

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.

May 25, 2021

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

Re: Juan Carlos Riano Duniga (ZB#21/02)
1322 10th Avenue
Block 402, Lot 8
Use Variance and Bulk Variance
Our File: NTBA 21-02

Dear Ms. Dickert:

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

Submitted Documents:

- A. Neptune Township Application for Use and/or Bulk Variances dated January 28, 2021.
- B. Survey of Property, consisting of one (1) sheet, prepared by Jeffrey S. Grunn, PLS, of Lakeland Surveying, dated November 15, 2019.
- C. Architectural Plans, consisting of four (4) sheets, prepared by Antonio Scalise, AIA, of Parallel Architectural Group, dated May 27, 2020, revised January 19, 2021.

Our comments are as follows:

1. **Site Analysis and Project Description**

- A. The subject application consists of 9,470 sq. ft., located on the south side of 10th Avenue in the R-4 Residential Zone District. The site is currently developed with a two-story frame dwelling, a 1-story frame dwelling, and a masonry garage. Surrounding properties are developed with single family residential uses.

- B. The applicant is proposing to renovate the existing front structure on the lot. A d(2) use variance will be required to permit the expansion of the non-conforming, multi-family residence. The existing structure currently hold four (4) units and the applicant is proposing to reduce the number of units to two (2) (three bedroom), for a total of three (3) units on the subject property. Proposed renovations include interior alterations to the first and second floor, a proposed second story addition at the rear of the house, and a proposed wood deck at each of the house for each unit.
- C. The number of bedrooms for the existing unit in the rear should be provided.

2. **Zoning and Land Use Planning**

The property is situated in the R-4 Medium Family 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. The existing multi-family use is not permitted in the zone district. **As such, a d(2) use variance will be required to permit an expansion of the non-conforming use.**

3. **Bulk Requirements**

- A. The minimum one side yard setback in the R-4 zone district is 5 ft., whereas 1'4" (1.2' on the survey) is existing and proposed. **A variance is needed.**
- B. The parking requirements should be addressed. **A VARIANCE may be required.**

4. **Required Proofs for Variance Relief**

A. **D(2) Variance**

A D(2) use variance to permit an expansion of a non-conforming use is required. The applicant must satisfy both the positive and negative criteria to obtain the requested use variance.

- 1) Proving the positive criteria for d(2) variances is set at a lower bar than for a new non-conforming use. Proof should still be proffered that demonstrates the furtherance of a goal of zoning.
- 2) Proving the negative criteria requires evidence that the site can accommodate the expansion of the use without causing a substantial

- 2) Proving the negative criteria requires evidence that the site can accommodate the expansion of the use without causing a substantial detriment to the public good, nor a substantial impairment the intent and purpose of the zone plan and zoning ordinance.

B. C Variances

A number of “c” variances are required. There are two types of c variances with different required proofs.

- 1) Boards may grant a c(1) variance upon proof that a particular property faces hardship due to the shape, topography, or extraordinary and exceptional situation uniquely affecting the specific property.
- 2) Boards may grant a c(2) variance based upon findings that the purposes of zoning enumerated in the MLUL are advanced by the deviation from the ordinance, with the benefits of departing from the standards in the ordinance substantially outweighing any detriment to the public good. The Supreme Court’s ruling in Kaufmann v. Planning Board for Warren Township provides additional guidance on c(2) variances, stating that “the grant of approval must actually benefit the community in that it represents a better zoning alternative for the property. The focus of the c(2) case, then, will be...the characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community.”
- 3) C variances must also show consistency with the negative criteria as well.

5. Additional Comments

- A. The applicant should provide testimony on all required variances and clarify all points where additional information is needed.
- B. The applicant should provide testimony as to the multi-family use.
- C. The applicant should confirm no improvements are proposed for the rear structure or the garage.
- D. The Architect’s plans reference to survey does not match the survey submitted with this application.
- E. The entire driveway needs to be replaced.

6. **Conditions of Approval**

The following conditions of approval are recommended:

- A. Provide plot plan indicating all required site improvements.

Please be advised that additional comments may follow upon completion of testimony and/or submission of further revisions by the Applicant.

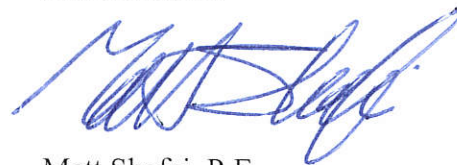
Should you have any questions regarding this matter, please do not hesitate to contact our office.

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
Juan Carlos Riano Duniga, Applicant (superstar_roofing@hotmail.com)
Kevin I. Asadi, Esq., Applicant's Attorney (kasadi@zaegerfuchs.com)

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