

RESOLUTION OF THE CASINO REINVESTMENT DEVELOPMENT AUTHORITY GRANTING BULK VARIANCES PURSUANT TO N.J.S.A. 40:55D-70(c) TO PROVIDE A ROOFTOP DECK/ROOFTOP ACCESS ON THE EXISTING MIXED-USE BUILDING ON THE SUBJECT PROPERTY LOCATED AT 2611 & 2619 PACIFIC AVENUE, BLOCK 169 LOTS 7 AND 8, IN THE CITY OF ATLANTIC CITY UNDER APPLICATION #2025-01-3779

WHEREAS, pursuant to P.L. 2011, c. 18, as amended (the “Act”), the Casino Reinvestment Development Authority (the “Authority”): (i) designated the Atlantic City Tourism District by Resolution 11-25, adopted April 19, 2011; (ii) established the Land Use Regulation and Enforcement Division to, among other matters, hear applications for development in the Tourism District by Resolution 11-33, adopted April 19, 2011; and (iii) adopted the master plan, zoning and land use ordinances and regulations, and zoning maps approved by the City by Resolution 11-34, adopted April 19, 2011; and

WHEREAS, pursuant to Resolution 12-14, adopted February 1, 2012, the Authority adopted the “New Jersey CRDA Atlantic City Tourism District Master Plan” prepared by Jones Lang LaSalle, LLC and dated February 1, 2012 (the “Master Plan”) (as affirmed and readopted pursuant to Resolution 12-23, adopted February 21, 2012), subject to further comment and revision, which master plan shall become effective upon the adoption of design, development and land use regulations on January 2, 2018; and

WHEREAS, Caring, Inc. (the “Applicant”), seeks Bulk Variances pursuant to N.J.S.A. 40:55D-70(c) to provide a rooftop deck/rooftop access on the existing mixed-use building at the subject property located at 2611 & 2619 Pacific Avenue, Block 169 Lots 7 and 8, on the Tax Map of Atlantic City, located in the Resorts Commercial (RC) Zoning District; and

WHEREAS, on March 6, 2025, the Authority’s Land Use Regulation and Enforcement Division convened a public hearing on Application 2025-01-3779 in accordance with the requirements of the Open Public Meetings Act, the Municipal Land Use Law and the Act, and subsequently prepared and delivered a Hearing Officer’s Report and Recommendation dated March 31, 2025 (the “Report”), incorporated herein by this reference and appended hereto as Exhibit “A”; and

WHEREAS, the Authority intends to adopt the findings, conclusions and recommendations of the Hearing Officer, as detailed in the Report dated March 31, 2025.

NOW THEREFORE, BE IT RESOLVED by the Casino Reinvestment Development Authority that:

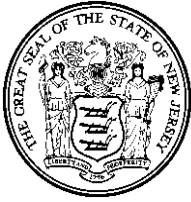
1. The above recitals are incorporated herein, as if set forth in full.

2. Based on the record in this matter, the Bulk Variances pursuant to N.J.S.A. 40:55D-70(c) under Application 2025-01-3779 are hereby approved in accordance with the Hearing Officer's Report and Recommendation dated March 31, 2025.
3. A copy of this Resolution shall be immediately transmitted to the Governor. This Resolution shall take effect immediately, but no action authorized herein shall have force and effect until the earlier of the passage of ten (10) days, Saturdays, Sundays and public holidays excepted, after the delivery of the copy to the Governor, or the Governor's approval.

I hereby certify that this document is a true and correct copy of Resolution 25-43 of the Casino Reinvestment Development Authority.

Sharon D. Dickerson
SHARON D. DICKERSON, ASSISTANT SECRETARY

MEETING OF APRIL 15, 2025



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

EXHIBIT "A" TO RESOLUTION 25- , ADOPTED 4/15/2025

TO: Members of the Authority

FROM: Lance B. Landgraf, Jr., Land Use Hearing Officer

COPY: Eric Scheffler, Executive Director

SUBJECT: Hearing Officer's Report and Recommendation
Application #2025-01-3779
Caring, Inc.
Variances Pursuant to N.J.S.A. 40:55D-70(c)
2611 & 2619 Pacific Avenue
Block 169, Lots 7 & 8
Resort Commercial (RC) Zoning District

DATE: March 31, 2025

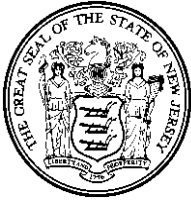
EXECUTIVE SUMMARY

On March 6, 2025, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, Caring, Inc. (the "Applicant"), seeks bulk variances pursuant to N.J.S.A. 40:55D-70(c) to provide a rooftop deck/rooftop access on the existing mixed-use building located at the subject property. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal.

The Applicant demonstrated by evidence and testimony that the grant of the requested variances is warranted. Therefore, for the reasons more fully outlined below, the Hearing Officer recommends that the Application be approved by the Authority.

INTRODUCTION

Application Information
Caring, Inc.
Variances Pursuant to N.J.S.A. 40:55D-70(c)
2611 & 2619 Pacific Avenue
Block 169, Lots 7 & 8
Resort Commercial (RC) Zoning District



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

A hearing on the Application was conducted in accordance with the requirements of the Open Public Meetings Act, the Municipal Land Use Law and P.L. 2011, c. 18.

The Applicant seeks bulk variances pursuant to N.J.S.A. 40:55D-70(c) to provide a rooftop deck/rooftop access on the existing mixed-use building located at the subject property. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal.

Evidence List

A-1 Application Materials

B-1 Letter from ARH Associates dated March 4, 2025

FINDINGS OF FACT

The Applicant seeks bulk variances pursuant to N.J.S.A. 40:55D-70(c) to provide a rooftop deck/rooftop access on the existing mixed use building located at the subject property. The property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal.

The attorney for the Applicant, Hank Rovillard, Esq., introduced the application generally and provided background regarding the specific relief sought by the Applicant.

The Applicant presented the testimony of Jon Barnhart, P.E., P.P., who was qualified as an expert in the fields of professional engineering and professional planning. Mr. Barnhart described the location of the site, existing conditions and development proposal to provide a rooftop deck/rooftop access on the existing mixed-use building. He noted that the existing structure contains commercial space and three residential units and is being renovated and upgraded to improve the neighborhood. The Applicant also purchased the adjacent property to provide parking for the site.

The Applicant seeks bulk variances to construct a railing around the border of the existing roof structure to create an outdoor living space for residents, as well as a small penthouse area at the center of the building to accommodate stairway access to the roof. Mr. Barnhart testified that the Applicant intends to use the residential units as short-term rentals.

Mr. Barnhart testified that the property has several pre-existing, non-conforming conditions that are not exacerbated or impacted by the development proposal. He testified that the Applicant requests variances pursuant to N.J.S.A. 40:55D-70(c) to permit the following:



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- A front yard setback of 0 feet for the roof railing where a minimum setback of 20 feet is required at heights above 35 feet.
- A side yard setback of 18.1 feet for the roof railing where a minimum setback of 20 feet is required at heights above 35 feet.
- A side yard setback of 10 feet for the penthouse where a minimum setback of 20 feet is required at heights above 35 feet. (Spray Avenue frontage)

Mr. Barnhart testified that the development proposal will promote the purposes of the Municipal Land Use Law ("MLUL") by promoting the general welfare (Purpose A) by bringing activity to the neighborhood; promoting the free flow of traffic (Purpose H) by providing parking for the site that never existed and create a desirable visual environment (Purpose I) by renovating a structure that is in disrepair. With respect to the negative criteria, Mr. Barnhart testified that the grant of the variances would not have any substantial detriment to the Tourism District Master Plan or Tourism District Land Development Rules.

Christine Cofone was qualified as an expert in the field of professional planning and provided testimony on behalf of the Authority. Ms. Cofone testified that she supports the approval of the development proposal. She further testified that the grant of the variances is also appropriate under N.J.S.A. 40:55D-70(c)(1) as it will improve a lawfully existing structure with more living space and greater marketability.

Carolyn Feigin, P.E., was qualified as an expert in the field of professional engineering and provided testimony on behalf of the Authority. Ms. Feigin testified that she supports the approval of the Application, subject to the Applicant's compliance with all requirements of the ARH Associates review letter dated March 4, 2025 and plan revisions requested during the course of the hearing.

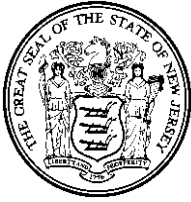
CONCLUSIONS OF LAW

Variances Pursuant to N.J.S.A. 40:55D-70(c)

For variances requested pursuant to N.J.S.A. 40:55D-70(c)(1) and (c)(2), an applicant must demonstrate through evidence and testimony that the positive and negative criteria of the statutory requirements have been met.

Positive Criteria

The positive criteria for variances requested pursuant to N.J.S.A. 40:55D-70(c)(1) is satisfied if relief can be granted for a specific piece of property upon the finding of hardship arising out of the exceptional narrowness, shallowness, shape, or exceptional topographic conditions of specific piece of property or from a structure lawfully existing thereon. See Lang v. Zoning Board of Adjustment, 160 N.J. 41 (1999). The positive criteria for



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variances requested pursuant to N.J.S.A. 40:55D-70(c)(2) is satisfied if one or more purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and the benefits of that deviation would substantially outweigh any detriment to the public good. Ketcherick v. Bor. Mountain Lakes, 256 N.J. Super. 646 (App. Div. 1992); Green Meadows v. Planning Board, 329 N.J. Super. 12 (App. Div. 2000).

Here, the Applicant requests variances pursuant to N.J.S.A. 40:55D-70(c) to permit the following:

- A front yard setback of 0 feet for the roof railing where a minimum setback of 20 feet is required at heights above 35 feet.
- A side yard setback of 18.1 feet for the roof railing where a minimum setback of 20 feet is required at heights above 35 feet.
- A side yard setback of 10 feet for the penthouse where a minimum setback of 20 feet is required at heights above 35 feet. (Spray Avenue frontage)

The characteristics of the property and structures lawfully existing thereon present a hardship in complying with the Tourism District Land Development Rules. Moreover, the development proposal will promote the purposes of the MLUL by promoting the general welfare (Purpose A) by bringing activity to the neighborhood; promoting the free flow of traffic (Purpose H) by providing parking for the site that never existed and create a desirable visual environment (Purpose I) by renovating a structure that is in disrepair.

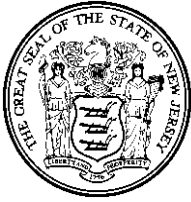
Negative Criteria

Relief under N.J.S.A. 40:55D-70(c)(1) and (c)(2) cannot be granted unless the negative criteria is satisfied. The negative criteria required for all "c" variances is that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and the zoning ordinance.

The evidence and testimony demonstrate that the grant of the requested variances will not create any detriment to the public good and will not substantially impair the purpose and intent of the Tourism District Mast Plan and the Tourism District Land Development Rules.

RECOMMENDATION

For all of the foregoing reasons, the Hearing Officer recommends that the Application for variances pursuant to N.J.S.A. 40:55D-70(c) to provide a rooftop deck/rooftop access on the existing mixed-use building located at the subject property be approved. The grant of approval of this Application shall be expressly conditioned upon the Applicant complying with all conditions of prior approvals, satisfying all representations made by the Applicant



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or by others on its behalf during the course of the hearing on this matter before the Hearing Officer.

The grant of approval shall be further conditioned upon compliance with all applicable requirements of the Tourism District Land Development Rules, Atlantic City Ordinances, and the requirements of any City agency, board or authority. Any approval granted in accordance herewith shall be further expressly conditioned upon the Applicant obtaining all other necessary governmental approvals, and compliance with all Federal, State and local laws.

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Principals
Richard Rehmann, GISP
Richard Heggan, PLS, PP
Jeffery MacPhee, PLS
Carolyn A. Feigin, PE, PP

March 4, 2025

Lance B. Landgraf, Jr., PP, AICP
Casino Reinvestment Development Authority
Division of Land Use and Regulatory Enforcement
15 S Pennsylvania Avenue
Atlantic City, NJ 08401

Re: TECHNICAL REVIEW #1: CRDA # 2025-01-3779
Variance Approval
Caring, Inc.
2611 & 2619 S. Pacific Avenue (Block 169, Lots 7 & 8)
Atlantic City, NJ 08401
ARH # 2410106

Dear Mr. Landgraf:

ARH ASSOCIATES has reviewed the following information towards issuance of Variance Approval for the above-referenced Application:

TITLE / DESCRIPTION	PREPARED / SIGNED / SEALED BY	DATE	DATE LAST REVISED
CRDA Land Use Application	Owner / Applicant	01/20/2025	
Escrow Setup Information			
Project Narrative			
Property Survey & Site Plan	Arthur Ponzio Co.	10/09/2024	
Variance Plans Phase II Roof Deck	Daniel S. Mascione, Architect, LLC	08/26/2024	

Per this information, our office offers the following comments:

I. PROJECT INFORMATION & CONTACT INFORMATION

The 7,640 SF site is a corner lot with frontage on Pacific Avenue and Spray Avenue. The site is presently developed with a three-story building with two (2) retail uses and one (1) residential unit on the first floor with two (2) 2-story residential units above and a parking lot.

ARH Associates

Corporate Headquarters – 215 Bellevue Avenue – PO Box 579 – Hammonton, NJ 08037 – 609.561.0482 – fax 609.567.8909
Tinton Falls Office – 97 Apple Street – Suite 1 – Tinton Falls, NJ 07724 – 609.561.0482 – fax 609.567.8909

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TECHNICAL REVIEW #1: CRDA # 2025-01-3779
Variance Approval
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ARH # 2410106
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The Applicant received a Certificate of Land Use Compliance on 09/27/2024 for the approval of the residential and retail units, ADA ramp, and nine (9) parking spaces. The Applicant now seeks variance approval for the proposed rooftop deck.

Below please find the contact information for the responsible parties associated with this Application:

APPLICANT/OWNER

Caring, Inc.
14 S. California Avenue
Atlantic City, NJ 08401
Phone: 609-484-7050
Email: jdougherty@jdnjlaw.com

ENGINEER/PLANNER

Arthur Ponzio Co.
400 N. Dover Avenue
Atlantic City, NJ 08401
Phone: 609-344-7301
Email: jbarnhart@aponzio.com

ATTORNEY

Hank N. Rovillard, Esq.
31 N. Brighton Avenue
Atlantic City, NJ 08401
Phone: 609-347-7301
Email: hnr@hnrnjlaw.com

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TECHNICAL REVIEW #1: CRDA # 2025-01-3779
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Atlantic City, NJ 08401
ARH # 2410106
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ARCHITECT
Daniel S. Mascione, A.T.A 1409 New Road Northfield, NJ 08225 Phone: 609-383-9000 Email: dsmastaff@gmail.com

II. ZONING REVIEW

The subject property is situated within the Resort Commercial (RC) zoning district. Mixed use buildings are permitted in the zone. Our review is limited to the proposed rooftop deck only and no parking or other site improvements have been analyzed. The table below summarizes the bulk requirements for this zone:

BULK ITEMS	REQUIREMENT	EXISTING	PROPOSED
Max. Principal Building Height	300 ft (from BFE)	< 300 ft	< 300 ft (increased due to roof deck stair house)
Min. Lot Area	7,500 sf	7,640 sf	NC
Min. Lot Depth	150 feet	100 feet (ENC)	NC
Min. Lot Width	50 feet	90 feet	NC
Min. Lot Frontage	50 feet	90 feet	NC
Min. Principal Front Yard Setback (> 35' in height)	20 feet	0 feet (ENC)	0 feet (roof deck) (V)
Min. Principal Side Yard Setback (> 35' in height)	20 feet	11.7 ft	18.1 ft (roof deck) (V)
Min. Principal Rear Yard Setback	20 feet	N/A	N/A
Max. Building Coverage	70 %	25 %	30 %
Max. Impervious Coverage	80 %	98 % (ENC)	NC

N/A = Not Applicable; NC = No Change; ENC = Existing Non-Conformity;
NP = Not Provided; TBP = To Be Provided; V = Variance Required

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The Applicant has requested the following variances with their application:

- a. Section 19:66-5.10(a)1.iv.(8) – Where a minimum front yard setback of 20 FT is required for a structure greater than 35 FT in height, whereas proposed rooftop deck on the existing structure has a front yard setback of 0 FT.

The following additional variances also appear necessary:

- a. Section 19:66-5.10(a)1.iv.(9) – Where a minimum side yard setback of 20 FT is required for a structure greater than 35 FT in height, whereas proposed rooftop deck on the existing structure has a side yard setback of 18.1 FT.

The Applicant should be prepared to provide testimony to the Board in support of the requested variances.

III. ENGINEERING COMMENTS

1. The site plan shall be revised to provide the missing tax map sheet # and the block and lot(s) as a condition of approval.
2. The site plan shall be revised to contain graphic scales.
3. The requirements for front yard setback on the Zoning Schedule on the site plan shall be revised to be 0 FT for below 35 FT in height and 20 FT for above 35 FT. The same is valid for the side yard setback as well and shall be reflected as such on the Zoning Schedule. Thus, a variance is needed from the front and side yard setbacks for the proposed roof deck as the setbacks are 0 FT for the front and 18.1 FT to the side.
4. The building height as measured from the BFE shall be provided on the plans/building elevations. Please note that building height is measured from the BFE to the highest point of the building, which is the peak of the stairwell structure. The building elevations shall be revised to provide the elevations of the FF, BFE, and roof peak.
5. The Applicant shall supply four (4) photographs of the site as a condition of approval.

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IV. COFONE CONSULTING PLANNING REVIEW

Zoning Compliance

The property is located in the Resort Commercial (RC) District. As stated at CRDA Land Development Rules Section at N.J.A.C. 19:66-5.10, the purpose of the RC District is as follows:

The purpose of the RC Resort Commercial District is to provide an array of land uses that will capitalize on the zoning district's geographical advantages of the zoning district's proximity to the boardwalk and the Atlantic Ocean. The Resort Commercial District also offers the highest intensity residential offerings within the Tourism District with a variety of supportive commercial and services uses. The vision is to create an environment where residential and resort offerings seamlessly integrate.

Our review of the site plan is limited to only the rooftop deck that requires a variance for being within the front and side yard setback areas. All other improvements, including parking lot, ADA ramp, and retail/residential uses in the building, have been previously approved via a CLUC, dated September 27, 2024.

Master Plan Review

The subject property is located within the Atlantic City Tourism District. Pursuant to the New Jersey CRDA Atlantic City Tourism District Master Plan, the overall intention and vision is to "reinvigorate Atlantic City in the near-term as the leading resort destination in the Northeast and beyond (Page 4, New Jersey CRDA Atlantic City Tourism District Master Plan). Among others, overarching objectives are to "develop an economically viable and sustainable tourism district" and "[expand] Atlantic City's tourism and economic bases" (Id, Page 1-2).

Planning Analysis and Issues for Consideration by the Board

In regard to the "c" variance, the Municipal Land Use Law (MLUL) at NJSA 40:55D-70c sets forth the standards for variances from the bulk regulations of a zoning ordinance. A "c(1)" variance is for cases of hardship due to factors such as shape or topography, or due to "an extraordinary and exceptional situation uniquely affecting a specific

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piece of property or the structures lawfully existing thereon.” A “c(2)” variance may be granted where the purposes of zoning are advanced and the benefits of deviating from the ordinance requirements outweigh any detriments. The benefits derived from granting a “c(2)” variance must include benefits to the community as a whole, not just to the applicant or property owner. A “c” variance application also must address the “negative criteria.”

We offer the following for your consideration in reviewing the Application:

- 1) The Applicant’s professional planner shall provide the required statutory proofs for the proposed variance.
- 2) The Applicant’s professionals shall provide testimony regarding the design details of the roof top deck and railing system, with a specific focus on its safety attributes and ingress/egress.
- 3) The Applicant shall discuss how the application will advance the intent of the New Jersey CRDA Atlantic City Tourism District Master Plan and the Tourism District.
- 4) The Applicant shall comply with the conditions of all previous approvals received for the site.
- 5) The Applicant shall furnish any resolution and/or prior approvals from, and agreements with, the City of Atlantic City, if any.

V. POST APPROVAL CONSIDERATIONS

Should the Board grant the desired approval for this Application, Applicant, and/or its professionals must:

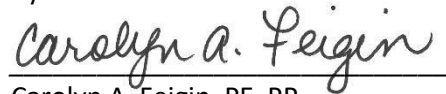
- A. Submit any required revisions to the Board as outlined above for review.**
- B. Obtain approvals from all outside agencies, if necessary. Provide copies to the Board.**
- C. Contact the Board Secretary to reconcile any outstanding review escrow accounts prior to Final Plan Certification, Signature, or the issuance of building permits, as applicable.**

Any resubmissions in response to this report should be accompanied by a point-by-point response to all items. To facilitate the Board's decision-making process, Applicants are strongly encouraged to resolve as many items as possible prior to the hearing on this matter.

Respectfully Submitted,

ARH ASSOCIATES

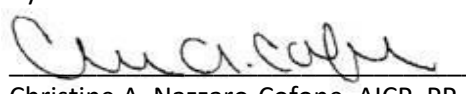
By



Carolyn A. Feigin, PE, PP
CRDA Consulting Engineer

COFONE CONSULTING GROUP

By



Christine A. Nazzaro-Cofone, AICP, PP
CRDA Consulting Planner

cc: Robert L. Reid, AICP, NJPP
Christine A. Nazzaro-Cofone, AICP, PP
Scott Collins, Esq.
Tetje Linsk

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Tally

DATE: APRIL 15, 2025

CARING, INC. – RESOLUTION OF THE CASINO REINVESTMENT DEVELOPMENT AUTHORITY GRANTING BULK VARIANCES PURSUANT TO N.J.S.A. 40:55D-70(c) TO PROVIDE A ROOFTOP DECK/ROOFTOP ACCESS ON THE EXISTING MIXED-USE BUILDING ON THE SUBJECT PROPERTY LOCATED AT 2611 & 2619 PACIFIC AVENUE, BLOCK 169 LOTS 7 AND 8, IN THE CITY OF ATLANTIC CITY UNDER APPLICATION #2025-01-3779

Motion: **RT**

Second: **JP**

Michael Beson	<u>Absent</u>
Chris Brown <i>for the DCA Commissioner</i>	<u>Y</u>
Daniel Cosner	<u>Y</u>
Christopher Glaum <i>for the State Attorney General</i>	<u>Y</u>
Michael Hanley	<u>Y</u>
Michael Laughlin	<u>Y</u>
Brett Matik	<u>Y</u>
William Mullen	<u>Y</u>
Paulina O'Connor	<u>Y</u>
James Plousis	<u>Y</u>
Mayor Marty Small, Sr.	<u>Absent</u>
William Sproule	<u>Absent</u>
Robert Tighue <i>for the State Treasurer</i>	<u>Y</u>
Joseph Tyrrell	<u>Y</u>
Chairman Mo Butler	<u>Y</u>