

May 10, 2024

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

**Re: Downey Residence
Block 60, Lot 3
619 Fourth Avenue
D(1) Use & Bulk Variances
Borough of Bradley Beach
Our File: BBPB 23-26**

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 nine (9) sheets prepared by C. Wall Architecture, dated July 13, 2023, with the latest revisions dated March 14, 2024.
- A plan of survey consisting of one (1) sheet prepared by David J. Von Steenburg of Morgan Engineering & Surveying, dated March 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 is located at house number 619 Fourth Avenue, (Lot 3, Block 60) with a total area of 4,514 square feet.
- B. The existing lot contains a 2 ½-story framed dwelling with covered front porch and a one-story principal structure in the rear.
- C. The Applicant is proposing to remove the existing one-story dwelling at the rear of the dwelling. This will remove the existing non-conforming use of two (2) principal structures on one (1) lot.

2. **Zoning and Land Use**

- A. The property is located in two (2) zoned districts. The zoned districts are the R-1 Residential Single-Family Zone and the GB General Business Zone. The majority of the property and all existing and proposed structures are located within the R-1 Zone. The property is L-shaped and a small portion, consisting of the driveway, is located within the GB Zone. A single-family dwelling is a permitted use in the R-1 Residential Single-Family Zone but is not a permitted use in the GB General Business Zone.
- B. The proposed garage apartment is a permitted accessory use in the R-1 Residential Single-Family Zone on lots over 7,500 square feet. A garage apartment is not permitted a permitted use in the GB General Business Zone.
- C. The proposed improvements require Board approval for variances on use, lot area for garage apartment, and others as described in this letter.

3. **Variances and Waivers**

- A. As per ordinance 450-29.A., a single-family dwelling is not a permitted use in the GB General Business Zone. This is an existing non-conformity. Garage apartments are not permitted uses in the GB Zone District and are only permitted on lots greater than 7,500 square feet in the R-1 Zone, whereas the subject property has an area of 4,514 square feet. **A d(1) use variance is required** to allow for the garage apartment, which is not permitted in the GB Zone and not permitted on lots less than 7,500 square feet in the R-1 Zone.

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. The proposed improvements conform with the following requirements in the table below:

Lot	Required- R-1	Required-GB	Existing	Proposed
Minimum Lot Area	5,000 sf.	5,000 sf.	4,514 sf. (NC)	No Change
Minimum Lot Width	50 ft.	50 ft.	25 ft. (NC)	No Change
Minimum Lot Depth	100 ft.	100 ft.	150 ft.	No Change
Maximum Building Coverage	35%	90%	35.0%	32.4%
Maximum Impervious Coverage	60%	100%	72%	60%
Minimum On-site Parking	4 Spaces	N/A	May be 3 Spaces	See comment below
Principal Dwelling				
Minimum Front Setback, Dwelling	25 ft.	0 ft.	28.1 ft	No Change
Minimum Front Setback, Porch	17 ft.	N/A	18.5 ft.	No Change
Minimum Rear Setback	25.0 ft.	10.0 ft.	80 ft.	No Change
Minimum Side Setback	4.0 ft. (10% Width)	0 ft.	3.0 ft. (West)	No Change
	5.0 ft. (20% Width)	0 ft.	3.3 ft. (East)	No Change
Maximum Building Height	35 ft.	40 ft.	(NG)	No Change
Number of Stories	2-½ Stories	3-Stories	2-½ Stories	No Change

	Required- R-1	Required-GB	Existing	Proposed
Garage Apartment				
Minimum Lot Area	7,500 sf.	N/A	4,514 sf.	No Change
Minimum Distance to Principal	20 ft.	N/A	N/A	38.29 ft.
Minimum Rear Setback	5.0 ft.	N/A	N/A	10.94 ft.
Minimum Side Setback	5.0 ft.	N/A	N/A	5.42 ft. (east)
	5.0 ft.	N/A	N/A	5.42 ft. (west)
Maximum Garage Floor Area	800 sf.	N/A	N/A	535 sf.
Maximum Apartment Floor Area	800 sf.	N/A	N/A	535 sf.
Maximum Number of Bedrooms	1 bedroom	N/A	N/A	1 bedroom
Maximum Height, Roof Peak	25 ft.	N/A	N/A	25 ft.
Maximum Height, Roof Eave	12 ft.	N/A	N/A	12 ft.
Minimum Internal Parking Spaces	2 Spaces	N/A	N/A	See comment below

(NG) Not Given

(NC) Existing Non-conformity

(V) Variance

- C. The minimum lot area permitted per the R-1 and GB Zoned Districts is 5,000 square feet. The existing lot area is 4,514 square feet, which represents an existing non-conformity.
- D. The minimum lot width permitted per the R-1 and GB Zoned District is 50 feet. The existing lot width is 25 feet, which represents an existing non-conformity.
- E. For garage apartments the minimum lot area required is 7,500 square feet. The existing lot area is 4,514 square feet and the Applicant is proposing a garage apartment. **A variance is required.**
- F. The minimum number of internal parking spaces is two (2) spaces. The Applicant is proposing two (2) internal spaces, which conforms.

The proposed location of the garage does not allow a car to access the internal parking space. Testimony should be provided. If an automobile cannot access the garage, then it is not a garage apartment and would be considered a second principal dwelling, which is not permitted in the zoned district.

4. **General Comments**

- A. Testimony should be provided on existing and proposed stormwater runoff from the property.
- 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.

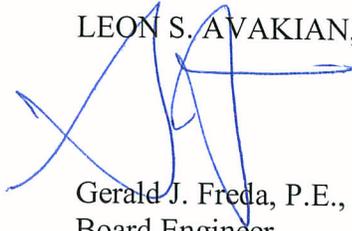
- C. A General Note should be added to the plan indicating the planting area between the sidewalk and curb must remain natural grass.
- D. The Applicant should provide information that taxes are currently paid.
- E. The Applicant shall secure any and all construction permits needed for the project.

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
Glenn Williams, Esq., Applicant's Attorney
BB/PB/23/23-26b