



Borough of Bradley Beach
 Zoning Officer
 701 Main Street
 Bradley Beach, NJ 07720
 (732) 776-2999 ext 1038 Fax(732) 775-8168
 zoningofficer@bradleybeachnj.gov

Application Date: 11/25/2019
 Application Number: ZA-19-0260
 Permit Number: _____
 Project Number: _____
 Fee: \$45

Denial of Application

Date: 12/2/2019

To: DON STOUT
 179 WEST SYLVANIA AVENUE
 NEPTUNE CITY, NJ 07753

CC: App Tele:(732) 803-2813
 App Email:GSTOUT47@GMAIL.COM

RE: 501 LAKE TERRACE
 Block: 7 Lot: 2.03 Qual: Zone: R-1

Dear DON STOUT,

The following comments were made during the denial process:

* With this zoning permit application the applicant submitted:
 One (1) zoning permit application
 One (1) copy of a Minor Subdivision plan dated March 17, 2017

The applicant did not submit the required two copies of a survey/site plan, displaying the existing conditions of the property.

The applicant did not submit the two (2) copies of construction plans, clearly displaying the existing and proposed conditions, with this zoning permit application, as indicated on the zoning permit application information sheet.

The applicant indicates the property address to be "501 Lake Terr". This is incorrect. Per the records of the Tax Assessor, the correct property address is "Lake Terrace".

According to the records of the Tax Assessor, "Ruess" of "PO Box 573, Asbury Park, NJ" does not own the property.
 Denied zoning

The property is located within the R-1 Zone. The applicant indicates the present zoning use of the property to be "Rental", and the proposed zoning use of the property to be "R-1". This is incorrect. The present zoning use of the property is a Nonconforming Garden Apartment (Per Planning Board Resolution 08-04). There is no proposed change in use of the property.

The applicant describes the proposed work in detail:
 "Build an 8X14 Roof structure according to spec. Over the existing concrete entry way."

NONCONFORMING USES STRUCTURES AND LOTS:
 Per Land Development Ordinance section 450-12:

The following provisions shall apply to valid nonconforming uses structures and lots at the time of adoption of this section:

A. Any noncompliant use, structure, and/or lot, which is lawfully in existence prior to the effective date of these Land Development Ordinance revisions, [1] shall be deemed nonconforming at the passage of this section, or any applicable amendment thereto, and may be continued as otherwise provided in this section.

[1] Editor's Note: Ord. No. 2018-24, adopted 1-8-2019, became effective 20 days after passage by the Mayor and Council and publication according to law.

B. No existing use, structure or premises devoted to a nonconforming use shall be enlarged, extended, reconstructed, substituted or structurally altered, unless it is changed to a conforming use or structure except as follows:

(1) Any nonconforming structure or use partially destroyed by fire or other natural calamity may be restored, reconstructed or used as before; provided, that neither the volume such use or structure nor the floor area shall exceed

that which existed prior to such damage; and, provided further, that such restoration shall be in accordance with the following:

(a) It shall be completed within two years of such damage.

(b) Except for the previous nonconformance, it shall be in accordance with all other requirements of this chapter.

ZONING NOTES:

- The applicant does not indicate any damage due to natural calamity, and provide supporting documentation displaying compliance with this LDO requirement.

(2) Normal maintenance and repair of a structure containing a nonconforming use is permitted, provided that it does not extend the area or volume of space occupied by the nonconforming use or structure and does not increase the intensity of use. Nothing in this section shall prevent the restoring to a safe or lawful condition any part of any structure declared unsafe by the Construction Official.

ZONING NOTES:

- The applicant did not submit the two (2) copies of construction plans, clearly displaying the existing and proposed conditions, with this zoning permit application, as indicated on the zoning permit application information sheet.
- The applicant does not display compliance with this LDO requirement.

(3) A building containing a residential nonconforming use may be altered in any way to improve interior livability. No structural alterations shall be made which would increase the number of bedrooms or dwelling units.

ZONING NOTES:

- N/A

C. Nonconforming uses and structures are considered terminated and shall not be revived in any way except as a conforming use or structure in accordance with the following:

(1) A nonconforming use or structure abandoned in accordance with this section and accompanied by an intent on the part of the owner to abandon such use as evidenced by some act or failure to act which carries with it a sufficient implication that the owner neither claims nor retains any interest in the subject matter of the abandonment shall be considered a termination thereof. Such implication shall be rebuttably presumed by nonuse for any period of two or more years. Nonuse by successive owners shall be considered continuous nonuse.

ZONING NOTES:

- N/A

(2) The change of a nonconforming use or structure to a more or entirely conforming use for any period of time shall be considered an abandonment of the previous nonconforming use, and a reversion to the previous nonconforming use shall not be permitted.

ZONING NOTES:

- N/A

(3) Abandonment of nonconforming use. A nonconforming use shall be deemed to be abandoned where there is an intention to abandon as well as an external act (or omission to act) by which such intention is carried into effect.

(a) It shall be prima facie evidence that a nonconforming use shall be deemed to be abandoned when there occurs a cessation of such use on the part of a tenant or owner for a continuous period of at least two years.

ZONING NOTES:

- N/A

D. A nonconforming structure may not be enlarged, extended, increased in height, width or depth, moved or relocated, modified in such a way so as to increase habitable or useable space, number of dwelling units or number of bedrooms, unless such structure is changed to a structure conforming to the requirements of this chapter, except that an existing one- to four-family dwelling may be rebuilt, enlarged, extended or added to provided:

(1) The enlargement, extension or addition conforms to all zone requirements.

ZONING NOTES:

- The applicant did not submit the two (2) copies of construction plans, clearly displaying the existing and proposed conditions, with this zoning permit application, as indicated on the zoning permit application information sheet.
- The applicant does not display compliance with this LDO requirement.

(2) Any existing one- to four-family dwelling located in a residential zone destroyed by wind, fire, water incursion, exposure or other act of God or public enemy or other natural calamity may be rebuilt on the same footprint, but need not comply with minimum lot width, depth and area requirements where the existing condition is nonconforming.

ZONING NOTES:

- N/A

E. The prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a nonconforming use or structure exists may apply for, in writing, the issuance of a certificate certifying that the use or structure existed before the adoption of the ordinance which rendered the use or structure nonconforming. The applicant shall have the responsibility of affirmatively proving the preexisting nonconforming use or structure. Application pursuant hereto may be made to the Zoning Board of Adjustment Administrative Officer within one year of the adoption of the ordinance which rendered the use or structure nonconforming or at any time to the Zoning Board of Adjustment.

ZONING NOTES:

- N/A

F. Existence and continuance. At the date of adoption of this chapter any lot, building or structure which has been and is still being used for a purpose which does not conform to the requirements of the particular zone where the lot, building or structure is situated and which use is lawful and properly licensed, if required, and is not prohibited by any other existing ordinance of the Borough or any statute of the State of New Jersey or the United States of America, the use may be continued, subject to other provisions contained in this section and any change of title or possession shall not affect the continuance of such existing use. The existing use may be continued as aforesaid, provided further however, that:

(1) No nonconforming lot shall be further reduced in size.

ZONING NOTES:

- N/A

(2) No nonconforming building shall be enlarged, extended or increased, unless such enlargement would tend to reduce the degree of nonconformance.

ZONING NOTES:

- The applicant did not submit the two (2) copies of construction plans, clearly displaying the existing and proposed conditions, with this zoning permit application, as indicated on the zoning permit application information sheet.
- The applicant does not display compliance with this LDO requirement.

(3) No nonconforming use may be expanded.

ZONING NOTES:

- The applicant did not submit the two (2) copies of construction plans, clearly displaying the existing and proposed conditions, with this zoning permit application, as indicated on the zoning permit application information sheet.
- The applicant does not display compliance with this LDO requirement.

(4) No structural alterations or changes shall be made to any building, accessory building, garage or structure containing a nonconforming use.

ZONING NOTES:

- The applicant did not submit the two (2) copies of construction plans, clearly displaying the existing and proposed conditions, with this zoning permit application, as indicated on the zoning permit application information sheet.
- The applicant does not display compliance with this LDO requirement.

(5) No structural alterations shall be made in any building or structure containing a nonconforming use, to change such a building or structure to another or an additional nonconforming use.

ZONING NOTES:

- N/A

(6) No building shall be constructed upon a conforming lot which lot contains a nonconforming building or use.

ZONING NOTES:

- N/A

(7) Any existing lot on which a building or structure is located and which lot does not meet the minimum lot size, or a structure which violates any yard requirements, may have additions to the principal building and/or construction of an accessory building without an appeal for variance relief provided the existing use(s) on the lot are conforming to the permitted use(s) stipulated in this chapter for the lot in question; the permitted building coverage is not exceeded; the accessory building and/or addition do not violate any other requirements of this chapter, such as, but not limited to, height, setback and parking; the property owner has filed a zoning permit application with the Building Department which the zoning reviewer has determined meets the requirements in this chapter; the property owner files for an informal hearing to the Bradley Beach Planning Board accompanied by a check in the amount of \$125 made payable to the Borough of Bradley Beach.

ZONING NOTES:

- N/A

(8) Neither the volume or the floor area shall be greater than existed prior to the damage.

ZONING NOTES:
- N/A

The applicant does not display compliance with the Land Development Ordinance.
Denied zoning

Sincerely,



George Waterman, Zoning Official