

May 6, 2024

Zoning Board of Adjustment
Neptune Township
P.O. Box 1125
Neptune, NJ 07754-1125

**Re: R & M Enterprises, LLC
(ZB#24-06)
1230 Corlies Avenue
Block 516, Lot 9
Use Variance and Bulk Variance
Our File: NTBA 24-12**

Dear Board Members:

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. Property Deed dated September 11, 2023
- B. Zoning Review dated November 30, 2023
- C. Community Impact Statement prepared by Allison Coffin, PP, AICP, of James W. Higgins Associates, dated April 17, 2024
- D. Architectural Plans consisting of six (6) sheets, prepared by Marissa A. Iamello, AIA, dated November 15, 2023, last revised March 15, 2024
- E. "Survey of Property" consisting of one (1) sheet, prepared by David J. Von Steenburg, P.L.S. of Morgan Engineering, dated January 19, 2024.

2. Site & Zoning Analysis and Project Description

- A. The subject application consists of 0.249 acre (10,840 ± SF) parcel located on Corlies Avenue (Route 33) in the C-7 Route 33 East Commercial Zone District. The site is currently developed with a 2-story single-family residential dwelling, front porch, and a gravel driveway. Commercial and residential uses are located along Route 33.

- B. The Applicant is proposing to renovate the existing non-conforming detached single-family dwelling as follows:
- Reduce number of bedrooms from 3 to 2 (1,300 SF)
 - Reconstruct the front porch (138 SF)
 - New stairs
 - Remove existing shed (95 SF)

There are no changes to the building and patio footprints. Overall building coverage has been reduced from 8.1% to 7.0%.

- C. **Residential uses are not permitted in the zone district and the proposed improvements represent an expansion of the pre-existing non-conforming use, requiring a d(2) use variance.**

3. Bulk Requirements

- A. The minimum lot area required in the C-7 Zone is 15,000 sq. ft., whereas the existing lot area is 10,840± SF. **This is an existing non-conformity.**
- B. The minimum lot frontage and width required in the C-7 Zone is 100 feet, whereas the existing lot frontage and width is 50 feet. **These are existing non-conformities.**
- C. The minimum side yard setback required is 10 feet. The existing side yard setbacks are 2.20 & 2.30 feet. The Applicant is not removing building walls or changing the building footprint. However the new porch has a side yard setback of 2.33 feet. **A VARIANCE IS REQUIRED.**
- D. The minimum improvable area in the C-7 Zone is 7,200 sq. ft., whereas the existing and proposed improvable area is 4,550± sq ft. **This is an existing non-conformity.**
- E. The minimum M.I.A. circle diameter required in the C-7 Zone is 55 feet, whereas the existing and proposed M.I.A. circle diameter is 25 feet. **This is an existing non-conformity.**
- F. As per §411.07E, 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 will be extending 7' ± which meets the Ordinance.

4. **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 renovation 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 renovation 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.

5. Additional Comments

- A. The Applicant should provide testimony on all required variances and clarify all points where additional information is needed.
- B. Neither the Survey nor the Architect's Plans provide building dimensions. The floor area should be provided.
- C. The Applicant should comment on changes if any to the existing fence and driveway.

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

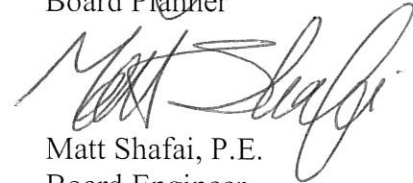
Should you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Jennifer C. Beahm, P.P.
Board Planner



Matt Shafai, P.E.
Board Engineer

MS:mcs

cc: Monica Kowalski, Esq., Board Attorney
Michael Lacey, R & M Enterprises, LLC, Applicant
Ronald J. Troppoli, Esq., Applicant's Attorney

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