

LEON S. AVAKIAN, INC. *Consulting Engineers*

788 WAYSIDE ROAD • NEPTUNE, NEW JERSEY 07753

LEON S. AVAKIAN, P.E., P.L.S. (1953-2004)
PETER R. AVAKIAN, P.E., P.L.S., P.P.
MEHRYAR SHAFAI, P.E., P.P.
GREGORY S. BLASH, P.E., P.P., CPWM
LOUIS J. LOBOSCO, P.E., P.P.
GERALD J. FREDA, P.E., P.P.
RICHARD PICATAGI, L.L.A., P.P.
JENNIFER C. BEAHM, P.P., AICP
CHRISTINE L. BELL, P.P., AICP
SAMUEL J. AVAKIAN, P.E.

January 18, 2021

Ms. Kristie Dickert, Administrative Officer
Zoning Board of Adjustment
Neptune Township
P.O. Box 1125
Neptune, NJ 07754-1125

Re: Rinnetta McGhee (ZB#20/20)
245 Myrtle Avenue
Block 605, Lot 8
Use Variance
Our File: NTBA 20-25

Dear Ms. Dickert:

Our office has received and reviewed materials for an application for use variance approval in conjunction with the above referenced project.

Submitted Documents:

- A. Township of Neptune Checklist and Application for Use and/or Bulk Variances dated November 16, 2020.
- B. Zoning Permit Denial dated October 23, 2020.
- C. Community Impact Statement prepared by Rinnetta McGhee, owner/landlord, dated October 28, 2020.
- D. Survey of Lands for Rinnetta McGhee, consisting of one (1) sheet, prepared by Paul K. Lynch, PLS, dated November 10, 2020.

Our comments are as follows:

1. Site Analysis and Project Description

- A. The subject property, Block 605, Lot 8, is, an irregularly shaped parcel, located on the west side of Myrtle Avenue in the R-4 Zone District. The site is currently developed with a two (2) story masonry dwelling consisting of three (3) separate living spaces and a one (1) story masonry dwelling. Single family residential uses surround the subject property.
- B. The existing use of the property is a 2-family residence which is an existing non-conforming use. The Applicant has converted the detached garage and the basement to two (2) additional residences, making this a 4-family residence use.
- C. In 2002, the Applicant had requested approvals to change the use to a 3-family dwelling. The request was denied by the Zoning Officer.

- D. The Applicant is seeking use variance approval to permit four (4) dwelling units on the subject property. No site improvements are proposed at this time.

2. Zoning and Land Use Planning

The property is situated in the R-4 Medium Density Residential Zone District. The purpose of the R-4 Zone District is to provide for single-family residential development at a density not to exceed 8.7 dwelling units per acre. Permitted uses in the R-4 Zone District include community shelters, detached single family residences, parks, places of worship, recreational facilities, and private or public elementary, middle or high schools. Multi-family dwelling units and multiple dwellings on a single property are not permitted in the R-4 Zone District. **As such, a d(1) use variance will be required to permit a use which is not allowed in the zone district.**

3. Required Proofs for Variance Relief

D(1) Use Variance

This application requires a use variance pursuant to N.J.S.A. 40:55D-70.d(1). Testimony is required to demonstrate that the application satisfies the positive and negative criteria of the Municipal Land Use Law for the granting of the use variance relief. To obtain a d(1) use variance, the Applicant must show that the proposal meets four separate criteria:

A. Positive Criteria

- 1) *That the site is particularly suited to the use.* The Applicant must prove that the site is particularly suited for the proposed use. This requirement sets a high bar, requiring findings that the general welfare is served because the use is particularly fitted to the proposed location of the use. It requires the Applicant to show why the location of the site within the Township is particularly suited for the proposed use despite the underlying zoning, or the unique characteristics of the site that make it particularly appropriate for the proposed use rather than a permitted use.
- 2) *Special Reasons.* The Applicant must prove that special reasons exist for granting the use variance by demonstrating either that there is an unreasonable hardship in not granting the variance, or that the proposed project furthers one or more of the purposes of the Municipal Land Use Law.

B. Negative Criteria

- 1) *The variance will not substantially impair the intent and purpose of the zoning plan and ordinance.* The Applicant must prove that the proposal does not substantially impair the intent of the zoning ordinance or master plan. This criterion comes out of the basic principle that municipalities should make zoning decisions by ordinance rather than by variance, and that the grant of a variance

should not represent a complete departure from the enacted policy of the governing body.

- 2) *The variance can be granted without a substantial detriment to the public good.* This requires an evaluation of the impact of the proposed use on surrounding properties and a determination as to whether or not it causes such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.

4. Additional Comments

- A. The Applicant should provide testimony on all required variances and clarify all points where additional information is needed.
- B. The Community Impact Statement should be prepared by a licensed professional planner.
- C. Architectural plans should be provided indicating the layout, square footage, and number of bedrooms for each proposed dwelling unit.
- D. The Applicant should confirm that no site improvements are proposed.
- E. The Applicant should address parking requirement pursuant to the Residential Site Improvements Standards. (RSIS).
- F. A Google Earth copy of the property and surrounding dwellings is attached for the Board's use.

Please be advised that additional comments may follow upon completion of testimony and/or submission of further revisions by the Applicant. Should you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Jennifer C. Beahm, P.P.
Board Planner



Matt Shafai, P.E.
Board Engineer

MS:clb/mcs

cc: Leanne Hoffmann, P.E., Director of Engineering & Planning
Monica Kowalski, Esq., Board Attorney
Rinnetta McGhee, Applicant (hoggywolf@gmail.com)
Robert Beatty, Applicant's contact

NTBA/20/20-25

245 Myrtle Ave.

Legend

245 Myrtle Ave

Ivy Pl

Google Earth

100 ft

