

March 8, 2024

Revised March 18, 2024

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

Re: 1902 Stratford Ave, LLC (Melton Johnson)
(ZB#22-15)
1902 Stratford Ave.
Block 906, Lot 7
Use Variance and Bulk Variance
Our File: NTBA 22-21

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 and report as follow:

1. Submitted Documents:

- A. Neptune Township Application for Use and/or Bulk Variances dated October 25, 2022.
- B. Property Deed dated October 14, 2015.
- C. Zoning Denial dated September 13, 2022.
- D. Community Impact Statement prepared by Allison Coffin, PP, AICP, of James W. Higgins Associates, dated March 8, 2024.
- E. Architectural Plans consisting of nine (9) sheets, prepared by Anthony J. Church, RA of Arch Design Studios, dated February 17, 2022, last revised August 8, 2022, sheet one (1) revised on March 12, 2024.
- F. "Boundary Topography Survey" consisting of one (1) sheet, prepared by Anthony Maltese, PE, PLS, PP, CME of Abbington Engineering, LLC, dated April 13 2023.
- G. Site Plan consisting of two (2) sheets, prepared by Anthony Maltese, PE, PLS, PP, CME of Abbington Engineering, LLC, last revised March 12, 2024.

2. Site Analysis and Project Description

- A. The subject application consists of Block 906, Lot 7, a 0.14-acre (6,250 sq. ft.) parcel located west of Route 35 along Stratford Ave in the B-1 Town Commercial Zone District. The site is currently developed with a 2-story frame dwelling, concrete pad, covered porch, and what appears to be a shared stone/gravel driveway with Lot 6. Commercial and residential uses are located to the north and south, residential uses are located to the west, and commercial uses are located to the east.
- B. The Applicant is proposing to remodel the existing non-conforming detached single-family dwelling to construct a second story addition with an attic space, increasing the size of the dwelling unit by 184 sq. ft. The existing dwelling contains three (3) bedrooms, and the Applicant is proposing to keep the same number of bedrooms for the proposed 2.5-story or (2-story) dwelling. The first floor will contain a living area, kitchen, office, and one (1) bathroom. The second floor will contain three (3) bedrooms and one (1) bathroom. The existing basement is proposed to remain. The Applicant is also proposing a rear entrance, a 5' x 11' extension to the existing porch to the west, and a 5' x 5' concrete pad and stairs along the west. Additional site improvements include removing the existing stairs and the existing concrete pad along the east and repairing the existing concrete pad along the rear.

3. Zoning and Land Use Planning

The subject property is located in the B-1 Town Commercial Zone District. The B-1 Zone District is intended to serve the needs of specific surrounding residential neighborhoods by providing for retail sale and service uses. The need to complement and preserve the character of the surrounding residential neighborhoods is paramount.

Based on tax records for the subject property, the two-story residential dwelling was built in 1939, pre-dating the existing zoning requirements. **Residential uses are not permitted in the zone district and the proposed addition and improvements represent an expansion of the pre-existing non-conforming use, requiring a d(2) use variance.**

4. Bulk Requirements

- A. The minimum lot area required in the B-1 Zone is 15,000 sq. ft., whereas the existing lot area is 6,250 sq. ft. **This is an existing non-conformity.**

- B. The minimum lot frontage and width required in the B-1 Zone is 100 feet, whereas the existing lot frontage and width is 50 feet. **This is an existing non-conformity.**
- C. The minimum front yard setback required in the B-1 Zone is 15 feet, whereas the front yard setback for the existing front porch is 4.68 feet and the new reconstructed front porch will have a setback of 4.79 feet. **A VARIANCE IS REQUIRED.**
- D. The minimum side yard setback required is 10 feet. The existing side yard setback is 2.56 feet. The Applicant is proposing an entry door to the basement which will have a 0.39 feet side yard setback. **A VARIANCE IS REQUIRED.**
- E. The minimum combined side yard setback required in the B-1 Zone is 25 feet, whereas the existing combined side yard setback is 29.71 feet and the proposed combined setback is 23.66 feet. **A VARIANCE IS REQUIRED.**
- F. The minimum improvable area in the B-1 Zone is 7,200 sq. ft., whereas the existing and proposed improvable area is 2,250 sq ft. **This is an existing non-conformity.**
- G. The minimum M.I.A. circle diameter required in the B-1 Zone is 55 feet, whereas the existing and proposed M.I.A. circle diameter is 25 feet. **This is an existing non-conformity.**
- H. As per §411.07C, a porch may extend no more than eight (8) feet into the required front and/or rear setback area, whereas the existing and proposed porch are entirely located within the required front yard with 4.79' setback. **A variance is needed.**

5. **Required Proofs for Variance Relief**

- A. **A d(2) use variance for the expansion of the pre-existing non-conforming use is required.** To obtain a d(2) use variance, the Applicant must show that the proposal meets three separate criteria.
 - 1) **Special Reasons.** 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) **Intent of the Zone Plan (negative criterion #1).** The Applicant must prove that the proposed expansion does not substantially impair the intent of the zoning ordinance or master plan.
- 3) **Detriment to the Public Good (negative criterion #2).** The Applicant must prove that the expansion of the proposed use would not have a substantial detriment on nearby properties.

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.

6. **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 address and remove the existing encroachments onto adjacent properties, new driveway apron will be required.
- C. The “Site Plan” sheet 1 of 2 should be revised to “Variance Plot Plan”.
- D. The site plan approval signature block by the Planning Board should be revised to “Bulk Variance” by approval signature block for **Zoning** Board Chairman, Secretary & Engineer.

- E. Concrete sidewalk on Stratford Avenue is recommended to be inspected at the conclusion of the project and replaced where required.

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: Monica Kowalski, Esq., Board Attorney
1902 Stratford Ave., LLC (Melton Johnson), Applicant
Anthony Maltese, PE, Applicant's Engineer
Ronald J. Troppoli, Esq., Applicant's Attorney
NTBA/22/22-21c