

April 2, 2024

*Revised July 12, 2024*

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

**Re: 215 Brinley Avenue, LLC  
Block 50, Lot 3  
215 Brinley Avenue  
Borough of Bradley Beach  
Our File: BBPB 23-30**

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 plot plan consisting of one (1) sheet prepared by Marc S. Leber, P.E., P.P., of East Point Engineering, LLC, dated November 30, 2023, with the latest revisions dated June 28, 2024.
- An architectural plan consisting of three (3) sheets prepared by John Mannino, AIA, of Cerminara Architect, dated December 5, 2023, with the latest revisions dated July 5, 2024.
- A survey of property consisting of one (1) sheet prepared by Marc J. Cifone, P.L.S. of Lakeland Surveying, dated October 26, 2023, with no revisions.

This application has been deemed **COMPLETE**. This letter is hereby amended as follows: ~~stricken text~~ indicates deletions and ***bold italic type*** indicates additions. Our original review comments remain as noted in the letter dated April 2, 2024, and we report as follows: ~~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 215 Brinley Avenue (Lot 3, Block 50) with a total area of 7,500 square feet.

- B. The existing lot consists of two (2) principal dwellings with covered porches, decks, and driveway. The front dwelling consists of two (2) residential units, each containing two (2) bedrooms. The rear dwelling contains one (1) unit with two (2) bedrooms.
- C. The Applicant is proposing a first-floor deck, ***modifying the second-floor deck***, and interior renovations to the existing front dwelling. The Applicant is also proposing improvements to the front dwelling which includes a new covered front entry on the west side and a new covered rear entry.

The Applicant is proposing to reconfigure the units in the front dwelling as follows:

“Unit A” will consist of a kitchen, dining room, living room, laundry room, powder room, master bedroom with bathroom, and new deck on the first-floor as well as two (2) additional bedrooms, a bathroom, and access to the upper porch on the second floor.

“Unit B” will be located on the second floor and will consist of one (1) bedroom, kitchen, living room, bathroom, and access to the existing deck. Thus, the number of bedrooms will not increase and remain as six (6) for the entire site. (Unit A- proposed three (3) bedrooms, Unit B-proposed one (1) bedroom and the rear unit remains two (2) bedrooms). No improvements are being proposed to the rear dwelling.

## 2. **Zoning and Land Use**

- A. The property is located in the R-1 Residential Single-Family Zone. A multi-family dwelling and a second principal dwelling are not permitted.
- B. The proposed improvements required Board approval for variances with use, side yard setback to the first-floor deck, deck location, impervious coverage, and others described in this report.

## 3. **Variances and Waivers**

- A. In accordance with Section 450-15 states that, *except as might be hereinafter specifically provided, there shall not be more than one principal building erected on any lot.* This lot has two principal dwelling units, which represent existing non-conforming structures.

In Ordinance Section 450-26.A.(1) states that *the permitted principal uses for the R-1 Zoned District is a single-family dwelling.* The existing front dwelling is a multi-family dwelling, which represents an existing non-conforming structure.

In Ordinance Section 450-12.D. states, *a non-conforming structure may not be enlarged, extended 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.... The Applicant is proposing improvements to the front dwelling. This is an expansion of a non-conforming use. **A d(2) use variance is required.**

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 permitted yard encroachments, the following variances or existing non-conformities are noted below:

- 1) 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 plan. The permitted front yard setback is 17 feet. The existing front yard setback to the porch is approximately ~~14.9~~ **14.7** feet for the front dwelling, which represents an existing non-conformity. The Applicant is proposing a front yard setback of ~~20.4~~ **19.96** feet for the addition to the front porch, which conforms.
- 2) In accordance with Section 450-13.B.(2) states that (upper porch setbacks) *for permitted residential structures 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. Wrap-around upper porches on corner lots only may exceed the width of the existing or proposed structure, as long as it is in compliance with front yard setback requirements for the principal structures.* The Applicant did not provide the average setback plan. The permitted front yard setback is 17 feet. The existing front yard setback is approximately 14.9 **14.7** feet for the front dwelling, which represents an existing non-conformity.

- 3) In accordance with Section 450-13.B.(4) states that (enclosure) *an upper porch shall not be covered, enclosed, heated or air-conditioned and shall have railings that promote the flow of air and light. The installation of awning systems is prohibited. Walls are prohibited.* The existing cover front upper porch represents an existing non-conformity.
- 4) In accordance with Section 450-13.D.(2) states that (setbacks) *for residential dwellings, decks are not allowed to encroach into any principal dwelling's setback requirements and shall never be closer than five feet of any side yard property line, nor closer than 25 feet of any rear yard property line. No deck shall extend beyond the side building line.* The rear dwelling has an existing deck with an existing rear yard setback of 1.1 feet. This represents an existing non-conformity.

The front dwelling has an existing second floor deck with a rear yard setback of over 70 feet, which conforms. The existing second floor deck extends beyond the west side building line, which represents an existing non-conformity. ***The Applicant is reducing the size of the second-floor deck. The proposed second floor deck does not extend beyond the west side building line. This proposed improvement removes the existing non-conformity.*** The existing second floor deck has a west side yard setback of 0.8 feet, which represents an existing non-conformity. The Applicant is proposing a first floor elevated deck to extend beyond the west side building line. The proposed elevated deck has a west side yard setback of 0.8 feet. **A variance is required.**

- 5) In accordance with Section 450-13.D.(3) states that (height), *an elevated deck is permitted at or below the first-floor walking surface elevation, not to exceed a maximum floor height of 48 inches above grade.* The existing second floor elevated deck is over 48 inches above grade for the front dwelling, which represents an existing non-conformity. ***The Applicant is proposing renovating the second-floor deck. A VARIANCE IS REQUIRED.*** The Applicant is proposing a first-floor elevated deck at a height of 26 inches (2.17 feet) above grade, which conforms.

- 6) ***In accordance with Section 450-13.D.(4) (Enclosures), states that elevated decks shall not be enclosed with sidewalls. Railings that promote the flow of air and light shall be installed. This section does not permit elevated decks to be covered by roof or pergola. The Applicant is proposing a pergola over the first floor deck. A VARIANCE IS REQUIRED.***
  
- 6)7) In accordance with Section 450-13.D.(5) states that (location), an elevated deck may be located in the rear yard area only. The ~~existing~~ **proposed** second floor elevated deck is located in the west side rear yard, which ~~represents an existing non-conformity~~ **conforms**. The Applicant is proposing a first-floor elevated desk in the side yard. **A variance is required.**
  
- 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 450-26.D.(1)(d) states that *minimum front yard: 15 feet and 25 feet. The front yard depth shall be a minimum of 15 feet on north-south streets and 25 feet on east-west streets (Brinley 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 plan. The permitted front yard setback is 25 feet. The existing front yard setback is 24.5 feet for the front dwelling, which represents an existing non-conformity. The existing front yard setback is over 110 feet for the rear dwelling, which conforms.

- 2) In accordance with Section 450-26.D.(1)(e) states that *minimum side yards are 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.* The existing front dwelling has a side yard setback of 7 feet on the west side and 10.8 feet on the east side. Both of these setbacks conform. The existing rear dwelling has a side yard setback of 4.1 feet on the west side and 5.6 feet on the east side. Both side yard setbacks represent an existing non-conformity.
- 3) In accordance with Section 450-26.D.(1)(f) states that *minimum rear yard is 25 feet.* The existing rear yard setback is over 70 feet for the front dwelling, which conforms. The existing rear yard setback 6.6 feet for the rear dwelling, which represents an existing non-conformity.
- 4) In accordance with Section 450-26.D.(1)(h), the maximum building coverage permitted is 35% of the lot area. The Applicant is proposing a building coverage of 34.1%, which conforms.
- 5) In accordance with Section 450-26.D.(1)(i), the maximum impervious coverage permitted is 60% of the lot area. The Applicant is proposing an impervious coverage of ~~74.1~~ **72.4%**. **A variance is required.**

4. **General Comments**

A. The Applicant did provide a bedroom count as follows:

| Dwelling Unit   | Existing # of Bedrooms | Proposed # of Bedrooms |
|---|------------------------|------------------------|
| <b>Unit A<br/>(Front Dwelling 2<sup>nd</sup> Floor)</b> | 2 bedrooms             | 3 bedrooms             |
| <b>Unit B<br/>(Front Dwelling 1<sup>st</sup> Floor)</b> | 2 bedrooms             | 1 bedroom              |
| <b>Unit C<br/>(Rear Dwelling)</b>                       | 2 bedrooms             | 2 bedrooms (No Change) |
| <b>Total</b>  | 6 bedrooms             | 6 bedrooms (No Change) |

- B. The Applicant has indicated that three (3) parking spaces are designated, whereas six (6) parking spaces are required. Testimony should be provided as to the adequacy of parking on-site. **A variance is required.**
- C. **Our office recommends the proposed roof drains should be piped to a pop-up emitter in the front yard, because of the lot size. The last pipe section should be perforated pipe surrounded by stone.**

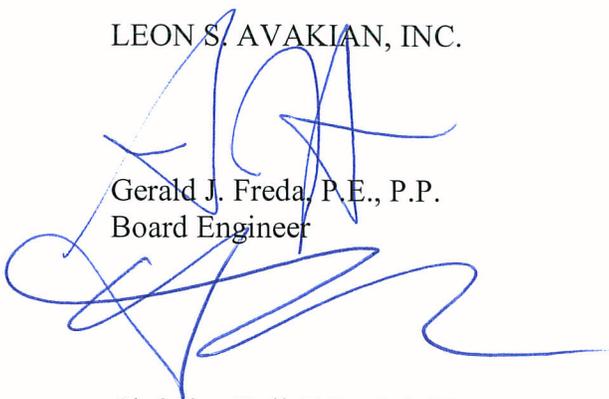
- D. A General Note should be added to the plan indicating the planting area between the sidewalk and curb must remain or be converted to natural grass.
- E. General Note should be added to the plan indicating the existing curb and sidewalk along the frontage will be replaced if found in poor condition.
- F. The Applicant should provide information that taxes are currently paid.
- G. The Applicant shall secure any, and all construction permits needed for the project.
- H. The Applicant should provide an updated survey after all improvements have been completed.

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, P.P., A.I.C.P.  
Board Planner

DMH:mfl  
cc: Kristie Dickert, Board Secretary  
Mark Kitrick, Esq. Board Attorney  
Richard B. Stone, Esq., Applicant's Attorney  
Marc S. Leber, P.E., P.P., Applicant's Engineer  
John Mannino, AIA, Applicant's Architect  
BB/PB/23/23-30c