



Fee Date: 03/21/2023  
Check #: 2433  
Cash: 0

**ZONING REVIEW**

ID: 560538134

Date: 03/23/2023

Fee: \$ 35.00

**PROPOSED WORK**

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Adding a New Use to a Property         | <input type="checkbox"/> Home Occupation                          | <input type="checkbox"/> Private Garage        |
| <input checked="" type="checkbox"/> Air Condensor Unit(s)       | <input checked="" type="checkbox"/> Interior Remodel - Comm / Res | <input type="checkbox"/> Residential Addition  |
| <input type="checkbox"/> Commercial Addition                    | <input type="checkbox"/> New Accessory Structure                  | <input type="checkbox"/> Signs                 |
| <input checked="" type="checkbox"/> Continuing/Changing Use     | <input type="checkbox"/> New Commercial Business                  | <input type="checkbox"/> Solar                 |
| <input type="checkbox"/> Deck/Balcony                           | <input type="checkbox"/> New Ownership of Property/Business       | <input type="checkbox"/> Storage Shed          |
| <input checked="" type="checkbox"/> Driveway / Sidewalk / Apron | <input type="checkbox"/> New Residence                            | <input type="checkbox"/> Swimming Pool/Hot Tub |
| <input type="checkbox"/> Fence/Retaining Wall                   | <input checked="" type="checkbox"/> Porch                         | <input type="checkbox"/> Zoning Determination  |
| <input checked="" type="checkbox"/> Other: _____                |   |  |

The Neptune Township Zoning Map, Land Development Ordinance and its amendments can be found online at [www.neptunetownship.org/departments/land-use](http://www.neptunetownship.org/departments/land-use).

**ALL APPLICATIONS WITHIN THE HISTORIC DISTRICT REQUIRE HPC APPROVAL.**

**IF ANY OF THE REQUESTED INFORMATION IS SUBMITTED INCOMPLETE,  
THEN THIS APPLICATION SHALL BE RETURNED UNPROCESSED.**

1. **Location of property for which zoning permit is desired:**  
**Street Address:** 34 OCEAN PATHWAY **Block:** 129 **Lot:** 6 **Zone:** HD-O
2. **Applicant Name:** MARK A PAVLIV AIA **Phone No.** (732)776-8777 **Fax No.** (732)776-9009  
**Applicant's Address:** 77 MAIN AVE SUITE 101 OCEAN GROVE NJ 07756  
**Email:** mp77aia@aol.com
3. **Property Owner Name:** 34 OPOG, LLC **Phone No.** **Fax No.**  
**Property Owner's Address:** 34 OCEAN PATHWAY OCEAN GROVE, NJ 07756  
**Email:**
4. **Present Approved Zoning Use of the Property:** Nonconforming 39 Room Hotel with 1 Apartment for the Hotel Manager Only
5. **Proposed Zoning Use of the Property:** Nonconforming 39 Room Hotel with 1 Apartment for the Hotel Manager Only
6. **Describe in detail the activity or activities you are proposing. If you are proposing construction, then describe in detail the dimension and setbacks. If you are proposing a use, then describe the proposed use.**
7. **Has the above referenced premises been the subject of any prior application to the ZONING BOARD OF ADJUSTMENT or PLANNING BOARD?**

Yes  No  If Yes, state date:

Board: Resolution # (if any): (submit a copy of the Resolution)

8. For all exterior work pertaining to additions and accessory structures, excluding fences, please provide:

Building Coverage: 0

Lot Coverage: 0 (Please include calculations)

**40:55D-68.3. Penalty for false filing.** Any person who knowingly files false information under this act shall be liable to a civil penalty not to exceed \$1,000 for each filing. any penalty imposed under this section may be recovered with costs in a summary proceeding pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

-----FOR OFFICE USE-----

**Zoning Review Notes:**

03/23/2023 The property is located within the HD-O Zone (Zoning District).

**The applicant indicates the zoning use of the property to be "HOTEL". This is inaccurate. Indicating the correct zoning use of the property is pertinent in the zoning review process. The zoning use of the property is a "Nonconforming 39 Room Hotel with 1 Apartment for the Hotel Manager Only".**

The applicant and property owner certify that the premises has never been the subject of any prior application to the Zoning Board of Adjustment or Planning Board.

In reviewing the submitted documents, it appears the applicant is proposing work in reference to:

- Prior Non-conforming Hotels
- Nonconforming Uses, Structures, and Lots;
- Porch, Deck and Balcony Requirements;
- Height Exemptions and Permitted Projections
- Performance Standards for All Uses
- Signs

## **Prior Non-conforming Hotels**

Land Development Ordinance section 413.05 states:

A Any hotel located east of Central Avenue, which at the time of adoption of this subsection, is a legal non-conforming use, shall be deemed to be a principal permitted use to the extent the of the use which exists at any such hotel at the time of adoption of this subsection. However, any expansion of the use which

exists at any such hotel at the time of adoption of this subsection shall be deemed non-conforming and would thus require a variance pursuant to NJSA:55D-70-d2 of the Municipal Land Use Law.

B The construction of additional cubic volume on the existing footprint of hotels subject to this section shall not be considered an expansion of the existing hotel use, provided it does not result in the creation of additional guestrooms. In the event of fire, damage or any other casualty, hotels subject to this section shall have the right to rebuild or repair the structure in accordance with its legal use as specified in this section.

## **ZONING NOTES:**

**- The applicant indicates the proposed construction of numerous commercial additions.**

**One addition is to the rear of the principal structure, expanding the height of the third floor for use of an elevator.**

**- The applicant indicates the proposed addition of an Other Personal Care Services (NAICS 81299) use to the property. The Other Personal Care Services use comprises establishments primarily engaged in providing personal care services (except hair, nail, facial, nonpermanent makeup, or non-medical diet and weight reducing services). The applicant has omitted this from the zoning permit application detailed description. It is unclear if the applicant is proposing to add this as a new business or proposing to add this as an accessory use to the existing nonconforming use. The applicant is proposing an expansion of the existing nonconforming with the proposed addition of a Nonconforming Other Personal Care Services use. The applicant does not demonstrate compliance. A variance is required from the Zoning Board of Adjustment.**

## **Nonconforming Uses, Structures, and Lots;**

Land Development Ordinance section 422 states:

The following provisions shall apply to valid non-conforming use, structures and lots at the time of adoption of this Ordinance:

A A use, building or structure which is lawfully in existence at the effective date of this Ordinance and shall be made non-conforming at the passage of this Ordinance or any applicable amendment thereto, may be continued as otherwise provided in this section.

**ZONING NOTES:**

- **The existing use of the property is nonconforming as it is not permitted within the Zoning District.**
- **The existing principal structure with stairs is nonconforming as it does not comply with the current Land Development Ordinance requirements.**
- **The existing porch is nonconforming as it does not comply with the current Land Development Ordinance requirements and encroaches onto the neighboring property.**
- **The existing projections are nonconforming as they do not comply with the current Land Development Ordinance requirements.**
- **The existing rear entry platform with stairs is nonconforming as it does not comply with the current Land Development Ordinance requirements.**
- **The existing driveway is nonconforming as it does not comply with the current Land Development Ordinance requirements.**
- **The existing signs are nonconforming as it does not comply with the current Land Development Ordinance requirements and encroaches onto the neighboring property.**

B No existing use, structure or premises devoted to a non-conforming use shall be enlarged, extended, reconstructed, substituted or structurally altered, unless it is changed to a conforming use or structure as follows:

1 Any non-conforming structure or use damaged to less than fifty per cent (50%) of its previous existing area or value by fire or other natural calamity, may be restored, reconstructed or used as before, provided the area of such use or structure shall not exceed the area which existed prior to such damage nor increase the intensity of use. All repairs shall be completed within one (1) year after damages occur, or within such time extensions granted by the Zoning Officer, which can only be granted upon good cause being shown by the applicant, or such use shall not be rebuilt except as a conforming use.

2 Normal maintenance and repair of a structure containing a non-conforming use is permitted, provided that it does not extend the area or volume of space occupied by the non-conforming use or structure and does not increase the intensity of use. Nothing in this section shall prevent the restoring to a safe or lawful condition any part of any structure declared unsafe by the Construction Official.

3 A building containing residential non-conforming use may be altered in any way to improve interior livability. No structural alterations shall be made which would increase the number of bedrooms or dwelling unit.

C Non-conforming uses and structures are considered terminated and shall not be revived in any way except as a conforming use or structure in accordance with the following:

1 A non-conforming use or structure abandoned in accordance with this Ordinance and accompanied by an intent on the part of the owner to abandon such use as evidenced by some act or failure to act which carries with it a sufficient implication that the owner neither claims or retains any interest in the subject matter of the abandonment shall be considered a termination thereof. Such implication shall be reputably presumed by non-use for any period of two (2) or more years. Non-use by successive owners shall be considered continuous non-use.

2 The change of a non-conforming use or structure to a more or entirely conforming use for any period of time shall be considered an abandonment of the previous non-conforming use, and a reversion to the previous non-conforming use shall not be permitted.

3 A non-conforming structure or use which has fifty percent (50 %) or more of its non-conforming area or value destroyed by fire or natural calamity shall be considered an abandonment thereof.

D A nonconforming structure may not be enlarged, extended, increased in height, width or depth, moved or relocated, modified in such a way so as to increase habitable or useable space, number of dwelling units or number of bedrooms; unless such structure is changed to a structure conforming to the requirements of this Chapter except that an existing one family structure may be rebuilt, enlarged, extended or added to provided:

1 The enlargement, extension or addition conforms to all zone requirements; or

2 The portion of the enlargement, extension or addition which does not conform to zone requirements consists entirely of the enclosure of existing side or rear porches.

3 Where a structure is nonconforming solely because it intrudes on the current required yard area.

a If the proposed horizontal addition to that building would not protrude into that required yard area, then the Zoning Official can issue the permit and no application to the Board of Adjustment is necessary.

b If a proposed vertical addition would be located within the building envelope or existing building footprint (and assuming no violation of height restriction or other ordinance provision), the Zoning Official may also issue a permit for such vertical expansion provided that the addition would not exacerbate the nonconformity.

4 An existing one-family structure located in a residential district destroyed by fire or other natural calamity may be rebuilt provided the new structure complies with all zone requirements relating to setbacks and height; however, the existing lot need not comply with minimum lot width, depth and area requirements where the existing condition is non-conforming.

E The prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a nonconforming use or structure exists may apply for, in writing, the issuance of a certificate certifying that the use or structure existed before the adoption of the ordinance which rendered the use or structure nonconforming. The applicant shall have the responsibility of affirmatively proving the preexisting nonconforming use or structure. Application pursuant hereto may be made to the Zoning Board of Adjustment Administrative Officer within one year of the adoption of the ordinance which rendered the use or structure nonconforming or at any time to the Zoning Board of Adjustment.

F Any parcel of land with an area or width less than that prescribed for a lot in the zone in which the lot is located may be used as a lot for any purpose permitted in the zone, if:

1 at the time of and since the adoption of the zoning ordinance making such lot nonconforming, the owner of the lot did not own adjoining property.

2 all other regulations prescribed for the zone are or can be complied with.

## **ZONING NOTES:**

**- The applicant indicates the proposed demolition/abandonment of the existing Nonconforming Entry Platform, and the construction of a new Nonconforming Entry Platform. The applicant does not demonstrate compliance with the Land Development Ordinance requirements. Zoning Board of Adjustment approval is required. Reference subsection Porch, Deck and Balcony Requirements.**

**- The applicant indicates the proposed demolition/abandonment of the existing Nonconforming Porch stairs which encroach onto the neighboring property, and the construction of new Nonconforming Porch stairs which will encroach onto the neighboring property. The**

**applicant does not demonstrate compliance with the Land Development Ordinance requirements. Zoning Board of Adjustment approval is required. Reference subsection Porch, Deck and Balcony Requirements.**

**- The applicant indicates the proposed demolition/abandonment of the existing Nonconforming Projections, and the construction of new Nonconforming Projections. The applicant does not demonstrate compliance with the Land Development Ordinance requirements. Zoning Board of Adjustment approval is required. Reference subsection Height Exemptions and Permitted Projections.**

**- The applicant indicates the proposed construction of a commercial addition expanding the size of two rooms. The applicant does not demonstrate compliance with the Land Development Ordinance. A variance is required from the Zoning Board of Adjustment.**

**- The applicant indicates the proposed interior remodeling creating new rooms in areas where there are non existing. The applicant does not demonstrate compliance with the Land Development Ordinance. A variance is required from the Zoning Board of Adjustment.**

- The applicant indicates the proposed maintenance of the existing nonconforming sign by painting the existing sign.

- The applicant indicates interior remodeling expanding the dining room area.

- The applicant indicates the proposed reduction in the number of rooms from 39 to 27 room.

- The applicant indicates the proposed construction of new windows.

- The applicant indicates the proposed construction of new basement access area.

- The applicant indicates the proposed construction of new walkways.

## **Porch, Deck and Balcony Requirements;**

Land Development Ordinance section 411.07B-C states:

C Porch setbacks. For residential structures, a porch may not encroach into any setback/yard areas. No porch associated with any multi-family residential use may extend into any setback/yard areas.

[NOTE: Amended per Ordinance No. 13-17]

### **ZONING NOTES:**

**- The applicant indicates the proposed demolition/abandonment of the existing Nonconforming Porch stairs which encroach onto the neighboring property, and the construction of new Nonconforming Porch stairs which will encroach onto the neighboring property. The applicant is proposing construction on the neighboring property and does not demonstrate compliance with the Porch setback requirements. A variance is required from the Zoning Board of Adjustment.**

- The applicant indicates the proposed maintenance to the front porch by replacing the decking.

- The applicant indicates the proposed demolition of the rear second story porch. The applicant indicates the proposed construction of a new second and third story porch attached to the rear of the principal structure.

Land Development Ordinance section 411.07B-E states:

E Entry platforms. An entry platform not more than six (6) feet in height above the average finish grade, nor greater than fifty (50) square feet in area, may not project into any required yard/setback area.

[NOTE: Amended per Ordinance No. 11-35]

### **ZONING NOTES:**

**- The applicant indicates the proposed demolition/abandonment of the existing Nonconforming Entry Platform, and the construction of a new Nonconforming Entry Platform. The proposed Entry Platform projects into the required rear yard setback. The applicant does not demonstrate compliance with the Land Development Ordinance requirements. A variance is required from the Zoning Board of Adjustment.**

## Height Exemptions and Permitted Projections;

Land Development Ordinance section 418-B-3 states:

B Permitted projections. The following shall not be considered to be obstructions and shall be permitted when located in a required yard and/or setback area:

3 Cornices, eave, cantilevered roofs, gutter, bay windows, and chimneys, provided they do not project more than twenty-four (24) inches from an exterior building wall into any required yard setback, and provided they remain two (2) feet from all yard lines;

[NOTE: Amended per Ordinance No. 07-54]

## **ZONING NOTES:**

**- The applicant has omitted displaying the existing and proposed conditions of the projections on the submitted site plans. The applicant indicates the proposed construction of new nonconforming projections that will be setback less than 2' from the proximal property line. The applicant does not demonstrate compliance with this Land Development Ordinance requirement. A variance is required from the Zoning Board of Adjustment.**

- The applicant indicates the proposed demolition of the existing chimneys.

## Performance Standards for All Uses

Land Development Ordinance section 402-B states:

An application for a permit shall provide documentation that the intended use will comply with the performance standards enumerated below. In the case of a structure being built where the future use is not known, a zoning permit may be issued with the condition that no certificate of occupancy will be issued until such time as this documentation is submitted with respect to the particular occupant. A new application and a new certificate of occupancy shall be required in the event of a change of any user of any structure.

B Glare. No use shall produce a strong, dazzling light or a reflection of a strong, dazzling light or glare beyond its lot lines. Exterior lighting shall be shielded, buffered, and directed so that glare, direct light or reflection will not become a nuisance to adjoining properties, adjoining dwelling units, adjoining districts or streets.

## **ZONING NOTES:**

**- The applicant indicates the proposed construction of new lights on the principal structure. The applicant certifies the proposed lights shall comply with the above indicated Land Development Ordinance requirement.**

Land Development Ordinance section 402-G states:



G Ventilation. No use shall obstruct the natural ventilation of adjacent uses nor contaminate the air with excessive heat or odor. Further, no air conditioners or exhaust fans shall be permitted to discharge exhausted air unless set back from all property lines 10 feet or equipped with baffles to deflect the discharged air away from the adjacent use.

## **ZONING NOTES:**

**- In the detailed description on the zoning permit application, the applicant indicates the proposed installation of "...a new roof top exhaust fan...". The applicant did not submit plans clearly identifying the proposed structure as displaying compliance with this Land Development Ordinance requirement. Zoning Board of Adjustment review and approval is required.**

- The applicant indicates the proposed installation of one (1) 10 Ton Model TURYE1203AN40AN upward ventilating condenser unit on the property. The applicant submitted one (1) copy of the specifications sheet. Therefore, no copies are being returned with this zoning determination.

- The applicant indicates the proposed installation of one (1) 8 Ton Model TURYE0963AN40AN upward ventilating condenser unit on the property. The applicant submitted one (1) copy of the specifications sheet. Therefore, no copies are being returned with this zoning determination.

- The applicant indicates the proposed installation of one (1) 6 Ton Model TURYE0723AN40AN upward ventilating condenser unit on the property. The applicant submitted one (1) copy of the specifications sheet. Therefore, no copies are being returned with this zoning determination.

## **Signs;**

Land Development Ordinance section 416-J states:

J Nonconforming signs. Any lawfully nonconforming sign may be altered as follows:

1 Minor and nonstructural maintenance and/or repairs to the sign support structure and/or frame may be completed.

2 Re-lettering of an existing sign face containing the same specific message or letters may be completed.

3 An existing sign face may be replaced, provided there is no expansion in sign area, and provided the general provisions of this Subsection are satisfied.

[NOTE: Added per Ordinance No. 15-28]

## **ZONING NOTES:**

- The applicant indicates the proposed maintenance of the existing sign by painting the existing nonconforming sign.

**The applicant does not demonstrate compliance with the Neptune Township Land Development**

# Ordinance requirements. Zoning Board of Adjustment approval is required.

## Status

Approved

Denied

## Referrals

Construction

HPC

Engineering

Planning Board

Zoning Board

Mercantile

Code Enforcement