

LEON S. AVAKIAN, INC. *Consulting Engineers*

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February 26, 2024

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

Re: Emmon Dormeus (ZB#24/01)
1608 Monroe Avenue
Block 715, Lot 4
Use Variance and Bulk Variance
Our File: NTBA 24-02

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 and report as follow:

1. Submitted Documents:

- A. Neptune Township Application for Use and/or Bulk Variances dated January 16, 2024.
- B. Property Deed dated September 9, 2002.
- C. Zoning Denial dated September 27, 2023.
- D. Community Impact Statement prepared by Barbara J. Ehlen, PP, AICP, of Beacon Planning and Consulting Services, LLC, dated January 2024.
- E. Email of Summary of Zoning Denial dated December 29, 2023.
- F. Site Photos, undated.
- G. Plot Plan consisting of one (1) sheet, prepared by Kevin E. Shelly, PE of Shore Point Engineering, dated December 27, 2023.
- H. Survey of Property consisting of one (1) sheet, prepared by David J. Von Steenburg, PLS, of Morgan Engineering & Surveying, dated May 12, 2023.
- I. Architectural Plans consisting of five (5) sheets, prepared by Daniel M. Condatore, RA, of Mode Architects, dated January 11, 2024.

2. Site Analysis and Project Description

- A. The subject application consists of Block 715, Lot 4, a 0.223-acre (9,705 sq. ft.), irregularly shaped lot located east of Route 35 along Monroe Ave in the R-4 Medium Density Single-Family Residential Zone District. The

site is currently developed with a 1.5-story, fire-damaged frame dwelling and wood deck along the front (north) portion of the site, a 2-story dwelling along the rear (south) portion of the site, a shared, concrete driveway that provides access to both dwellings, and fencing along the perimeter of the site. Residential uses are located to the north, east, and west, and commercial uses are located to the south.

- B. The applicant is proposing to renovate the existing 1.5-story dwelling along the front to construct a second floor. The existing structure contains four (4) bedrooms, and the applicant is proposing to keep the same number of bedrooms for the proposed two-story dwelling. The first floor will contain one (1) bedroom, a living area, dining area, kitchen, an enlarged bathroom, and an office area. The second bedroom will contain three (3) bedrooms, one (1) bathroom, a laundry area, and a walk-in closet. The applicant is also proposing to expand the driveway along the upper "T" portion of the site to accommodate five (5) 9' x 18' parking spaces. The existing basement is proposed to remain, and no improvements are proposed for such. The existing two-story dwelling along the rear contains three (3) bedrooms. No changes are proposed to the existing two-story dwelling.
- C. **The applicant should confirm the square footage of the second floor addition.**

3. **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. Based on tax records for the subject property, the structures were built in 1931 and 1941, pre-dating the existing zoning requirements. **Multiple dwellings on a single property 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 frontage and width required in the R-4 Zone is 50 feet, whereas the existing lot frontage and width is 37.5 feet. **This is an existing non-conformity.**
- B. The minimum front yard setback required in the R-4 Zone is 20 feet, whereas the existing front yard setback of the 1.5-story dwelling is 11.3 feet.

The proposed second floor will have a setback of 11.3 feet, requiring a variance.

- C. The minimum rear yard setback required in the R-4 Zone is 30 feet, whereas the existing 2-story dwelling is 3 feet. **This is an existing non-conformity.**
- D. The minimum side yard setback required in the R-4 Zone is 5 feet, whereas the existing side yard setback of the 1.5-story dwelling is zero (0) feet. **The proposed second floor will have a setback of zero (0) feet, requiring a variance.**
- E. The minimum combined side yard setback required in the R-4 Zone is 15 feet, whereas the existing combined side yard setback of the 1.5-story dwelling is 13.1 feet. **The proposed second floor will have a setback of 13.1 feet, requiring a variance.**
- F. As per §411.07B, for single family dwellings, a deck may extend no further than fifteen (15) feet into a required rear yard setback area, provided the principal structure conforms to minimum rear yard setback requirements. In no instance shall a deck be closer than ten (10) feet to a rear or side lot line. No deck for a single-family dwelling may extend into a side setback area, whereas the wood deck of the existing 1.5-story dwelling extends into the side setback. **This is an existing non-conformity.**
- A. As per §505, Table 5.2, the maximum two way driveway width for single-family dwellings is 22 feet, whereas the proposed driveway is approximately 30 feet wide. **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. Testimony should be provided as to the condition of the existing fencing, and if any additional fencing is proposed.
- C. The applicant should indicate if any additional improvements are proposed at this time.
- D. The applicant should indicate the total area of the existing wood deck, as well as the required setbacks.

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
Emmon Dormeus, Applicant
Luke Rudowsky

NT/BA/24/24-02