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## MEMORANDUM

**To:** Township of Irvington Zoning Board of Adjustment  
**From:** Gerard Haizel, PP, AICP  
**Date:** January 9, 2021  
**RE:** 1139 Stuyvesant Avenue  
Block 359, Lots 5 and 6

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The following is prepared on behalf of the Township of Irvington, Zoning Board of Adjustment. The information provided herein is for advisory purposes only and is intended to assist the Board's decision-making process. Below are descriptions of the project based on the supplied plans and documentation as well as commentary on issues evident from them.

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### Items Reviewed

In preparation of this report, I have reviewed the following documents:

- ✓ Township of Irvington Application for Development.
- ✓ Township of Irvington Zoning Permit/Determinations dated 8/5/2020.
- ✓ Certified List of Properties within 200-foot radius of subject site.
- ✓ Plans - "Site Plan & Variance Application Plans for Gateway Apartments, LLC, Tax Lots 5 & 6, Block 359, Township of Irvington & City of Newark, Essex County, New Jersey" prepared by Robert M Cunningham, PE of Cunningham Engineering & Design, LLC, dated 5/15/2020, and consisting of 9 sheets (SE-1 through SE-8).
- ✓ Plans – "Proposed Mixed Use Building at: 1139 Stuyvesant Ave., Irvington, NJ," prepared by Christopher Papaleo, RA, of Archstone Architecture, LLC, dated 2/4/2020, 2/25/2020 and 10/5/2020, consisting of 4-sheets (SD-1 through SD-4)

### Project Summary

On property located in the Township's **B-3 (Limited Business District)**, the applicant, **Gateway Apartments, LLC**, proposes to demolish the existing buildings on the site and in their place construct a new 3-story mixed-use building, with 795-SF of retail/commercial space and a parking garage with twenty-one (21) stalls on the ground floor and twenty-four

(24) residential units on the upper floors. Mixed-use buildings with retail/commercial on the ground floor and dwellings units on the floors above **are permitted** in the B-3 District. However, the proposed development does not meet all the design and bulk requirements for the zone. The applicant is also seeking preliminary and final site plan approval.

### **Variance Relief Required**

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|----------------------|---|
| Floor Area Ratio –   | Pursuant to Township of Irvington’s Ordinance <b>§650-8-Attachment 2</b> , a maximum floor area ratio (FAR) of 0.40 is permitted and the applicant proposes an FAR of 1.026. <b>A D(4) variance is required to permit the proposed development that exceeds the maximum permitted FAR for the B-3 Zone.</b>                       |
| Front Yard Setback – | Pursuant to the Township of Irvington’s Ordinance <b>§650-8-Attachment 2</b> , a minimum front yard setback of 10-feet is required, and the applicant proposes a front yard setback of 5-feet. <b>A C-variance is required to allow a lesser front yard setback than required in the B-3 Zone.</b>                                |
| Rear Yard Setback –  | Pursuant to the Township of Irvington’s Ordinance <b>§650-8-Attachment 2</b> , a minimum rear yard setback of 25-feet is required, and the applicant proposes a rear yard setback of 14.61-feet. <b>A C-variance is required to allow a lesser rear yard setback than required in the B-3 Zone.</b>                               |
| Number of Stories –  | Pursuant to the Township of Irvington’s Ordinance <b>§650 - Attachment 2</b> , a maximum building height of 1-story is permitted in the B-3 zone, and the applicant proposes a building height of 3-stories. <b>A C-variance is required to allow a building with a greater number of stories than permitted in the B-3 Zone.</b> |
| Building Height –    | Pursuant to the Township of Irvington’s Ordinance <b>§650 - Attachment 2</b> , a maximum building height of 20-feet is permitted in the B-3 zone, and the applicant proposes a building height of 38.34-feet. <b>A C-variance is required to allow a building with a greater height than permitted in the B-3 Zone.</b>           |

Parking Setback –

Pursuant to the Township of Irvington's Ordinance **§650 – 35.G(4)**, no required off-street parking space, including adjacent parking access lanes or maneuvering space, shall be located within an existing or proposed right-of-way of any road, nor within 10 feet of any existing or proposed right-of-way line or any public street or highway. The applicant proposes parking within 6-feet of the adjacent street ROW. **A C-variance is required to permit a parking area that is setback less than 10-feet from the street ROW.**

Parking –

Pursuant to the Township of Irvington's Ordinance **§650 – 33(A)**, for commercial spaces under 2,500-SF, no parking is required, and the applicant proposes a 795-SF commercial space requiring no off-street parking.

For residential uses, one (1) parking space is required for each dwelling unit. The applicant proposes a total of 24 dwelling units requiring 24 off-street parking spaces.

The applicant proposes a total of 21-parking spaces. **A C-variance is required to permit fewer parking spaces than required.**

## Project Description

The subject property is a 19,143-SF parcel, which is comprised of two (2) tax lots. The site is currently improved with three (3) structures, including a 1½-story masonry and metal building, which is currently being used as a childcare center, and two (2) frame dwelling structures. The applicant proposes to demolish these structures and, in their place, construct a new 3-story, mixed use building, with commercial space and parking on the ground floor and residential units on the 2<sup>nd</sup> and 3<sup>rd</sup> floors.

The proposed building will be setback 5-feet from the front (southern) property line, 14.61-feet from the rear property line and 10-feet and 17.87-feet from the western and eastern side property lines respectively.

A garage is proposed on the ground floor. Individual ingress and egress points are proposed. Ingress off of Stuyvesant Avenue is located at the eastern end of the front façade, where there is a 15-foot wide, one-way driveway that leads to a roll-up gate, which access the side yard of the building, where there will be a single parking space located directly ahead.

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**Block 359, Lots 5 & 6**

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The one-way driveway extends to the west into the envelope of the building. Parking stalls are arranged in a row along the southern side of the garage, where there are fourteen (14) stalls, including one (1) ADA-compliant stall. An additional seven (7) stalls are located in the northeastern corner, including five (5) regular spaces and two (2) parallel spaces. The 24-foot-wide driveway extends the length of the building to a 13-foot-wide egress back onto Stuyvesant Avenue.

The garage is enclosed on all sides with openings on facades to allow for air circulation. There are two sets of roll-up gates proposed at the eastern end of the garage, where the driveway enters the building envelope.

At the western end of the garage is a proposed enclosed staircase, which accesses the residential floors above, and a proposed utility room. Beyond the garage, at the westernmost area of the building is the proposed 795-SF retail space. This space is only accessible from the front façade on Stuyvesant Avenue. There is no access to the commercial space from the garage.

The lobby of the building is located at the center of the building, on the southern side of the garage. This lobby is accessible from both the garage and from doors on the southern façade on Stuyvesant Avenue. From the Stuyvesant Avenue side, there are a set of double doors which open to a vestibule, with a mail closet located to the left (west). On the opposite side is a door which accesses the elevator. There is a second set of double doors from the garage side, which access the elevator lobby.

Twelve (12) one-bedroom apartments are proposed on each the 2<sup>nd</sup> and 3<sup>rd</sup> floors. On both residential floors the elevator opens to a small elevator lobby, which accesses a central, double-loaded hallway, which runs in an east-west orientation, for the length of the building, between the two (2) aforementioned enclosed staircases.

The exterior of the building will be finished with brick veneer on the 1<sup>st</sup> floor level and Hardi plank siding on the 2<sup>nd</sup> and 3<sup>rd</sup> floor levels. The garage egress opening on the front façade will be enclosed by an overhead garage door, and smaller “window-sized” openings are proposed on the front façade of the garage, to allow for air circulation.

The façade of the commercial space will be enclosed with storefront windows and doors. An accessible ramp is proposed to the entry to the commercial space on Stuyvesant Avenue.



## Site & Area Description

**Street Address:** 1139 Stuyvesant Avenue  
**Block & Lot:** Block 359, Lots 5 & 6  
**Zoning District:** B-3 (Limited Business District)  
**Total Site Area:** 19,143-square feet

## Location Map



**Location Map** - The property in question is outlined in red in the aerial map above. The site is located on the northern side of Stuyvesant Avenue, between Berkley Street and Boyden Avenue. To the west of the site are mixed-use buildings, with residential over commercial uses. To the immediate east is a vacant parcel. To the south, across Stuyvesant Avenue from the site is a 4-story multi-family apartment building on the corner of Fleetwood Place, a medical office building, a 2-story multifamily dwelling and an auto repair establishment on the corner of Beechwood Place.

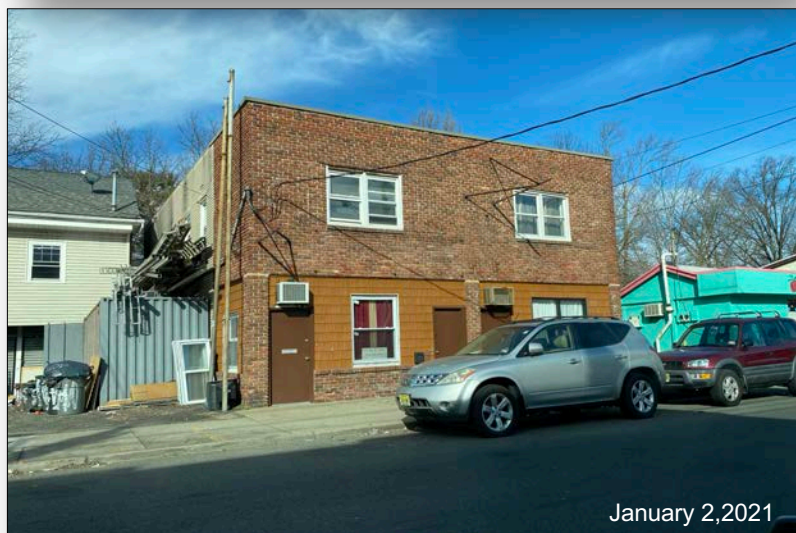
## Photo Survey



**Photo 1:** View of the subject property located at 1139 Stuyvesant Avenue. The applicant proposes to demolish the existing buildings on the site and in their place construct a 3-story mixed-use building.



**Photo 2:** View of the eastern portion of the subject site. The two buildings pictured here will be demolished.

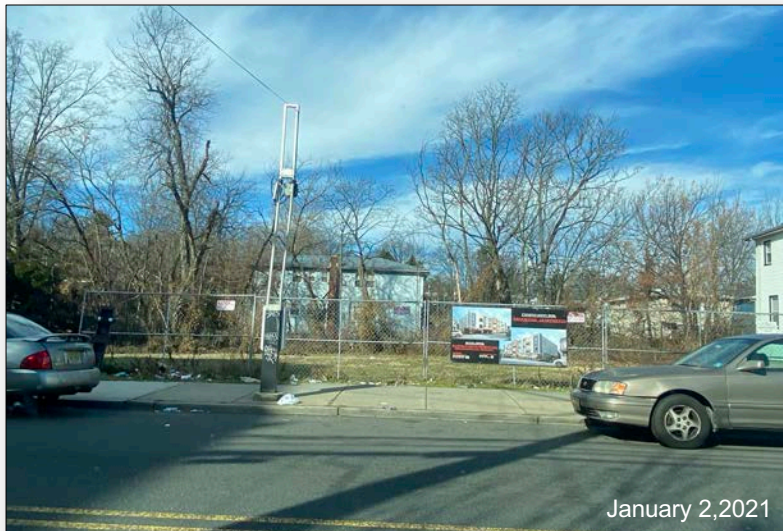


**Photo 3:** View of the property located to the immediate west of the subject site.

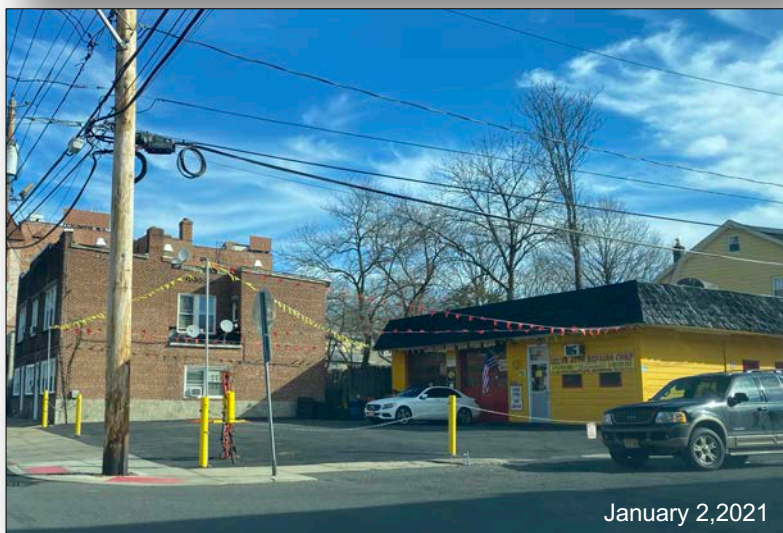


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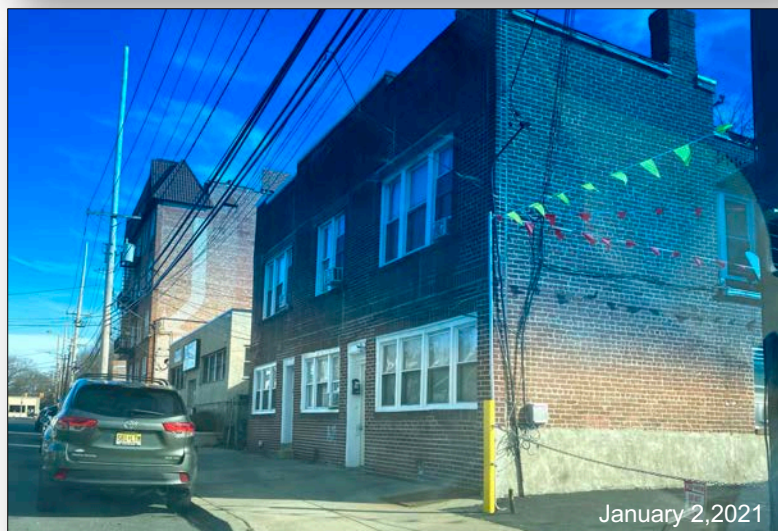
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***Photo 4:*** View of the vacant parcel located to the immediate east of the subject site.



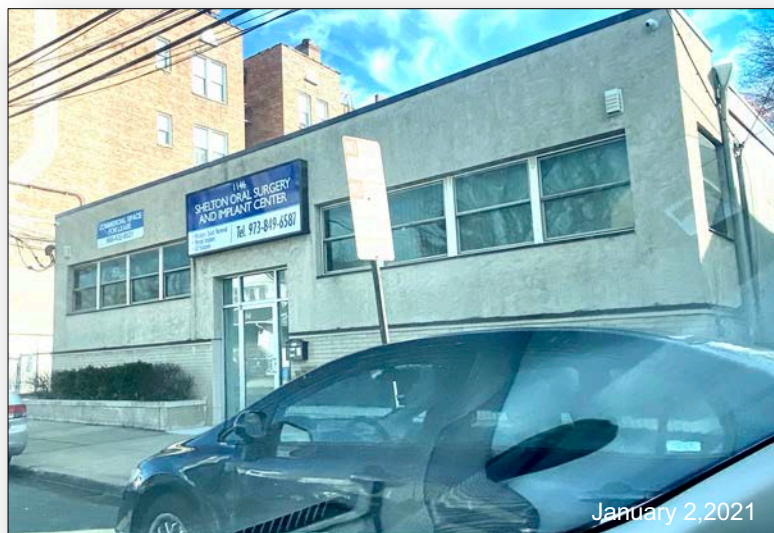
***Photo 5:*** View of the auto repair establishment located to the south, across Stuyvesant Avenue from the subject site.



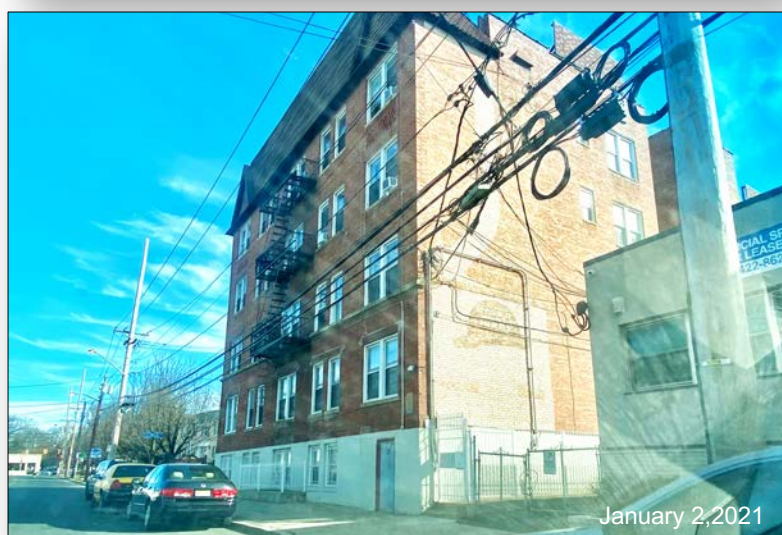
***Photo 6:*** View of the multifamily dwelling located to the south, across Stuyvesant Avenue from the subject site.



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***Photo 7:*** View of the medical office located to the south, across Stuyvesant Avenue from the subject site.



***Photo 8:*** View of the 4-story apartment building located to the south, across Stuyvesant Avenue from the subject site, on the corner of Fleetwood Place.



***Photo 9:*** View of the garden apartment development located to the southeast, across Stuyvesant Avenue from the subject site.



## Planning Considerations

The subject site is located within the Township's **B-3 (Limited Business District)**, a district intended for a mix of residential and commercial uses. Residential dwelling units are permitted in the zone, provided they are located above a ground floor office or commercial use and provided they do not front on a public street at street level. The overarching intent of this zone is to maintain the street level commercial activity, while allowing for the presence of residential uses within the zone.

Pursuant to the Township of Irvington's Code **\$650-21.A(1)(a)[13]**, the proposed mixed-use buildings with commercial/retail on the ground floor and residential above **is permitted** in the B-3 zone. The chart below was created to identify bulk and design deficiencies.

## Schedule of Bulk Regulations

Standard	Permitted/Required	Proposed	Variance Required
<b>Minimum Lot Area</b>	10,000-SF	19,143-SF	No
<b>Minimum Lot Width</b>	80-Feet	238-Feet	No
<b>Maximum Height</b> (Stories / Feet)	1 Stories / 20-Feet	3-Stories / 38.34-Feet	Yes / Yes
<b>Minimum Front Yard Setback</b>	10-Feet	5-Feet	Yes
<b>Minimum Side Yard Setback</b> (one / both)	10-Feet / 25-Feet	10-Feet / 27.87-Feet	No / No
<b>Minimum Rear Yard Setback</b>	25-Feet	14.61-Feet	Yes
<b>Floor Area Ratio</b>	0.40	1.026	Yes
<b>Max Lot Coverage</b>	75%	62.38%	No
<b>Parking</b>	24 Spaces (Com.: 0 space under 2,500-SF) (Residential: 1 space/unit)	21-Spaces	Yes

### Standards for Granting Variance Relief

#### D – (Use) Variances

The MLUL (Municipal Land Use Law) at **N.J.S.A. §40:55D-70d** sets forth the standards for variances from the regulations pursuant to Article 8 of this act. A D-Variance is warranted to permit:

- 1) a use or principal structure in a district restricted against such use or principle structure,
- 2) the expansion of a nonconforming use,
- 3) deviation from a specification or standard pertaining solely to a conditional use,
- 4) an increase in the permitted floor area ratio,
- 5) an increase in the permitted density (*except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings, which lot or lots either isolated undersized lot or lots resulting from minor subdivision*) or
- 6) a height of a principal structure which exceeds by 10 feet or 10%, the maximum height in the district for a principal structure.

A D-variance may be granted where the applicant shows to the satisfaction of the Board, that “*special reasons*” exist to warrant the granting of the variance. *Special reasons* may include that the use is inherently beneficial, that the property owner would suffer undue hardship if required to use the property in accordance with the permitted uses and standards for the zone, or that the site is particularly suited for the proposed use **and** thereby promotes the general welfare.

The applicant must **also** demonstrate that the requested relief will not result in any substantial detriment to the public good, nor substantial impairment to the zoning ordinance or zone plan. A variance under this subsection is granted only by **affirmative votes of at least five members**.

#### C - (Bulk) Variances

The Municipal Land Use Law (MLUL) at **N.J.S.A. 40:55D-70c** sets forth the standards for variances from the bulk regulations of a zoning ordinance.

C(1) Variance - The Board must find that there is either undue hardship or practical hardship with the strict application of the zoning requirements as stipulated in the Zoning & Land Use Regulations, as a result of:

- a) exceptional narrowness, shallowness or shape of a specific 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 and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

C(2) Variance – The Board must find that the proposed deviation from the Zoning & Land Use Regulations will advance the purposes of the MLUL and that the variance can be granted without substantial detriment to the public good, that the benefits of the deviation would substantially outweigh any detriment and that the variance will not substantially impair the intent an purpose of the zone plan and zoning ordinance. The benefits identified in granting a C(2) variance must include benefits to the community as a whole, not only the applicant of the property owner. Here too, the Board must be satisfied that the variance can be granted “*without substantial detriment to the public good*” and “*without substantial impairment to the intent and purpose of the zone plan and zoning ordinance*” of the City.

## Planner's Comments

The applicant proposes to demolish the existing buildings on the site and in their place construct a new 3-story mixed-use building, with 795-SF of retail/commercial space and a parking garage with twenty-one (21) stalls on the ground floor and twenty-four residential units on the upper floors. Mixed-use buildings with retail/commercial on the ground floor and dwellings units on the floors above **are permitted** in the B-3 District. However, the proposed development does not meet all the design and bulk requirements for the zone.

As a permitted use, this application is before this Board because the proposed development exceeds the maximum permitted FAR for the zone. Whereas a maximum FAR of 0.40 is permitted, the applicant proposes an FAR of 1.026. The FAR is a measure of the size of the building, relative to the size of the lot on which the building is located. It is used as a means by which to control the physical size and mass of a development. This generally allows for more open space and less impervious coverage. **In my opinion the proposed FAR of 1.026 is appropriate for the subject site.** It will allow for a building that is not overlay massive and fits into the overall development pattern within the surrounding area.

Related to the FAR is the building height, for which the applicant is also seeking a variance. Whereas a maximum building height of 1-story is permitted, the applicant is proposing a building height of 3-stories. **In my opinion, this variance may be granted without substantial adverse impact on the surrounding area.** The proposed building, which is 1-story taller than the existing structure on the site, is consistent with the intent for development within the B-3 zone, where residential development is permitted above the ground floor. Thus, development above a single floor is contemplated, where mixed-use, residential over commercial development, is proposed.

Further, the 1<sup>st</sup> floor of the proposed building will be dedicated to a 795-SF commercial space and a garage that will accommodate twenty-one (21) parking stalls. **In my opinion, the proposed 1<sup>st</sup> floor parking is an equitable tradeoff for the additional building height.** This will offset the increased on-street parking in the surrounding area, brought about by the proposed residential development.

Additionally, the applicant requires variances for insufficient front and rear yard setbacks, as well as the parking setback. **In my opinion, these variances may be granted with no substantial impact on the surrounding area.** In all instances here, these variances are due in large part to the limitations of the site. The subject site abuts the *Lightning Brook* waterway to the north, which limits the extent of any development on the site. The buildable lot depth ranges from 78-feet on the western end to 83-feet on the eastern end.

Finally, the applicant is seeking a variance for insufficient off-street parking. Whereas twenty-four (24) off-street parking spaces are required, the applicant proposes twenty-one



(21) spaces. This is a shortage of three (3) spaces. In my opinion, this deficiency can be offset by available on-street parking and public transportation options. Stuyvesant Avenue is served by the New Jersey Transit #94 bus route, which has stops adjacent to the site.

The area of Stuyvesant Avenue abutting the subject site, appears to be relatively heavily traversed by pedestrians. As such, **the applicant should install appropriate mechanisms to alert pedestrians of vehicles existing the proposed garage. This should include both visible and audible alerts.**

Additionally, the proposed egress from the garage of the proposed building is located in close proximity to the intersection of Stuyvesant Avenue and Beechwood Place to the south. There is a potential for conflict between cars existing the garage and vehicles maneuvering the intersection. To address this concern, **the applicant should restrict vehicles exiting the garage to a right turn only.**

### **Recommended Conditions of Approval**

Should the Board be inclined to grant the requested variance relief in full or in part, or to approve the accompanying site plan, the following are recommended conditions that should be placed on the approvals.

1. The applicant shall address all comments from the Board Engineer.
2. The applicant shall install appropriate mechanisms to alert pedestrians of vehicles existing the proposed garage. This should include both visible and audible alerts.
3. The applicant shall restrict vehicles exiting the garage to a right turn only.
4. The applicant shall provide details of any security measures that will be utilized in the proposed development, including but not limited to video surveillance.