

EXHIBIT F

Application for Variance claims a 70.C1 and 70.C2 Hardship Variance.

As written in the NJ MLUL:

"C" VARIANCE

There are two kinds of "C" variances; "C-1" and "C-2"; both must apply to a specific piece of property.

A "C-1" variance is sometimes called "the hardship variance". The applicant must prove hardship as outlined in the MLUL 40:55D-70C (1) where:

- (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or;
- (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or;
- (c) by reason of an extraordinary situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act (40:55D-62 et seq.) would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such a property, grant, upon an application or an appeal relating to such a property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship.

If hardship is proven, the applicant must also show that such relief from the zoning ordinance will not be substantially detrimental to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. This second criteria is called the negative criteria.

For a "C-2" variance, (see 40:55D-70c (2)), proof of hardship is not necessary. Two things must be proven to receive approval for a C-2 variance:

- (1) An applicant must show that the purposes of the MLUL (40:55D-2) would be advanced by a deviation from the zoning ordinance requirement and
- (2) that the variance can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance (negative criteria)

The "narrowness" of the property is not the fault of the property, per se, but is the result of the original developer's decision to use the maximum space allowed plus another unallowed five ft. for the construction of the existing and expanded building on the commercial property. There is no legal buildable property remaining per current zoning codes.

Application does not contain a description of the structure otherwise known as a "walk-in freezer" and implies it will be "attached" to existing building. In reality, it will be made part of the building footprint and will be an extension of the building thereby protruding over 15ft into a 25ft. setback area. Survey indicates that this freezer structure will add "approximately"

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another 10 ft to back of building. Also shown surrounding freezer is a “wooden wall”. Exact dimensions are needed as well as space required for this “wooden wall.”

Below is a picture of a typical “walk-in” freezer existing at the rear of a similar sized Italian restaurant in Wildwood Crest. It is assumed that a similar structure is intended in this Application.

