

LEON S. AVAKIAN, INC. *Consulting Engineers*

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April 27, 2022

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

**Re: Mendes Residence
Block 57, Lot 9
609 Fifth Avenue
Borough of Bradley Beach
Our File BBPB 22-03**

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 consisting of twelve (12) sheets prepared by Martha Brazoban, AIA of MB Architectural Design & Consulting, LLC, dated January 31, 2022, with the latest revisions dated March 24, 2022.
- A survey of property consisting of one (1) sheet prepared by Rodolfo Pierri, P.L.S. of Landmark Surveying and Engineering, Inc., dated December 15, 2022, with no revisions. The survey was not signed or sealed by the person that prepared the survey.

This 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 609 Fifth Avenue (Lot 9, Block 57) with a total area of 5,849.9 square feet.
- B. The existing lot contains a two-story three family dwelling with concrete walkways and no driveway. The improvements will reduce number of units from 3-family to 2-family and number of kitchens from 3- kitchens to 2-kitchens. The improvements will not increase the number of bedrooms or bathrooms.

- C. The Applicant is proposing renovations to the interior and exterior of the structure. The interior renovations include removal of an apartment unit, new floor layout, new bathrooms and new location of front door for the first floor living area. The Applicant is proposing no change to the second floor living area. The exterior renovations include new front porch and steps on the west side of the dwelling. The Applicant is also replacing the windows, siding and roof.

2. **Zoning and Land Use**

- A. The property is located in the R-1 Residential Single-Family Zone and a multi-family dwelling is not a permitted use in this zone.
- B. The Applicant is appealing the Zoning Officer's determination that a d(2) use variance is required for the proposed improvements.
- C. The dwelling has existing non-conformities with front and side yard setbacks.

3. **Variances and Waivers**

- A. In accordance with Section 450-10.a.(38), any use of land or buildings or any activity not specifically permitted in a zone is prohibited. The existing three-family house is not listed as a permitted use in the R-1 Residential Single-Family Zone. The existing use represents an existing non-conforming use.

In accordance with Section 450-12.F.(4), no structural alterations or changes shall be made to any building, accessory building, garage or structure containing a non-conforming use.

The Applicant is converting the existing three family dwelling to a proposed two-family dwelling. The Zoning Officer determined the improvements require a use variance. The Applicant is appealing this determination. If the Board upholds the Zoning Officer's determination, the Applicant requires a use variance from the Board.

A d(2) use variance for the expansion of a 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. In accordance with Section 450-13.A.(5), (Location), porches are also permitted within the buildable envelope at the front, rear, and sides of the structure. The permitted west side yard setback is 5 feet. The Applicant is proposing a covered porch with a west side yard setback of 5 feet, which conforms.
- C. In accordance with Section 450-26.D. area, yard, and building requirements, the following variance or existing non-conformities are noted below:
- 1) In accordance with Section 450-26.D.(1)(d), the minimum front yard setback permitted for a street east to west (Fifth Avenue) is 25 feet and for a street running north to south is 15 feet, or the minimum depth of any front yard within the block and front on the same street on which the structure fronts, whichever is greater. 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 will be from the front wall of the structure, provided that such setback is not less than 10 feet. Front porches shall also be averaged within 200 feet on each side of the lot and within the same block front. The Applicant did not provide the average front yard setback.
- The existing front yard setback to the dwelling is 14.5 feet, which represents an existing non-conformity. The existing front yard setback to the covered front porch is 9.5 feet, which represents an existing non-conformity.
- 2) In accordance with Section 450-26.D.(1)(e), the minimum side yard setback permitted is 5 feet and 10 feet. The existing west side yard setback is 3.8 feet, which represents an existing non-conformity. The existing east side yard setback is 11.81 feet, which conforms.

- 3) In accordance with Section 450-26.D.(1)(h), the maximum building coverage permitted is 35% of the lot area. The existing building coverage of 29.53% which conforms. The Applicant is proposing a building coverage of 30.3%, which conforms. The building coverage should include the existing and proposed covered porch.
 - 4) In accordance with Section 450-26.D.(1)(i), The maximum impervious coverage permitted is 60% of the lot area. The existing impervious coverage is 45.17%, which conforms. The proposed covered porch is mostly over an existing impervious coverage. The covered porch increases the impervious coverage by approximately 6 square feet. The Applicant is proposing an impervious coverage of 45.3%, which conforms.
 - 5) In accordance with Section 450-26.D.(1)(j), the minimum off-street parking is two (2) spaces per dwelling unit. The existing property has no off-street parking, which represents an existing non-conformity. No off-street parking is being proposed. The Applicant should provide testimony.
- D. In accordance with Section 450-44.a., all fences may be erected, altered or reconstructed to a height not exceeding 3 feet above ground level when located in any front yard, 4 feet in any side yard and 6 feet in any rear yard.

The Applicant indicates replacement of the 4-foot-high fence and 6-foot-high fence, in the rear yard. The fence height proposed will comply. The Applicant shall confirm all fences to be replaced are not his neighbor's fence as the survey indicates.

4. **General Comments**

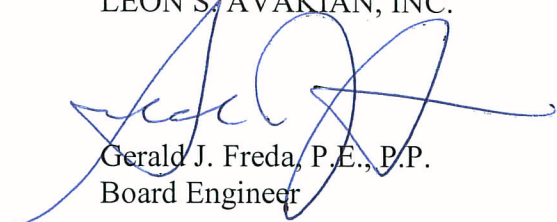
- A. A General Note should be added to the plan indicating the planting area between the sidewalk and curb must remain natural grass.
- B. General Note should be added to the plan indicating the existing curb and sidewalk along the frontage will be replaced if found in poor condition.
- C. The Applicant 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
Michael J. Wenning, Esq., Applicant's Attorney

BB/PB/22/22-03b