



TOWNSHIP of HOPEWELL
MERCER COUNTY

201 WASHINGTON CROSSING – PENNINGTON ROAD
TITUSVILLE, NEW JERSEY 08560-1410

PROJECT / APPLICATION

BLOCK:

LOT:

ADDRESS:

PROJECT NAME:

APPLICATION AND RELATED
DOCUMENTS



TOWNSHIP OF HOPEWELL

201 Washington Crossing-Pennington Road
Titusville, New Jersey 08560-1410
Phone 609.737.0605 Ext. 6640

PLANNING BOARD & ZONING BOARD APPLICATION

Date: <u>April 15, 2025</u>			
Block: 88	Lot: 5.01, 17, 42	Zoning District: SI	Tax Map Sheet: 21
Work Site Location / Address: 2377 Pennington Rd / 3 Drake Lane			
Project Name: Major Site Plan at 2377 Pennington Rd			
Property Owner Name: Mavian Arbizu			
Property Owner's Address: 3 Drake Lane, Pennington, New Jersey 08534			
Property Owner's Phone Number: 609-638-9376			
<i>I have reviewed this application and accompanying documentation and consent to the filing of the same with the Hopewell Township Planning/Zoning Board</i> Property Owner's Signature: <u>[Signature]</u>			
Applicant's Name:			
Applicant's Address: OWNER IS APPLICANT			
Applicant's Phone Number:			
Applicant's Email: (correspondence will be emailed unless otherwise requested)			
Contact or Agent's Name (this is the primary point of contact for the application): Kevin J. Moore, Esq.			
Contact or Agent's Address: Stevens & Lee, P.C., 510 Carnegie Center Dr, Suite 400, Princeton, New Jersey 08540			
Contact or Agent's Phone Number: 609-243-6420			
Contact or Agent's Email: kevin.moore@stevenslee.com (correspondence will be emailed unless otherwise requested)			
<i>I do hereby consent to the filing of this application and appoint Kevin J. Moore, Esq. to perform all duties as may be required to prosecute this application before the Hopewell Township Planning/Zoning Board. I do further acknowledge my agent will be the sole recipient of all documentation (reports, agendas, etc.) produced by Hopewell Township with regard to this matter.</i> Applicant's Signature: <u>[Signature]</u>			
<i>I do hereby accept the responsibilities as agent for this application.</i> Contact or Agent's Signature: <u>[Signature]</u>			
Name of Preparer of Plans: David J. Schmidt, PE (D.S. Engineering, P.C.)			
Preparer of Plans Address: 77 Cairns Pl, Belle Mead, New Jersey 08502			
Preparer of Plans Phone Number: 908-359-0989			
Preparer of Plans Email: dave@dsepc.com			

Architect's Name:
Architect's Address: N/A
Architect's Phone Number:
Architect's Email:

Attorney's Name: Kevin J. Moore, Esq. (Stevens & Lee, P.C.)
Address: 510 Carnegie Center Dr, Princeton, New Jersey 08540
Phone Number: 609-243-6420
Email: kevin.moore@stevenslee.com

Application Type (check all that apply):

- ☐ Appeal of decision of Zoning Officer (Zoning Board only)
☐ Concept Review with Board (Planning Board only)
☐ Conditional Use Permit (Planning Board only)
☐ Extension of time (specify)
☐ Final Major Subdivision (total lots = _____)
☒ Final Site Plan (_____ **** SF of proposed improvements & number of dwelling units 1)
☐ General Development Plan (Planning Board only)
☐ Minor Subdivision (total lots = _____) **** No new improvements are proposed.
☐ Plan resubmittal due to incompleteness determination
☐ Preliminary Major Subdivision – 10 or fewer lots (total lots = _____)
☐ Preliminary Major Subdivision – more than 10 lots (total lots = _____)
☐ Preliminary Site Plan – >10ac. and/or >10 dwelling units (_____ SF of proposed improvements & number of dwelling units _____)
☒ Preliminary Site Plan – 10 ac. or less and 10 du or less (_____ **** SF of proposed improvements & number of dwelling units 1)
☐ Request for Interpretation of Zoning Ordinance (Zoning Board only)
☐ Site Plan Amendment
☐ Site Plan Waiver
☐ Technical Review with Professionals
☒ Variance – bulk or “c”
☒ Variance – use or other “d” (specify which) (Zoning Board only)
☐ Other (specify)

Provide a description of the project, or reason for appeal. Attach additional sheets as needed:

See Schedule A, attached.

Provide a description of any requested variances. Attach additional sheets as needed:

<i>Ordinance Section Citation</i>	<i>Description of variance requested and reason / justification for the request.</i>
	See Schedule B, attached.

Building / Project Information: No changes to the Property are proposed.

	Existing	Proposed	Total
Building Height			
Building Stories			
Acc. Building Height			
Acc. Building Stories			
Building Coverage			
Floor Area			
Floor Area Ratio			--
Residential sq. ft.			--
Retail sq. ft.			--
Office sq. ft.			--
Industrial sq. ft.			--
Parking sq. ft.			--
Other (specify) sq. ft.			--
Dwelling units			
Affordable Units			
Bedroom Count			
Studio			--
1 Bedroom			--
2 Bedroom			--
3 Bedroom			--
4+ Bedroom			--
Parking Spaces			
Bike Storage			
Tree Count			
Shade Tree Count			
Employee Count			

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Mavian Arbizu (Owner/Applicant)
Prelim/Final Site Plan with Use and Bulk Variances

2377 Pennington Rd / 3 Drake Lane
Block 88; Lots 5.01, 17, 42; SI Zone

SCHEDULE A

Narrative Description of the Project

Owner-applicant Mavian Arbizu (“**Applicant**”) has operated his two businesses, Arbizu Dumpster Rental and Arbizu Interior Construction, on the property located at 2377 Pennington Road / 3 Drake Lane (the “**Property**”) since approximately 2012. The Applicant received a notice of violation from the Township Department of Community Development on November 12, 2024, requiring the Applicant to submit to the Board a site plan application with use and bulk variance relief.

The Property consists of three lots, Lots 5.01, 17, and 42. Lot 5.01 is a 3.8-acre flag lot containing a two-story single-family home with a frame garage. A gravel/asphalt milling parking area serves the Applicant’s businesses. Lot 42 measures about 0.8 acres and consists of woodland; it is otherwise noncompliant for applicable bulk standards for lot size/area in the SI Zone, making independent development thereof impractical.¹ Lot 17 measures approximately 7.8 acres in size. It is improved with a two-story building used as the businesses’ office, a frame garage serving the building, and a gravel and asphalt parking area for the businesses’ trucks and dumpsters. A gravel/asphalt driveway—Drake Lane—located within the flag stem of Lot 5.01 links the Property to Route 31.

The Applicant’s businesses are open eight hours per day from 8:00am to 4:00pm, Monday through Friday, and have four full-time employees. Arbizu Dumpster Rental rents trucks and dumpsters to customers—local contractors and businesses as well as individuals—and stores them on the Property when not in use. Approximately thirty to forty dumpsters are stored onsite at any time, although this number changes depending on seasonal demand. While the Applicant also runs a drywall and interior construction business on the Property—Arbizu Interior Construction—no materials for this business are stored onsite, and onsite activities consist of office work.

¹ For these reasons, Lot 42 is generally considered together with Lot 17 throughout this application.

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SCHEDULE B

Variances Requested

- a. Section 17-165(b): Regulating principal permitted uses in the SI (Special Industrial) District, where a container facility and an interior construction business are existing and proposed.
- b. Section 17-165(e): Prohibiting lot coverage from exceeding 50% where 78% is existing and proposed for Lot 5.01.
- c. Section 17-165(e)(1): Requiring single-family homes to meet the coverage requirements of the R-100 District prohibiting lot coverage from exceeding 65% where 78% is existing and proposed for Lot 5.01.

Variance Arguments

Use Variance – N.J.S.A. 40:55D-70d(1)

Under N.J.S.A. 40:55D-70.d(1) of the Municipal Land Use Law (“MLUL”), the Hopewell Township Zoning Board of Adjustment (the “Board”) may permit this existing use if the applicant demonstrates that (1) there are special reasons in support of the grant of the variance, also known as the positive criteria; (2) the grant of the variance will not cause any substantial detriment to the public good, also known as the first prong of the negative criteria; and (3) the grant of the variance will not substantially impair the intent and the purpose of the zone plan and zoning ordinance, also known as the second prong of the negative criteria.

First, the Applicant will satisfy the positive criteria if he demonstrates that the use promotes the purposes of zoning and the site is particularly suited to the existing/proposed use. The Property’s location within the Township grants it access to roads that enable it to reach any part of the Township while being located outside of densely developed residential areas or in environmentally sensitive zones like the VRC and MRC districts. Further, its location at the end of Drake Lane makes efficient use of the transportation corridor of Route 31 by preventing trucks from having to pull into or out of the Property directly from Route 31. These considerations further purposes “e,” “g,” and “h” of the MLUL as provided in N.J.S.A. 40:55D-2, ensuring that the use is located in a relatively low-density area, provides a needed service to the Township, avoids environmentally sensitive areas, and has access to main roads without contributing to congestion or blight.

Second, the Applicant will satisfy the first prong of the negative criteria if he can demonstrate that the grant of the variance will not cause any substantial detriment to the public good, which courts interpret to mean the impact on surrounding properties. See Lang v. Zoning Bd. of Adjustment of Borough of North Caldwell, 160 N.J. 41, 57 (1999). The location of the use on the Property relative to the surrounding properties prevents any substantial detriment to the public. Further, because the business activities are located to the rear of the properties and away from surrounding property lines, there is little if any sound or visual impact to neighboring properties.

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Finally, the Applicant will satisfy the second prong of the negative criteria if he can demonstrate that the grant of the use variance to permit the dumpster rental and interior construction use will not substantially impair the intent and the purpose of the zone plan and zoning ordinance. The purpose of the SI Zone is to “provid[e] an area with a diverse assortment of uses, in recognition of the existing character of offices, warehouses, flex space and residences.” Section 17-165(a). The existing/proposed use on the Property consists of a single-family residence owned and occupied by the Applicant as well as his business. Accordingly, this use is consistent with the Township Master Plan.

Bulk Variances – N.J.S.A. 40:55D-70c(2)

Under N.J.S.A. 40:55D-70c(2) of the MLUL, the Board may grant a variance if the purposes of the MLUL would be advanced by the deviation from the zoning ordinance and, in accordance with Pullen v. South Plainfield Planning Bd., 291 N.J.Super. 1, 8–9 (App. Div. 1996), the benefits of the application as a whole would substantially outweigh any detriment. Permitting the impervious coverage of Lot 5.01 to exceed the maximum allowed by approximately 13% would advance purposes “a,” “g,” “i,” and “o” of the MLUL as provided at N.J.S.A. 40:55D-2. The grant of the variance would “guide appropriate use or development [to] promote the . . . general welfare” by allowing the Applicant to continue providing a service to the public which is otherwise lacking in the area. The grant of variance would “provide sufficient space for . . . commercial and industrial uses and open space” and “promote a desirable visual environment” by permitting the Applicant to maintain on Lot 5.01 a parking area that is necessary for his business of providing truck and dumpster rentals to the public without sacrificing open space and wetlands at the rear of Lot 17, which has a fully compliant lot coverage of 14%. It would further “promote the maximum practicable recovery and recycling of recyclable materials” by allowing the Applicant to continue using asphalt millings, a recycled material produced from asphalt surfaces that is generally more permeable than other paving materials.

The above-described benefits of the Project substantially outweigh any detriment. Whereas the lot coverage intends to prevent over-development of a property with impervious surfaces that would exacerbate stormwater infiltration, the Applicant owns the adjacent Lots 17 and 42—substantially below the maximum lot coverage permitted—the greater undeveloped area will be able to absorb stormwater redirected from Lot 5.01. Additionally, the use of permeable asphalt millings will assist in alleviating this concern.

Further, the grant of the variance represents an improvement over the existing zoning because it allows the continuation of a use that is well suited to the area and provides a service to the public.

Finally, the Applicant must satisfy the negative criteria by showing that the grant of the variance will not cause any substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance. Permitting an increase in lot coverage on Lot 5.01 will not substantially detriment the surrounding properties because the permeability of the asphalt millings and the open space of Lot 17 will compensate for the reduction in permeable land. Further, the grant of the variance will not substantially impair the intent and the

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purpose of the zone plan and zoning ordinance. The zoning ordinance contemplates high percentages of lot coverage for commercial and industrial properties in the SI Zone, and whereas the Applicant proposes a lot coverage for Lot 5.01 in excess of the maximum, this is offset by the significantly under-improved Lots 17 and 42. Collectively, the total impervious coverage for the three lots measures approximately 34%, well below the maximum lot coverage permitted in the SI Zone.