

September 9, 2021

Borough of Bradley Beach
Zoning Board of Adjustment
701 Main Street
Bradley Beach, NJ 07720

**Re: Frederick Residence
Block 58, Lot 12
704 Fourth Avenue
Our File BBBA 21-09**

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:

- A variance plan consisting of one (1) sheet prepared by Joseph J. Kociuba, P.E., P.P., of KBA Engineering Services, LLC, dated May 5, 2021, with the latest revisions dated June 23, 2021.
- An architectural plan consisting of four (4) sheets prepared by David H. Feldman, AIA of Feldman & Feldman Architects, dated July 29, 2021, 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 is located at house number 704 Fourth Avenue (Lot 12, Block 58) with a total area of 6,453.29 square feet. The lot is rectangular in shape and measures 43.00 feet in width by 150.39 feet in depth.
- B. The existing lot contains a one-story garage with driveway.
- C. The Applicant is removing the garage and proposing a 2 ½-story single family dwelling with a detached garage apartment.

2. **Zoning and Land Use**

- A. The property is located in the GBW General Business West Zone and the proposed single-family dwelling with detached garage apartment is a non-permitted use.
- B. The proposed improvements require Board approval for a variance on use, size of accessory structure, building height and number of stories. The property has existing non-conformities with lot width.

3. **Variations and Waivers**

- A. In accordance with Section 450-29.1.A. (permitted principal uses), a single-family dwelling is not identified as a permitted use. The Applicant is proposing a single-family dwelling with a detached garage apartment. **A 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 Borough 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 450-29.1.D area, yard, and building requirements, the following variances or existing non-conformities are noted below:

- 1) In accordance with Section 450-29.1.D.(1)(b), the minimum lot width permitted is 50 feet. The existing lot width is 43 feet, which represents an existing non-conformity.
- 2) In accordance with Section 450-29.D.(1)(d), there is no minimum front building setback for this zoned district. The Applicant is proposing a front building setback of 17.98 feet to the dwelling and 10 feet to the porch. Both of these setbacks conform.
- 3) In accordance with Section 450-29.D.(1)(e), there is no minimum side building setback of this zoned district. The Applicant is proposing an east side building setback of 9.91 feet and a west side building setback of 5 feet. Both of these setbacks conform.
- 4) In accordance with Section 450-29.D.(1)(f), the minimum rear building setback permitted per the zoned district is 10 feet. The Applicant is proposing a rear building setback of 84.54 feet, which conforms.

- 5) In accordance with Section 450-29.D.(1)(h), the maximum building coverage permitted per the zoned district is 90% of the lot area. The Applicant is proposing a building coverage of 35.25%, which conforms.
- 6) In accordance with Section 450-29.D.(1)(i), the maximum impervious coverage permitted per the zoned district is 100 % of the lot area. The Applicant is proposing an impervious coverage of 74.43%, which conforms.
- 7) In accordance with Section 450-29.D.(1)(j), the minimum off-street parking for residential use is as specified in the Residential Site Improvement Standards (RSIS). The minimum off-street parking for this property is four (4) spaces. The Applicant is proposing more than four (4) off-street parking spaces, which conforms. The Applicant should provide testimony on the off-street parking.
- 8) In accordance with Section 450-29.D.(1)(k), the minimum side yard setback permitted per the zoned district for an accessory structure is 5 feet. The Applicant is proposing the garage apartment to have an east side yard setback of 5 feet and a west side yard setback of 9.91 feet. Both of these setbacks conform.
- 9) In accordance with Section 450-29.D.(1)(l), the minimum rear yard setback permitted per the zoned district for an accessory structure is 5 feet. The Applicant is proposing a rear yard setback of 15 feet to the garage apartment and a rear yard setback of 12.44 feet to the outdoor shower. Both of these setbacks conform.
- 10) In accordance with Section 450-29.D.(1)(m), the maximum area for an accessory structure is 120 square feet. The Applicant is proposing a garage apartment which has an area of 700 square feet. **A variance is required.**
- 11) In accordance with Section 450-29.D.(1)(n), the maximum building height for an accessory structure is 16 feet and one-story. The Applicant is proposing a garage apartment height of 25 feet and 2-stories. **Variances are required for building height and number of stories.**

4. **Grading and Drainage**

- A. The Applicant is proposing stormwater runoff onto adjacent properties, which is not allowed. The grading of the lot should be revised.

- B. The Applicant should indicate on the variance plan all roof leader locations and direction of discharge.

5. **General Comments**

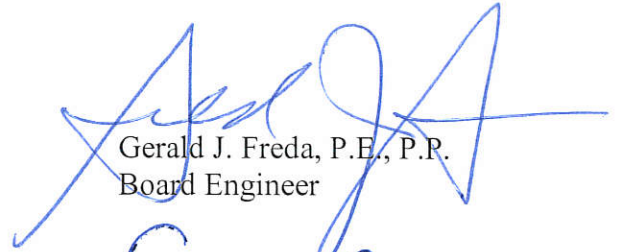
- A. General Note should be added to the plan indicating the curb and sidewalk along the frontage will be replaced if found in poor condition.
- B. A General Note should be added to the plan indicating the planting area between the sidewalk and curb must be natural grass.
- C. The Applicant should provide 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 Bell, A.I.C.P., P.P.
Board Planner

DMH:mfl

cc: Kristie Dickert, Board Secretary
Mark Kitrick, Esq., Board Attorney
Jeffrey P. Beekman, Esq., Applicant's Attorney
BB/BA/21/21-09