

John McDonough Associates, LLC  
Land Use Planning · Landscape Architecture

**PLANNING REPORT**

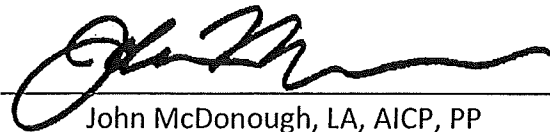
PREPARED FOR

**M. JOHN SCANLAN FUNERAL HOME**

FOR PROPERTY LOCATED AT

**781 NEWARK POMPTON TURNPIKE  
BLOCK 701 LOT 24  
TOWNSHIP OF PEQUANNOCK  
MORRIS COUNTY, NJ**

(March 26, 2021)



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*The original of this report was appropriately signed and sealed in accordance with laws and regulations pertaining to the practice of Professional Planning in New Jersey (NJSA 45:14A and NJAC 13:41-1.3(b))*

## Overview

This report is prepared in support of a site plan application filed by M. John Scanlan Funeral Home to construct a detached two-car garage to store a hearse and limousine in connection with the applicant's funeral service business. The vehicles are presently parked in a surface parking lot.

The site is in the R-15 Residential District where funeral homes are not a permitted use. The funeral home has operated at the subject site for approximately 70 years and predates the ordinance. The application seeks "d(2)" use relief for alteration of a pre-existing nonconforming use.

The report is generally structured into four segments: a description of existing conditions; a description of proposed conditions; a description of zoning considerations; and analysis of the statutory criteria for grant of the zoning relief sought.

## Existing Conditions

The subject site consists of a single tax lot, identified as Block 701 Lot 24 on the tax rolls. The lot area comprises approximately 3.2 acres which is substantially oversized in terms of the zone scheme (more than 9 times larger than the zoning minimum).

The site is a corner lot with triple frontage on Route 23, Newark Pompton Turnpike, and Mountain Avenue. Route 23 is a multilane highway, and the site has direct driveway access to the highway. The site also has driveway access from Mountain Avenue.

The site has been developed as a funeral home since the mid-1950's. It presently contains a 2-story commercial building (funeral home), a 1½-story residential dwelling, a small shed for the commercial building and backyard accessory structures for the residence.

The site contains a parking field behind the funeral home and a portico service court in the front of the funeral home. The grounds are well maintained and there is abundant green space and landscaping throughout the site.

Surrounding land uses consist of a multitenant office to the north, Route 23 to the east, and residential dwellings to the south and west. Maps and photographs of the site and area are included in **Appendix A** at the end of this report.

## Proposed Conditions

The applicant, M. John Scanlan Funeral Home, seeks to construct a 24' x 30' two-car garage to house its hearse and limousine. This will provide protection from the elements and help to keep the vehicles in pristine condition consistent with customer expectations.

The proposed garage will be located at the end of the service court in front of the funeral home, approximately 50 feet from Route 23 and greater than 140 feet from Mountain Avenue. This location is most remote from the dwellings to the west.

The development plan proposes no other site changes, except for landscaping around the building including approximately 58 new plantings. Since the location is associated with the service court, there will be no loss of onsite parking.

## Zoning Considerations

The site is in the R-15 Residence District, which allows for a variety of principal uses including one-family dwellings, and public or private recreation areas. Permitted conditional uses include museums, religious uses, schools, and community centers.

The R-15 zone also allows for a variety of accessory structures, including “private garages for the use of the *occupants* of the lot” and “offstreet parking for the *permitted* uses on the lot”. Private garages are distinguishable to the extent they are not necessarily limited to permitted uses.

The application seeks “d(2)” use relief pursuant to N.J.S.A. 40:55D-70.d.(2) to allow for expansion of the pre-existing nonconforming funeral home. The application creates a slight uptick in impervious coverage, from 32.0% to 32.6%, but the coverage conforms to the bulk regulations.

The application also seeks “c” relief pursuant to N.J.S.A. 40:55D-70.c. to allow for an accessory structure in the front yard, to the extent such relief is required. The definition of front yard in the ordinance says the space in front of the building shall be unoccupied.

## Planning Justifications for Relief

Land use planning operates within a legal framework. The land use law recognizes that zoning is not meant to be rigid and inflexible and gives land use boards authority to grant relief subject to defined statutory criteria.

The statutory criteria for grant of “d(2)” use relief are more relaxed than for “d(1)” use relief. Pursuant to Kohl v. Mayor and Council of Fair Lawn, 50 N.J. 268, 279-280 (1967), the focus of the test is not whether the use belongs in the first place, but whether the alteration makes the use better. In this regard, the following site betterments support the statutory positive criteria.

1. The proposal promotes the general welfare by screening commercial vehicles from public view. The new garage will contain and conceal commercial vehicles that are presently parked in a surface parking lot. The garage will be attractive and will be compatible with the principal building and the surrounding area. The site will better integrate with the area.
2. The proposal promotes efficient land use with a simple retrofit of existing outdoor storage space. The vehicles that the garage will house are already stored onsite. Physically and functionally, the garage will be a simple retrofit of the current site condition. The increase in site coverage is minimal. The garage will keep the vehicles in better condition.
3. The proposal promotes a desirable visual environment. The location is remote from neighboring residences and the building architecture will complement the principal building. The construction requires no substantial tree removal or earthwork and preserves the beautiful landscape already in place. It is supplemented with many new plantings.
4. The proposal promotes a variety of uses in appropriate locations. The location of the garage is well-sited. It is remote from the residences and located in an area that will not interfere

with site circulation or operations during funerals and normal functioning of the business. Although the funeral home is not permitted in the zone, it has a much stronger association with the Route 23 commercial corridor than the residential neighborhood.

5. The project promotes the fundamental purposes of zoning in the land use law. All the above advance purposes of the land use law, especially purpose “a”, “g”, “i”, and “m”.

The statutory negative criteria for “d(2)” relief are met because the relief can be granted without substantial detriment to the public, and without substantial impairment to the zone plan. The proposal has been well planned to address all potentially negative public impacts.

- Public health and safety. The site is designed to function safely and efficiently. There is nothing inherently dangerous or unsafe in having a small, detached garage at this location. The garage will meet all applicable building codes.
- Public welfare. The proposed garage will not create any substantially adverse nuisance effects. Visually, the garage will be attractive and complimentary to the main building. It is small in scale and will not have a negative visual impact from any vantage point. It will not produce excessive noise or glare or other activities. It is a passive use.
- Zone plan. The accessory garage is so small in scale, it will not alter the character or vision for the area. The garage will not be a major intrusion into the residential neighborhood. The proposal strikes an effective balance in maintaining the core goals of the Master Plan, to the extent it promotes a stable ratable base and promotes neighborhood preservation.

The statutory criteria for “c” relief are met under the “flexible c” balancing test. The benefits of the application as a whole substantially outweigh the detriments. The “c” relief is necessary to effectuate the “d” benefits cited above.

The location of the accessory structure in the front yard represents a better zoning alternative for the site, as it keeps the use away from the homes. The structure will complement and not overpower the main structure.

## Conclusion

The application represents an enhancement to an established business with a longstanding commitment to the community. The proposal is a straight-forward and there will be minimal, if any, impacts on the area or the zone. The location is remote from neighboring residential uses. The statutory criteria for grant of use relief are met, and approval is warranted.

## Qualifications of Preparer

John McDonough Associates, LLC is a land use planning and landscape architecture consulting firm with office location in Parsippany, New Jersey.

John McDonough, LA, PP, AICP is a licensed professional planner and landscape architect in the State of New Jersey. Both licenses are current and in good standing. He is also a member of the American Institute of Certified Planners.

All licenses have been obtained through requisite showing of educational and experience requirements and passing of license examinations (none have been achieved through reciprocity). All licenses have been maintained through participation in mandatory continuing education courses.

Mr. McDonough has been practicing as a land use consultant for over 30 years. He has been recognized as an expert in land use matters before hundreds of boards and commissions throughout the State of New Jersey, and in Superior Courts.

He has been a regular speaker at the League of Municipalities annual conference and at Rutgers University Bloustein School of Planning and Public Policy.

## **Appendix A – Maps and Photographs**

(companion exhibits are appended by reference herein)