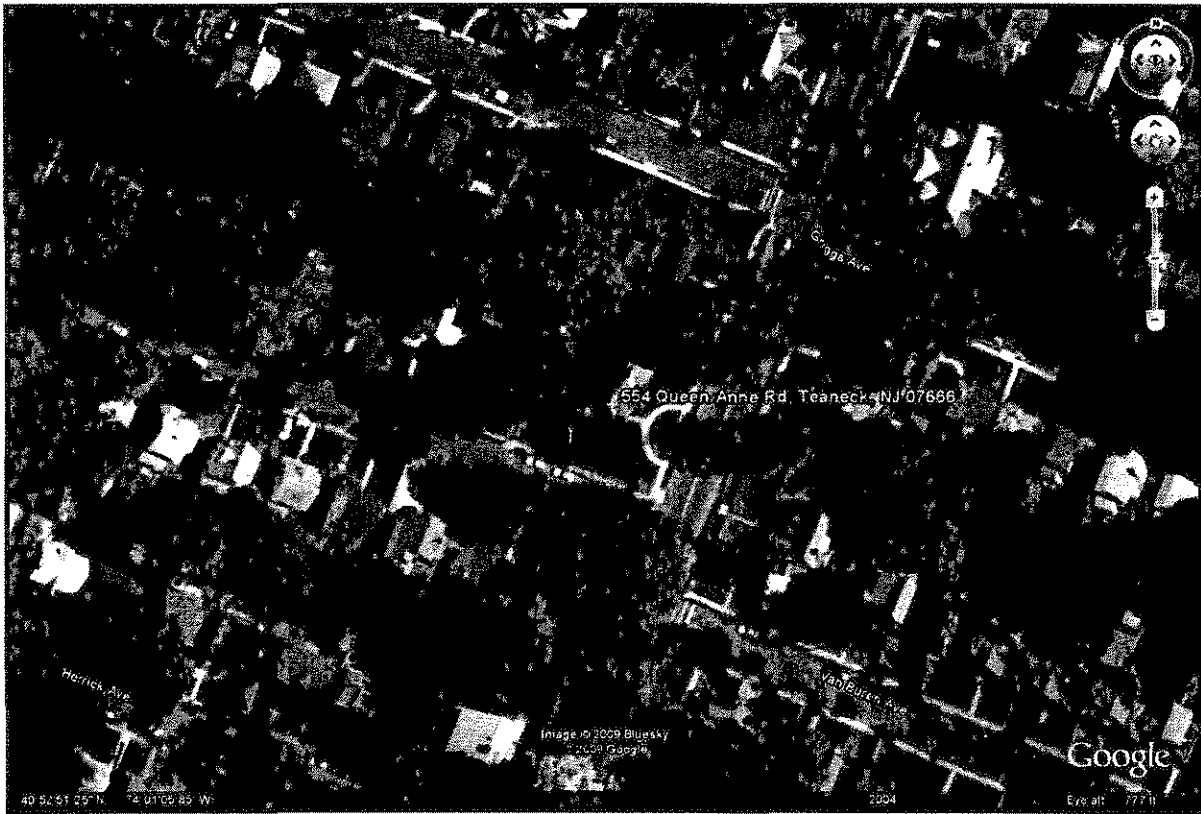


North of the P.Q.



East of the P.Q.

South of the P.Q.



Source: Google Earth & Google Street View

Proposed Use

The applicant is seeking approval to utilize an existing portion of the residence as a House of Worship. The applicant proposes to utilize space in the house for prayer services to meet the needs of his congregation. The house will also serve the congregation for Jewish High Holidays. The applicant states that there are approximately 25 families in his congregation.

RELATIONSHIP TO MASTER PLAN & ZONING ORDINANCE

Master Plan

Teaneck's Master Plan provides a framework for development within the Township. The Master Plan was recently adopted on April 12, 2007. The proposed application does not interfere with any of the goal or objectives of the adopted Master Plan.

Zoning Ordinance

The property in question is located in the R-S – Residential Single-Family Detached District. The following uses are permitted in this zone:

Single-Family Detached Dwelling

The following uses are accessory uses in this zone:

Home Occupation

Home Professional Office

Swimming Pool

Private Garage

Boarders or Roomers

Tennis Courts

Storage Shed (1) and Storage Bin (1)

Satellite Antennas

Other accessory uses customarily associated with a single-family dwelling

The following uses are conditional uses in this zone: (see 33-25 for specific conditions)

Home Professional Office (between 2 and 6 employees)

Public or private nursery, elementary, or secondary schools, but not trade or business schools

Quasi-Public Housing

Houses of Worship

Group-Care Housing

A Synagogue or House of Worship is not specifically permitted in the R-S Single-Family Detached District, but is permitted as a conditional use. However, the proposed use does not meet all of the conditions set forth in the Teaneck Zoning Ordinance for Houses of Worship, therefore a d(3) conditional use variance will also be required. The rationale in support of the granting of these variances will be presented below.

RELATIONSHIP TO STATUTORY CRITERIA

The New Jersey Municipal Land Use Law (MLUL) at *NJSA 40:55D-70* sets forth the statutory requirements for variance relief. The applicant is requesting a d(3) Conditional Use Variance as classified under the MLUL. The remainder of this section outlines and addresses the criteria in the MLUL and applicable New Jersey case law regarding variances.

D(3) Conditional Use Variance

When dealing with (d)(3) variances, permitting deviation from standards pertaining solely to a conditional use, the special reasons must be "relevant to the nature of the deviation from the ordinance." Coventry Square, Inc. v. Westwood Zoning Bd. of Adjustment, 138 N.J. 285, 297-98 (1994). Thus, the applicant must show that the proposed deviation is not substantial by establishing "that the site proposed for the conditional use, in the context of the applicant's proposed site plan, continues to be an appropriate site for the conditional use notwithstanding the

deviations from one or more conditions imposed by the ordinance. . . ." Id. at 298. In other words, a board could find a special reason "if it is persuaded that the non-compliance [375 N.J. Super. 50] with conditions does not affect the suitability of the site for the conditional use." Id. at 298-99.

According to the text for the R-S District, a House of Worship is a conditional use in the district. However, the applicant does not meet all of the conditions set forth in the zoning ordinance, therefore the applicant is requesting a d(3) Conditional Use Variance. When considering a d(3) Conditional Use Variance requested, the zoning proofs of the Coventry case are utilized.

- Coventry v. Westwood
 - Declared a variance for a conditional use is more like a permitted use, and therefore, that the standards whether to grant a conditional use variance are less burdensome than those applicable to prohibited uses granted variances d(1) or d(2), but also unlike the standard applied to a "c"
 - Whether this change is desirable depends on the governing body's *intended purpose* for conditional uses
 - Positive criteria is presumptively met, as the governing body has allowed that use in the zone (with certain conditions)
 - The Court stated that the conditional use applicant's inability to comply with some of the ordinance's conditions need not materially affect the appropriateness of the site for the use
 - How to apply the negative criteria:
 - With respect to the first prong of the neg. criteria, the focus is on the effect on surrounding properties of the grant of the variance
 - The Bd. Of Adjustment must evaluate the impact of the proposed conditional use variance (the actual deviation from the ordinance) upon the adjacent properties and determine whether or not it will cause such damage to the character of the neighborhood as to constitute "substantial detriment to the public good"

- With respect to the Second prong, the bd. of adjustment must be satisfied that the grant of the conditional use variance will not “substantially impair the intent and purpose of the zone plan and zoning ordinance”
- The board of adjustment must be satisfied that the grant of the conditional use variance for the specific project at the designated site is reconcilable with the municipality’s legislative determination that the condition should be imposed on all conditional uses in that zoning district.

The following section describes the conditions not met by the applicant and the reasons or justifications for non-compliance.

Lot Area

A House of Worship in the R-S District requires ½ acre lot area or 21,780 square feet, whereas the applicant’s site only consists of 14,300 square feet. The lot is oversized for a residential lot, but does not meet the conditional requirement for the House of Worship. However, the lot area is a pre-existing non-conforming condition.

Front Yard Setback

A House of Worship in the R-S District requires a front yard setback of 33 feet (requirement is 25 feet or distance equal to the height of the building, which is 33 feet), whereas the applicant’s site only has a front yard setback of 25.26 feet. This is a pre-existing non-conforming condition.

Off-Street Parking

The proposed House of Worship’s assembly area of 1,900 square feet requires 19 parking spaces in addition to the 2 parking spaces required for the residence itself, for a total of 21 parking spaces. The applicant proposes 6 parking spaces (1 of which will be handicapped), the site currently has 5 parking spaces. Due to the nature of the synagogue being a neighborhood serving religious institution, most of the congregation will arrive by walking, therefore the demand for parking is less. Please note that there neighborhood also is served by an abundance of on-street parking.

Landscape Buffer (Van Buren Ave.)

The required side yard landscape buffer area for a House of Worship in the R-S District is 15 feet, whereas the existing conditions on the site provide 0 feet. This is a pre-existing non-conforming condition.

Lot Area (Queen Anne Rd.)

The required side yard landscape buffer area for a House of Worship in the R-S District is 15 feet, whereas the existing conditions on the site provide 0 feet. This is a pre-existing non-conforming condition.

Exterior Design

The exterior design of the structure to be used in the capacity of a House of Worship must conform to the general character of the area. The family room addition was constructed with prior approvals and thus is a pre-existing non-conforming condition.

Parking in the Side Yard

Parking is proposed in both side yards, however the zoning ordinance states that paving in a side yard must be limited to a 12 ft. wide driveway leading to a garage or parking space in the rear yard, or a walkway no wider than 3 feet. Only one such driveway and one such walkway shall be permitted in the side yard. This is a pre-existing non-conforming condition.

Negative Criteria

No substantial detriment to the public good

Granting the requested variance would not have a negative impact on the surrounding area or Township as the proposed House of Worship will be located on a site that can adequately accommodate the proposed use, as others have in the neighborhood and throughout Teaneck.

In addition, as noted before in this report, the proposed use does not encompass all of the aspects of a House of Worship, and is much less intense of a use than the zone and its conditions contemplate.

The proposed project will not create a significant increase in traffic, as the congregation will arrive to the House of Worship by walking. In addition, some parking will be provided on the site and there is the ability to park on the street throughout the neighborhood.

No substantial impairment to the intent and purpose of the zone plan and zoning ordinance

Granting of the variances to permit the proposed use would not impair intent or purpose of the Teaneck Master Plan or Zoning Ordinance as it would allow for a use contemplated in the zone and prevalent throughout the Township.

CONCLUSION

In closing, it is my opinion that the applicant has met its burden of proof and on balance the positive criteria outweigh the negative criteria and that the Board can feel confident granting the requested variances.