

April 22, 2024

Borough of Bradley Beach
Land Use Board
701 Main Street
Bradley Beach, NJ 07720

**Re: McDonough Residence
Block 18, Lot 21
516 Park Place Avenue
Borough of Bradley Beach
Our File: BBPB 24-02**

Dear Chairman and Board Members:

Our office has received an application submitted for Board review in connection with the above-referenced project. Submitted with the application are the following:

- An architectural plan for 1002 Hammond Avenue (rear dwelling) consisting of seven (7) sheets prepared by Jeffrey G. Bell, R.A., dated April 26, 2023, with the latest revisions dated July 11, 2023.
- A plan of survey consisting of one (1) sheet prepared by Robert L. Vallee, P.L.S., of Vallee Surveying, Inc., dated April 14, 2023, with no revisions.

The application has been deemed COMPLETE. Our office has reviewed the plans to determine if they conform with the requirements of the Borough Ordinance and report as follows:

1. **Property Description**

- A. The property has two (2) addresses, the front dwelling has a house number 516 Park Place Avenue and the rear dwelling has an address of 1002 Hammond Avenue. The existing lot has an area of 5,000 square feet.
- B. The existing lot contains a 2 ½ -story framed dwelling with covered wraparound porch and a garage apartment damaged by fire. A garage apartment should comply with the following requirements:

Bulk	Permitted	Existing	Complies
Minimum Lot Size with Garage Apartment	7,500 sf.	5,000 sf.	No
Maximum Garage Floor	800 sf.	±9 5 sf.	No
Maximum Apartment Floor Area	800 sf.	±905 sf.	No
Maximum Bedroom	1	2	No
Maximum Eave Height	12 ft.	Over 12 ft.	No
Second Floor Porch or Balcony	Not Allowed	Second Floor Porch Exists	No
Exterior Staircase	Not Allowed	Exterior Staircase Exists	No

This structure is not a garage apartment because it does not comply with the requirements of a garage apartment. This structure is a second principal use. As per the zoning denial, there are no zoning records to determine whether the structure is a legal non-conforming use.

- C. The Applicant is proposing to reconstruct the fire damaged non-conforming structure. The Applicant has indicated that there will be no increase in building or impervious coverage.

2. **Zoning and Land Use**

- A. The property is located in the R-1 Residential Single-Family Zone and the two (2) principal dwellings on one (1) lot are not permitted.
- B. The proposed improvements require Board approval for variances on use, front, side, rear yard setbacks, off-street parking, and others as described in this letter.

3. **Variances and Waivers**

- A. Ordinance Section 450-15 states “Except as might be hereinafter specifically provided, there shall not be more than one principal building erected on any lot.” The Applicant is proposing a second principal structure (rear dwelling). The rear structure is not a garage apartment because it does not meet the requirements for lot size, exceeds the garage apartment floor area, and exceeds the number of bedrooms for a garage apartment. The Applicant is proposing to reconstruct the fire damaged structure. **A d(1) use variance is required.**

This application requires a use variance pursuant to N.J.S.A. 40:55D-70.d(1). Testimony is required to demonstrate that the application satisfies the positive and negative criteria of the Municipal Land Use Law for the granting of the use variance relief. To obtain a d(1) use variance, the Applicant must show that the proposal meets four separate criteria:

1) Positive Criteria

- (a) *That the site is particularly suited to the use.* The Applicant must prove that the site is particularly suited for the proposed use. This requirement sets a high bar, requiring findings that the general welfare is served because the use is particularly fitted to the proposed location of the use. It requires the Applicant to show why the location of the site within the Township is particularly suited for the proposed use despite the underlying zoning, or the unique characteristics of the site that make it particularly appropriate for the proposed use rather than a permitted use.

- (b) *Special Reasons.* The Applicant must prove that special reasons exist for granting the use variance by demonstrating either that there is an unreasonable hardship in not granting the variance, or that the proposed project furthers one or more of the purposes of the Municipal Land Use Law.
- 2) Negative Criteria
 - (a) *The variance will not substantially impair the intent and purpose of the zoning plan and ordinance.* The Applicant must prove that the proposal does not substantially impair the intent of the zoning ordinance or master plan. This criterion comes out of the basic principle that municipalities should make zoning decisions by ordinance rather than by variance, and that the grant of a variance should not represent a complete departure from the enacted policy of the governing body.
 - (b) *The variance can be granted without a substantial detriment to the public good.* This requires an evaluation of the impact of the proposed use on surrounding properties and a determination as to whether or not it causes such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.
- B. In accordance with section 450-13.A.(2) states that (porch setbacks) *for permitted residential structures a porch may extend eight feet into the required front yard setback area, provided the principal structure conforms to the front yard setback requirement or by submission of the appropriate setback averaging plan as reflected in § 450-26D. A wrap-around porch may exceed the width of the existing or proposed structure, as long as it is in compliance with side setback requirements for the principal structure.* The Applicant did not provide the average setback map or plan. The permitted front yard setbacks are 17 feet along Park Place Avenue and 7 feet along Hammond Avenue. The existing front yard setback is approximately 18 feet along Hammond Avenue, which conforms. The existing front yard setback is approximately 7 feet along Park Place Avenue, which represents an existing non-conformity.
- C. In accordance with Section 450-26.D., area, yard and building requirements the following variances or existing non-conformities are noted below:
 - 1) In accordance with section 450-26D.(1)(d) states that *(Minimum Front Yard) the front yard depth shall be a minimum of 15 feet on north-south (Hammond Avenue) streets and 25 feet on east-west streets (Park Place Avenue) or the minimum depth of any front yard*

within the block and fronting on the same street on which the structure fronts. When the prevailing setback of the existing buildings along a block front is less than the setback requirements, the front yard setback distance may be reduced to the average of front yard setbacks of principal structures on all developed properties on the same side of the street within 200 feet of the property as documented by a map prepared by a licensed land surveyor. The average depth of the principal structure will be from the front wall of the structure, provided that such setback is not less than 10 feet, not including front porches. Front porches shall also be averaged separately from the principal structures they are attached to within 200 feet on each side of the lot and within the same block front. In all cases, if front yard averaging is to be used for a new structure or expansion of an existing structure, a plan must be submitted by a licensed land surveyor showing the front yard setbacks of each property on the same side of the street within 200 feet of the property. Averaging plans cannot be re-used. The Applicant did not provide the average setback map or plan.

Front Dwelling

The existing front yard setback is 20.42 feet along Hammond Avenue, which conforms. The existing front yard setback is 14.03 feet along Park Place Avenue, which represents an existing non-conformity.

Rear Dwelling

The existing front yard setback is 7.31 feet along Hammond Avenue, which represents an existing non-conformity. The reconstruction of the second floor is an expansion of an existing non-conformity. **A variance is required.**

- 2) In accordance with section 450-26.D.(1)(e) states that *the minimum side yard setback is 5 feet and 10 feet. For lots not meeting the minimum lot width requirement, side yard setbacks shall be 10% and 20% of the existing lot width, with a minimum of 4 feet.*

Front Dwelling

The existing side yard setback on the east side is 2.91 feet, which represents an existing non-conformity.

Rear Dwelling

The existing side yard setback on the east side is 2.0 feet, which represents an existing non-conformity. The reconstruction of the second floor is an expansion of an existing non-conformity. **A variance is required.**

- 3) In accordance with section 450-26.D.(1)(f) states that *the minimum rear yard setback is 25 feet.*

Front Dwelling

The existing rear yard setback is approximately 49 feet, which complies.

Rear Dwelling

The existing rear yard setback is 0.81 feet, which represents an existing non-conformity. The reconstruction of the second floor is an expansion of an existing non-conformity. **A variance is required.**

- 4) In accordance with section 450-26.D.(1)(g) states that *the maximum building coverage is 35% of the lot area.* The existing building coverage is 41.1%, which represents an existing non-conformity.
- 5) In accordance with section 450-26.D.(1)(h) states that *the maximum impervious coverage 60% of the lot area.* The existing impervious coverage is 51.5% which conforms.
- 6) In accordance with section 450-26.D.(1)(i) states that the *minimum off-street parking is two spaces per dwelling unit.* This lot has two principal structures which require four off-street parking. It appears two off-street parking spaces are provided in the garage. **A variance is required.**
- 7) In accordance with section 450-26.E.(2) states that *the living space of single-family dwellings on lots 4,000 square feet or greater and at least 40 feet of frontage may be up to 2-1/2 stories or 35 feet in height, and the living space of single-family dwellings on lots that are either less than 4,000 square feet or less than 40 feet of frontage shall not exceed two stories and 27 feet in height.*

Front Dwelling

The Applicant did not provide the existing building height, but indicates the structure is 2 ½ stories. The number of stories comply, and the Applicant should provide testimony on the building height.

Rear Dwelling

The Applicant is proposing a building height of 21.52 feet, which complies.

- 8) In accordance with section 450-41.A.(2) states that *curb cuts shall be a maximum of 12 feet in width. Driveway aprons shall be a maximum of 10 feet in width at the property line and 12 feet in width at the curbline.* The existing curb cut is 17.5 feet, which represents an existing non-conformity. The existing driveway width at the property line is 15.5 feet and 17.5 feet at the curb line. Both of these driveway widths represent an existing non-conformity.
- 9) In accordance with section 450-41.A.(3) states that *driveways and parking areas located in the front yard shall not exceed a width of 12 feet. Maximum driveway width of 24 feet is permitted in rear yard, only in front of a two-car garage.* The existing driveway width is 15.5 feet, which represents an existing non-conformity.
- 10) In accordance with section 450-41.A.(4) states that *no driveway less than 20 feet in length shall be considered an off-street parking space as measured from the property line to the end of the driveway.* The existing driveway length is 7.5 feet, which represents an existing non-conformity.

4. General Comments

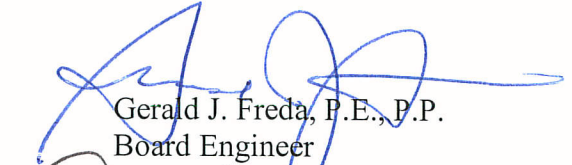
- A. General Note should be added to the plan indicating the existing curb and sidewalk along the frontage will be replaced, if found in poor condition.
- B. A General Note should be added to the plan indicating the planting area between the sidewalk and curb must remain natural grass.
- C. The Applicant should provide information that taxes are currently paid.
- D. The Applicant shall secure any and all construction permits needed for the project.

Our office reserves the right to provide additional comments upon receipt of revised plans.

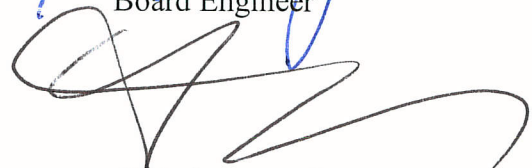
If you have any questions, or require additional information on this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Gerald J. Freda, P.E., P.P.
Board Engineer



Christine L. Bell, P.P., A.I.C.P.
Board Planner

DMH:mfl

cc: Kristie Dickert, Board Secretary
Mark Kitrick, Esq., Board Attorney
Mark Aikins, Esq., Applicant's Attorney

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