



## PROPOSED PLAN

3. The Applicant proposes to demolish the existing structure and construct a 7,329 s.f. three-story mixed-use building consisting of a bakery and full-service restaurant on the first floor, two 1-bedroom residential units on the second floor, one 2-bedroom residential unit on the third floor, and a green roof. The plan includes a 500 s.f. outdoor seating area at street level for the restaurant. The existing driveway is to be reconstructed to accommodate a dumpster enclosure and covered bike parking rack. Separate street-level entrances are proposed for the kitchen, the dwelling units, and the restaurant/bakery.

4. There is no existing parking on site, and no parking is proposed.

5. The proposed use is permitted in the CB Zoning District.

## RELIEF SOUGHT

6. The Applicant seeks preliminary and final major site plan approval with a variance.

7. The variance being requested is:

- From Section B17A-315 and B17A-316, which require 11 parking spaces, whereas no parking spaces are being provided.

## THE APPLICANT

8. The applicant is CRX Associates, LLC, which is also the owner.

## NOTICE AND HEARING

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

10. The notice stated that the hearing would be held at the meeting of the Board scheduled for September 8, 2022, but the application was not heard on such date. By public announcement of the Board, the hearing was carried to October 20, 2022 with no additional notice required. At the hearing, the Applicant and all other interested parties were given the opportunity to present evidence and to be heard.

## PLANS PRESENTED

11. At the hearing, the Board considered the following plans:
- Major Site Plans, Civil Drawings CVR and CE-1 through CE-7 prepared by Van Note-Harvey Associates, Inc., dated March 18, 2022
  - Major Site Plans, Boundary, Topographic, Utility Survey Sheet No. 1 prepared by Van Note-Harvey Associates, Inc. dated November 3, 2021
  - Major Site Plans, Architectural Drawings A0.1, A0.2, and A0.3 prepared by Dowling Studios dated March 30, 2022
  - HVAC, Electrical & Plumbing Zoning Plan MZ-1 prepared by Princeton Engineering Group, LLC dated March 30, 2022
  - Fire Protection Plan prepared by Van Note-Harvey Associates, Inc. dated March 18, 2022

## MUNICIPAL REPORTS

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

- Memorandum from Dan Dobromilsky, L.L.A. to the Board, dated August 9, 2022
- Memorandum from Daniel Weissman, P.E., Land Use Engineer and Derek Bridger, Zoning Officer to the Board, dated July 8, 2022
- Memorandum from Julie Capozzoli, Chairperson, Princeton Historic Preservation District, to the Board, dated August 5, 2022
- Memorandum from Tammy L Sands, Chair, Princeton Environmental Commission to the Board, dated July 27, 2022
- Memorandum from Princeton Shade Tree Commission to the Board dated August 1, 2022
- Memorandum from Elizabeth Kim, P.L.A. Historic Preservation Officer to the Board, dated July 17, 2022

## EXHIBITS AND APPLICANT'S REPORTS AND SUBMISSIONS

13. 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 – Front view of 78-74 Witherspoon
- Exhibit A-2 – AO.1
- Exhibit A-3 – First floor plan (part of A-2)
- Exhibit A-4 – Proposed basement plan
- Exhibit A-5 – Drawing – second floor plan
- Exhibit A-6 – Drawing 4 – third floor plan
- Exhibit A-7 – Drawing 5 – roof plan
- Exhibit A-8 – AO.2

- Application for Site Plan Review - Major Site Development, dated March 23, 2022
- Major Site Plan Checklist, dated March 23, 2022
- Green Checklist Response for CRX Associates, LLC
- Engineering Report prepared by Van Note-Harvey Associates, Inc. dated March 18, 2022
- Traffic and Parking Impact Analysis prepared by BFJ Planning, dated June 30, 2022

#### TESTIMONY AND PUBLIC INPUT

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

Thomas M. Letizia, Esq. represented the Applicant. Carlo Momo, co-owner of with the Applicant (Terra Momo Restaurant Group); Ralph Petrella, P.E., its professional engineer; Leslie Dowling, A.I.A., its professional architect; and Georges Jacquemart, P.E, its traffic engineer, testified on the Applicant's behalf.

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

Dan Dobromilsky, L.L.A.; Daniel Weissman, P.E., Derek Bridger, Zoning 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:

Lauren Seem, 1 Morven Place, stated that the parking spaces are necessary and the parking variance is detrimental to the community.

FINDINGS AND CONCLUSIONS RE: PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL

15. 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.

The site is already fully developed and the proposed site improvements will have minimal ecological/environmental impact, there being no environmental constraints or wetlands on site nor any endangered species present. No change to impervious coverage will result, and the overall drainage pattern will not change. The development includes appropriate stormwater management and maintains the existing geologic and topographic features. The building design will include installation of a green roof on a portion of the proposed building, which will help mitigate any environmental impact. 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.

There is currently no landscaping on site aside from planters. The proposed building includes a 1,050 s.f. green roof, a greenscreen wall trellis system on the Witherspoon Street façade, ivy covered trellises on the residential terraces, and planters at the restaurant's outdoor seating area. The Landscape Architect provided comments and

recommendations, and conditions reflecting these are set forth below. Subject to the Applicant meeting these conditions, the Board finds that this criterion is 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.

The existing grading, street connections and sidewalk relationship will be largely preserved by the proposed development, while the existing concrete driveway and portions of the existing concrete sidewalk are being reconstructed in kind to accommodate the new development. The building height and design are consistent with the CB Zoning District and with the surrounding neighborhood, and the building footprint provides a 20-foot setback from the public park to the north. For the forgoing reasons, the Board finds that this criterion is 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 situated between the Central Historic District and the Jackson-Witherspoon Historic District, and while not in a historic district, the Historic Preservation Committee (“HPC”) provided a courtesy review upon the Board’s request. The HPC identified the Site as “a contributing property in the nomination report of the Witherspoon-Jackson Historic District” and an “important historic property that is deeply connected to the commerce and the historic landscape of downtown Princeton but also to the cultural history of the Witherspoon-Jackson Historic District.” The HPC, in its memo dated July 17, 2022, provided comments and recommendations, many of which are set forth in the conditions below, such as use of warm LED lighting, and consistency of sidewalk construction with Witherspoon Street Improvements project. Subject to the Applicant meeting these conditions of approval, 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 section 10B-227 of the Princeton Code since there is no increase in impervious area and the general drainage pattern of the site will remain unchanged. Though stormwater management is not required, the Applicant is proposing to install a 1,050 s.f. green roof and green façade. 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.

An existing driveway access exists on Witherspoon Street and will be reconstructed but largely unchanged. Thus, no appreciable change is anticipated to this element. Accordingly, the Board finds that this criterion is satisfied.

(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.

Minimal impact on traffic is expected from the development, as described in the Applicant's traffic analysis, with which municipal staff take no exception. Only a minor increase of trips is anticipated as a result of the new development. Accordingly, the Board finds that this criterion is 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.

Pedestrian circulation on the existing sidewalk along Witherspoon Street will not be impacted during construction, and the sidewalk will remain. Accordingly, the Board finds that this criterion is 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 is being proposed, for which a variance is sought. A covered bicycle rack is being provided to encourage continued use of bicycle transportation to the location, and bicycle storage will also be located in the basement for use by residents of the building. For these reasons, and the reasons provided in the Findings and Conclusions with respect to the variance, the Board finds that this criterion is satisfied.

(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.

The Site is currently served by existing electric, domestic water, gas, telephone, and sewer services. The Applicant proposes to re-use the existing services or install new ones as required by the respective utility purveyor. Accordingly, the Board finds that this criterion is satisfied.

(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.

The installation of a new dumpster enclosure will accommodate both resident and business needs in separate receptacles. Waste and recyclables generated by the tenants will be managed by the landlord and brought to the curb on collection days. Wastes and recyclables generated by the bakery/restaurant will be handled weekly by private waste disposal companies. Based upon this, the Board finds that this criterion is satisfied.

(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.

Noise during construction and post construction must comply with municipal requirements, and is expected. Accordingly, the Board finds that 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 architectural plans identify a main business sign on the Witherspoon Street façade. A condition of approval is that the sign plans and details are to be submitted to the Zoning Department for review to ensure compliance with Princeton Code or the Applicant will apply for further approvals of such signage if necessary. Subject to the Applicant meeting this condition of approval, the Board find that this criterion has been satisfied.

(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.

16. Conclusion re preliminary and final major site plan approval. The Board finds that, with the variance granted and conditions imposed, the Applicant has satisfied all municipal major preliminary and final site plan requirements. Preliminary and final major site plan approval is, accordingly, granted.

## FINDINGS AND CONCLUSIONS RE: VARIANCE

17. The application necessitates one variance. The variance and the Board's action on it are as follows:

a. Variance: From Section B17A-315 and B17A-316, which require 11 parking spaces, whereas no parking spaces are being provided.

Variance granted. The new construction increases the parking requirement from the current eight spaces to 11 spaces. However, no parking spaces are presently provided for the Site. Thus, the proposed plan increases the degree of an existing non-conformity, which factors into the Board's consideration. Granting the variance would advance the following Municipal Land Use Law purposes: "a," which is to provide for the appropriate development of land; "b," which is to promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of the community; "i," to promote a desirable visual environment through creative development techniques and good civic design; and "n," to promote the utilization of renewable energy sources. The Applicant has owned the Site for decades and currently operates one of the businesses on the street level and also runs other businesses in the Central Business District of Princeton. It is therefore well experienced with the economics of the District and transportation needs and behaviors of its customers and employees.

Almost half of the Applicant's employees live nearby and either walk or bike to work and will have access to bicycle parking that is part of the proposed plan. Others use public transportation which is accessible nearby. Employees and patrons of the business who drive have numerous parking options nearby, such as the public parking garages at the Library, Spring Street and Palmer Square, as well as street parking, although that is more limited. The residential tenants of the building who presently use the Palmer Square garage will have continued access to that. Parking spaces on site are therefore not necessary to accommodate convenient vehicular access or successfully conduct business from the Site location. Thus, no detriment will result from granting this variance, and the benefits of granting the variance are substantial: optimizing

critical downtown real estate for a vibrant residential and commercial development without typing up space and increasing impervious coverage to construct new parking spaces while access to surrounding parking options remains easily accessible and available to tenants and patrons of the development. Strict application of the Ordinance, on the other hand, would impose undue hardship on the developer by eliminating the opportunity to provide outdoor dining space, which is a desirable feature of the neighborhood, as this space would need to be devoted to parking instead. The benefits therefore outweigh the detriments, and the “flexible c” positive criteria are satisfied.

The negative criteria are satisfied as well. This variance can be granted without substantial detriment to the public good because it will maintain the existing condition while parking will remain easily available to tenants and patrons of the business. Neither will granting the variance substantially impair the intent and purpose of the Zone Plan since it encourages the use of sound urban design and energy saving principles in new construction and redevelopment projects to enhance the character and appearance of downtown Princeton and promotes sound design and energy saving principles with a smart growth design that incorporates renewable energy resources. Nor does it impair the intent and purpose of the Zoning Ordinance, which is to provide adequate parking, and adequate parking is and will remain available to tenants and patrons of the mixed-use development.

Accordingly, this variance is granted.

#### CONDITIONS REQUIRED

18. 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:

### Buildings

- a. The Applicant shall convert some of the fixed awnings to retractable awnings, thus making a FAR variance unnecessary.
- b. Some elements of the façade to be demolished shall be preserved internally to the extent salvageable and as reasonably practical, subject to the review and approval of the municipal staff. Alternatively, a commemorative display shall be incorporated into the new building to recognize and memorialize the history of the building's use as the Virginia Mills' Beauty Salon and Toto's Market as well as the building's location at one time at the intersection of Witherspoon Street and Jackson Street.
- c. The Applicant shall provide adequate insulation (R31-43 at walls and R60-70 at ceilings) and commissioning of the exterior envelope.

### Sustainability

- d. The Applicant shall create a building with the highest possible energy and green building/sustainability standards that result in marketable space and will evaluate the suggestions with the MEP/Energy Consultant when the final building systems are designed.
- e. The Applicant shall use ASHRAE 90.1 for energy optimization.
- f. The Applicant shall make a good faith effort to incorporate the highest green building standards.
- g. The Applicant shall make a good faith effort to evaluate the possibility of solar panels on the roof, but they may not cover any portion of the green roof if it compromises the roof.

h. A green roof maintenance plan shall be provided for review by the Municipal Landscape Architect.

i. The restaurant shall maintain organic waste in the kitchen or in the basement. The specific location shall be part of the kitchen design. Organic waste containers shall be provided for residents in the trash collection area in the basement.

j. The Board encourages the Applicant to make the apartments all electric, with low flow faucets and toilets, LED lighting, heat pumps, and automatic thermostats and that it uses Passive House principles.

#### Landscape

k. The Applicant shall contribute to the installation of trees in the Witherspoon Street right-of-way. The number, species, and DBH shall be subject to the review and approval of the Municipal Landscape Architect and Municipal Arborist.

l. If permitted by Princeton, the Applicant shall consider the placement of additional planter containers in the Witherspoon Street public sidewalk area beyond the Site property lines large enough to support trees like Crepe Myrtle.

m. The Applicant shall install an evergreen screen on the northern boundary off-site in the Princeton Park, provided Princeton agrees and it is mutually determined that sufficient space exists for same while also preserving the existing tree in the Park. The evergreen screen shall be subject to the review and approval of the Municipal Landscape Architect and Municipal Arborist.

n. While the plan calls for the installation of planters on the Paul Robeson Place side, it has not provided the name of the plant species to be used. It shall be subject to the review and approval of the Landscape Subcommittee.

o. Prior to a decision by the Landscape Subcommittee, the information required herein shall be submitted to the Shade Tree Commission for its review and comments.

p. The landscape plan shall be subject to the review and approval of the Landscape Subcommittee. Its review shall include the items set forth in the August 9, 2022 memorandum of Dan Dobromilsky, paragraphs 1, 2 and 5.

q. The system for irrigation of the green walls shall be subject to review by the Landscape Subcommittee.

r. The green wall panels shall not include vegetation on the “Do Not Plant” list.

### Lighting

s. Lighting shall face downward.

t. All lighting fixtures shall be IDA Dark Sky Compliant.

u. The exterior lighting shall be designed for the lowest BUG rating.

v. All LED lighting shall be within the warm spectrum, preferably at 2,700k.

w. Flood light color will be determined by MEP/lighting consultant at the time of compliance. It shall be subject to the review and approval of the Land Use Engineer.

x. The Applicant shall provide a lighting plan in accordance with B17A-317.1 of the Princeton Code.



Signage

y. Sign plans and details shall be submitted to the Zoning Department for review to ensure compliance with the Princeton Code (however, nothing herein shall preclude the Applicant from seeking variance relief for any proposed signage).

Other

z. The sewer connection fee shall be computed and paid prior to the issuance of building permits at the then current connection fee rate.

aa. The demolition plan shall show clearly what items are to be removed and are to remain along the north property bounds with the park. It appears that a wooden fence will be removed and a slate curb will remain.

bb. The existing concrete sidewalk on the street side is being replaced by the Municipality with a concrete paver sidewalk under the Witherspoon Street Improvement Project. The Applicant shall salvage and re-install the new concrete paver sidewalk where the existing sidewalk and driveway are being reconstructed within public right-of-way. If the existing pavers are not salvageable, the Applicant shall replace them with the same color, size, and pattern.

cc. The Applicant shall coordinate its work with Witherspoon Street improvements, including replacing installed pavers if damaged and cannot be reinstalled and related work.

dd. The driveway shall be constructed with a depressed curb, a driveway apron, and sidewalk at the same grade as the adjacent sidewalk.

ee. The Applicant shall require its contractor to comply with Princeton's waste ordinance at Section TB15-6 of the Municipal Code.

ff. The Applicant shall coordinate with the municipality and submit an operational plan acceptable to the municipal professionals as part of compliance with respect to material staging and construction access to the site to maintain pedestrian circulation.

gg. New utility service connections shall be coordinated with the Witherspoon Street Improvement Project. The Applicant shall address the plans for off-site restorations if the work is performed after the Witherspoon Street Improvement Project is completed. A note shall be added to the plans confirming that utility service will be coordinated with the Witherspoon Street Improvement Project to address offsite restorations based on respective project schedules.

hh. The Applicant's engineer shall submit a construction cost estimate for the installation of all site improvements and public site improvements, which shall be reviewed and approved by Princeton's Land Use Engineer, in order to determine the amount required for a Performance Guarantee and inspection fees.

ii. To the extent approvals from the jurisdictions listed below are required, the approvals from them shall be provided by the Applicant:

- Mercer County Planning Board
- Mercer County Soil Conservation District
- Delaware and Raritan Canal Commission
- Princeton Sewer Department
- Stony Brook Regional Sewer Authority

## CONCLUSION

Based on the foregoing, the Board at its October 20, 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: 10/20/22

FOR: Wilson, Capozzoli, Chao, Cohen, McGowen, Quinn, Sacks, Tech-Czarny, Bottigheimer

AGAINST: No one

ABSTAIN: No one

Vote on findings:

FOR:

ABSENT:

AGAINST:

***ABSENT/INELIGIBLE TO VOTE: O'Donnell and Taylor***