

PRINCETON PLANNING BOARD

In the Matter of the Application of)	
Jeffrey M. Siegel/ML7 90 Nassau, LLC)	FINDINGS OF FACT
)	AND
et al (Signage) for Minor Site Plan)	CONCLUSIONS OF LAW
Approval with Variances)	
)	File No. P2222-253PM
)	
)	Approval granted: November 3, 2022

Be it resolved by the Planning Board of the Municipality of Princeton that the action of this Board on November 3, 2022 in this matter is hereby memorialized by the adoption of this written decision setting forth the Board's findings and conclusions.

BACKGROUND

1. The site (“Site”) is identified as Lot 38 of Block 20.01 in the Central Business (CB) Zoning District of the former Borough of Princeton. Located on the northwest corner of Nassau Street and Witherspoon Street in the Central Historic District, the Site is bordered by commercial property to the north and west. The Site is developed with a 5-story masonry building. Compass, a real estate company, occupies space on the second floor.

PROPOSED PLAN

2. The Applicant originally proposed the following seven signs:

[Table on next page]

	Size (s.f.)	Description	Variance Required?
Sign #1	6.67	Raised metal façade sign over the main entrance on Witherspoon Street.	No
Sign #2	2	Glazed/painted/vinyl sign on the main entrance door on Witherspoon Street.	No
Sign #3	2.54	Raised metal façade sign on wall behind window glazing next to the main entrance of the building on Nassau Street.	Yes. Non-conforming. Only 1 sign permitted for businesses on upper floors.
Sign #4	3.7	Glazed/painted/vinyl sign on the same window glazing as Sign #3, below it.	Yes. Non-conforming. Only 1 glazed sign permitted for businesses on upper floors, not to exceed 2 s.f.
Sign #5	10.01	Façade internally illuminated sign/digital display monitor behind window glazing on Nassau Street façade of the building.	Yes. Non-conforming. Only 1 sign permitted for businesses on upper floors. Internal illumination prohibited.
Sign #6	8	Projecting illuminated (halo lit) blade sign on façade on Witherspoon Street side of building.	Yes. Non-conforming. Only 1 sign permitted for businesses on upper floors.
Sign #7	2.54	Awning on façade of Witherspoon Street side of building.	Withdrawn.

3. Sign #7 was withdrawn, and therefore four variances were considered by the Board. Sign #1 and Sign #2 were previously approved administratively under a sign permit. Although the sign ordinance for uses on rear or upper floors envisions a directory-type sign for all such uses, there is no prohibition on having one such use utilizing the sign, and Signs ## 1 and 2 comply with the sign ordinance.

RELIEF SOUGHT

4. The Applicant seeks minor site plan approval for a sign package with variances.

5. The Applicant originally sought five variances, but, as noted, Sign #7 was withdrawn. The variances sought are as follows:

- From Section B17A-368(4), which provides, in part, that business uses located in the rear or upper floors may have one non-illuminated business sign to be shared by all such uses on the premises, the total area of which shall not exceed 8 s.f., and may in addition have one painted sign, to be shared by all such uses, on the glass of a glass or partially glass door serving as the main entrance to such uses, and which painted sign may not exceed 2 s.f. in size, whereas Signs ##3-6 exceed these requirements.

6. The following minor site plan submission waivers were also requested, as there is no site work associated with this application:

- Item (a)5 - Fire Protection Plan
- Item (b) - Site Plan, specifically elements 6, 7, 8, and 11
- Item (c) - Existing and Proposed Features, specifically elements 1 through 8 and 10 through 14
- Item (d) - Building Drawings, specifically elements 1 through 4
- Item (f) - Landscaping, Lighting, and Signage Plan, specifically elements 1 and 3
- Item (g) - Required Notes for All Plans, specifically elements 1 and 3

THE APPLICANT

7. The Applicant is Jeffrey M. Siegel, the owner representative and Controlling Manager of the owner entities, ML7 90 Nassau, LLC, ML7 Investment Holdings Sub II, LLC, and ML7 VVS Sub II, LLC.

NOTICE AND HEARING

8. Proof of notice and publication was filed and found to be satisfactory.

9. The notice stated that the hearing would be held at the meeting of the Board scheduled for November 3, 2022, and the hearing was heard on such date. At the hearing, the Applicant and all other interested parties were given the opportunity to present evidence and to be heard.

PLANS PRESENTED

10. At the hearing, the Board considered the following plans:
- Minor Site Plans, Architectural Drawings AI-1 and AI-2, prepared by JZA+D, dated July 6, 2022

MUNICIPAL REPORTS

11. At the hearing, the Board considered the following reports prepared by municipal officials and bodies and consultants to the Board:

- Memorandum from Dan Dobromilsky to the Board, dated October 25, 2022
- Memorandum from Daniel Weissman, P.E., Land Use Engineer and Derek Bridger, Zoning Officer to the Board, dated September 23, 2022 and revised October 19, 2022
- Memorandum from Elizabeth H. Kim, Historic Preservation Officer to Historic Preservation Committee, dated October 15, 2022 and revised October 19, 2022
- Memorandum from Julie Capozzoli, Chairperson, Princeton Historic Preservation Commission, dated October 24, 2022

EXHIBITS AND APPLICANT'S REPORTS AND SUBMISSIONS

12. At the hearing, the Board considered the following reports and submissions prepared by the Applicant's consultants and advisors and the following exhibits that were introduced as evidence during the course of the hearing:

- Exhibit A-1 – A-7 – 19 slides total, which includes Exhibit Pages A.7 and A.8 showing photos of other realtors' offices with signs
- Application for Site Plan Review - Classification for Minor Site Development, dated July 7, 2022, and Narrative Report, dated July 6, 2022
- Minor Site Plan Checklist, dated July 7, 2022
- Notice of Appeal and Application for Development, dated July 7, 2022

TESTIMONY AND PUBLIC INPUT

13. The testimony presented by and on behalf of the applicant and advice by Board consultants were given by the following persons:

Jared Witt, Esq. represented the Applicant. Joshua Zinder, R.A., its architect; Tyler Ladu, the owner's representative, and Dakhil Nakhoul, a representative of Compass Real Estate, testified on the Applicant's behalf.

The following municipal staff and professionals gave advice to the Board at the hearing:

Derek Bridger, Zoning Officer, Elizabeth Kim, P.L.A., Historic Preservation Officer, and Gerald J. Muller, Esq.

The statements of the members of the public made during the course of the hearing may be summarized as follows: None.

FINDINGS AND CONCLUSIONS RE: MINOR SITE PLAN APPROVAL

14. The application has been reviewed in accordance with the criteria set forth in Sections 10B-226 (a) through (p) of the Ordinance, as follows:

(a) Ecological Considerations. Pursuant to Section 10B-226(a) of the Ordinance, the development shall result in minimum impairment of the regenerative capacity of aquifers and other groundwater supplies, result in minimum degradation of unique land types and have minimal adverse impact upon the critical areas.

Proposed Signs ##3 and 4 will have minimal effect on the ecological features of the Site and surrounding area. Accordingly, the Board finds that this criterion is satisfied.

(b) Landscape. Pursuant to Section 10B-226(b) of the Ordinance, the historic and natural character of the landscape shall be preserved, insofar as practical and environmentally desirable, by minimizing tree and soil removal. If the development of the site necessitates the removal of established trees, special attention shall be given to the planting of replacements or to other landscape treatment.

No landscaping is proposed or will be affected. This criterion is therefore satisfied.

(c) Relation of Proposed Structures to the Environment. Pursuant to Section 10B-226(c) of the Ordinance, proposed structures are to be related harmoniously to themselves, the terrain, existing buildings, roads and historically significant features, if any.

Proposed Signs ## 3 and 4 are harmonious with the neighboring properties. This criterion is therefore satisfied.

(d) Scenic, Historical, Archeological, and Landmark Sites. Pursuant to Section 10B-226(d) of the Ordinance, scenic, historical, archaeological, and landmark sites and features that are located on or adjacent to the proposed development shall be preserved and protected insofar as practicable.

The Site is located in the Central Historic District, and the application was reviewed by the Historic Preservation Committee (“HPC”). The HPC provided comments and recommendations that guided the Board’s consideration of the application. The Board find this criterion to be satisfied.

(e) Surface Water Drainage. Pursuant to Section 10B-227(e) of the Ordinance, a proposed development shall be designed to provide for proper surface water management through a system of controlled drainage.

The project is not subject to the regulations of Stormwater Management Ordinance since there is no change to impervious surface and the area of disturbance is less than half an acre. Accordingly, the Board finds that this criterion is satisfied.

(f) Driveway Connections to Public Streets. Pursuant to Section 10B-226(f) of the Ordinance, all entrances and exit driveways to public streets shall be located with due consideration for traffic flow and so as to afford maximum safety to traffic on the street on the public streets.

No connections to public streets are proposed. Therefore, this criterion does not apply.

(g) Traffic Effects. Pursuant to Section 10B-226 (g) of the Ordinance, the site development proposal shall minimize adverse traffic effects on the road networks serving the area in question either existing or included in the Master Plan.

No traffic impact is anticipated. This criterion is therefore satisfied.

(h) Pedestrian and Bicycle Safety. Pursuant to Section 10B-226 (h) of the Ordinance, pedestrian and bicycle circulation shall be separated from motor vehicle circulation. Safe and convenient pedestrian circulation shall be provided on the site and its approaches. The pedestrian plan shall be designed to minimize adverse effects of vehicular traffic upon sidewalks and bicycle paths.

No impacts on pedestrian or bicycle safety are anticipated. This criterion is therefore satisfied.

(i) On-Site Parking and Circulation. Pursuant to Section 10B-226 (i) of the Ordinance, the location, width, and layout of interior drives shall be appropriate for the proposed interior circulation. The location and layout of accessory off-street parking and loading spaces shall provide for efficient circulation and the safety of pedestrians and vehicles.

No parking, proposed or existing, is associated with this Site. Therefore, this criterion does not apply.

(j) Utility Services. Pursuant to Section 10B-226 (j) of the Ordinance, the applicant must achieve assurances that the necessary infrastructure and utilities are available from on-site, municipal, or private systems, including sanitary sewer, potable water, and irrigation water.

No modification or new services are proposed. Therefore, this criterion does not apply.

(k) Disposal of Wastes. Pursuant to Section 10B-226 (k) of the Ordinance, there shall be adequate provision for the disposal of all solid, liquid, and gaseous wastes and for the avoidance of odors and other air pollutants.

No waste is generated by the proposed signage. Therefore, this criterion does not apply.

(l) Noise. Pursuant to Section 10B-226 (l) of the Ordinance, all applicable federal, state, and local regulations dealing with the control of outside noise which is expected to be generated at the site shall be complied with.

The Applicant will adhere to municipal noise requirements during construction. Therefore, this criterion is satisfied.

(m) Advertising Features. Pursuant to Section 10B-226 (m) of the Ordinance, the size, location, height, design color, texture, lighting and materials of the signs or outdoor advertising structures features shall not detract from the design of proposed buildings and structures of the surrounding properties

The Applicant proposed five new signs, one of which, Sign #7, was withdrawn. For the reasons set forth below with respect to variances, and subject to the Applicant meeting the condition of approval, the Board finds that this criterion has been satisfied as to Signs ## 3 and 4, but not Signs ## 5 and 6.

(n) Special Features. Pursuant to Section 10B-226(n) of the Ordinance, outside storage areas, service and machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent any adverse effect upon the environment or nearby property.

None are proposed. Therefore, this criterion does not apply.

(o) Waterway Corridors. Pursuant to Section 10B-226(o) of the Ordinance, site plans shall be designed so as to preserve from disturbance waterway corridors.

There are no waterway corridors on or adjacent to the Site. Therefore, this criterion does not apply.

(p) Special Technological Impacts. Pursuant to Section 10B-226(p) of the Ordinance, where the proposed site development involves emissions, noise, wastes, materials, equipment, or other hazards which require specialized expertise to evaluate, the administrative officer shall refer the applicant's submissions to the municipal-retained environmental consultant (or to several consultants where more than one field of expertise is involved), requesting an independent review of the environmental impact of the project to be set forth in a report to the board having review jurisdiction. The cost of these studies shall be charged to the applicant's escrow account established pursuant to section 10B-32.

No special technological impacts are anticipated. Therefore, this criterion does not apply.

15. Conclusion re minor site plan approval. The Board finds that, with the variances granted and condition imposed, the Applicant has satisfied all municipal minor site plan requirements. Minor site plan approval is, accordingly, granted.

FINDINGS AND CONCLUSIONS RE: VARIANCES

16. The application necessitates four variances. The variances and the Board's action on them are as follows:

a. Variances: From Section B17A-368(4), which provides, in part, that business uses located in the rear or upper floors may have one non-illuminated business sign to be shared by all such uses on the premises, the total area of which shall not exceed 8 s.f. and may in addition have one painted sign, to be shared by all such uses, on the glass of a glass or partially glass door serving as the main entrance to such uses, and which painted sign may not exceed 2 s.f. in size, whereas Signs ## 3-6 exceed these requirements.

Variances as to Signs ##3 and 4 granted. Granting these variances would advance the following Municipal Land Use Law purposes: “a,” which is to provide for the appropriate development of land and “j,” which is to promote the conservation of historic sites and districts. An entrance on Nassau Street goes directly to an elevator that provides access to the second floor. Sign #3 is a raised metal sign behind the glass set about 30 inches back on a soffit. Sign #4 is a Compass slogan sign on the Nassau Street façade window glazing. A sign that included a different Compass slogan was approved administratively for the Witherspoon Street door glazing, and it is appropriate that similar signage should be permitted on the Nassau Street façade window glazing, subject to the condition of this approval that the slogan sign be limited to 2 s.f. The signs are necessary wayfinding signs and, although modern in design, are visually compatible with the existing structure and streetscapes within the Historic Preservation District and complement, while contrasting with, the Classical Revival style of the historic building. The benefits are therefore substantial, while there are no detriments. Strict application of the Ordinance, on the other hand, would impose undue hardship on the developer by depriving it of wayfinding information directing Compass patrons to its Nassau Street entrance, while there is no obvious downside. The benefits therefore outweigh the detriments, and the “flexible c” positive criteria are satisfied.

The negative criteria are satisfied as well. These variances can be granted without substantial detriment to the public good for the reasons provided. Nor will granting the variances substantially impair the intent and purpose of the Zone Plan, such as to maintain a balanced community that offers a mix of land uses and preserves the existing character and mix of

commercial, residential, and other land uses, or impair the intent and purpose of the Zoning Ordinance, which is to limit signage of businesses above the first floor, the additional approved signage being appropriate because there is a direct entry to Compass on Nassau Street. Accordingly, and subject to the condition of approval, the variances for Signs ## 3 and 4 are granted.

Variances as to Signs ## 5 and 6 denied. The Board finds that proposed Signs ##5 and 6 are excessive and impermissible within the scheme of Downtown Princeton signage and the Ordinance. Sign #5 was to display images to be constantly changing during a typical 24-hour day for real estate listing purposes. Section B17A-369 specifically prohibits “flashing signs or moving signs, including any sign or device for which the artificial light is not maintained stationary or constant in intensity and color at all times when in use” (subsection (b)), and “electronic variable message signs” (subsection (e)). Section B17A-369 further provides that if any sign is “situated within 20 feet of a street, the direct source of light shall not be visible from the street or any neighboring lots or uses” and sign illumination “shall be arranged so that no substantial light or glare is directed or reflected on to adjacent streets or properties and the source of the illumination is not visibly noticeable from adjacent properties.” Rather, sign illumination is to be “accomplished through external lighting trained on the face or faces of the sign.” Proposed Sign #5 fails to meet any of these requirements. Proposed Sign #6 was to be an 8 s.f. halo lit illuminated projecting (blade) sign and is not a permitted type of sign for businesses on upper floors. The Board finds that this sign, like proposed Sign #5, is not appropriate or compatible with the surrounding neighborhood and would adversely affect the quality and historic value of the Historic Preservation District. Accordingly, variances for Signs ##5 and 6 are denied.

FINDINGS AND CONCLUSIONS RE: SUBMISSION WAIVERS

17. The Applicant requested six minor site plan checklist submission waivers for items ordinarily required when site work is involved. As no site work is proposed in this

application, the Board finds these waiver requests to be reasonable and within the general purposes and intent of the Ordinance. Literal enforcement of these requirements would exact undue hardship upon the Applicant by requiring information that does not apply. Accordingly, these waivers are granted.

CLASSIFICATION FOR MINOR SITE PLAN DEVELOPMENT

18. Classification for minor site development requires that “the administrative officer in consultation with the municipal engineer and, in appropriate cases, with the storm drainage engineer shall review each classification application that is filed and prepare a report thereon, including any recommendations as to whether the proposed site development should be classified as major or minor, being guided by the considerations set forth in Sections 10B-210, 10B-211 and 10B-226.” If, after such review it is determined that “no major detrimental effects nor so many minor detrimental effects as cumulatively constitute a major detrimental effect are to be anticipated in any of the foregoing considerations” and that the application conforms to the definition of "minor site plan" as set forth in Section 10B-2, the application is classified as a minor site plan... § T10B-211.

19. In this case, minor site plan classification was recommended by the Site Plan Subcommittee not because of a decision that there is no cumulative detrimental impacts but because starting over with full blown information was unnecessary in this circumstance.

CONDITIONS REQUIRED

20. The Board finds that, in order to address the concerns expressed during the course of the hearing and to limit the relief to that reasonably necessary to satisfy the applicant's legitimate requirements, the relief granted is subject to the following conditions:

a. Sign #4, the slogan sign on the Nassau Street façade window glazing, shall be limited to two s.f.

CONCLUSION

Based on the foregoing, the Board at its November 3, 2022 meeting voted to approve the plans with revisions made therein and as supplemented and modified by the exhibits and to grant the relief identified above subject to the conditions and to be revised in accordance with the conditions set forth herein.

Adopted:

Vote on motion: 11/3/2022

FOR: Wilson, Capozzoli, Chao, Cohen, O'Donnell, Sacks, Taylor, Tech-Czarny

AGAINST: McGowen

ABSTAIN: No one

RECUSED: No one

***INELIGIBLE TO VOTE: Quinn - ABSENT
Bottigheimer – 10 Board members in attendance***

Vote on findings:

FOR:

AGAINST:

ABSTAIN: