



December 2, 2025

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

**Re: Berry Residence
Block 85, Lot 5
423 ½ Monmouth Avenue
Borough of Bradley Beach
Use/Bulk Variances
Our File BBPB 25-08**

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:

- Variance Plot Plan of the property consisting of two (2) sheets prepared by Laurence G. Murphy, P.E., of Greensite Engineering & Consulting, LLC, dated May 14, 2025, last revised September 22, 2025.
- Survey of the property consisting of one (1) sheet prepared by Joseph J. Wright, P.L.S., of Blue Marsh Associates, Inc., dated February 28, 2025, last revised March 27, 2025.
- Architectural plan consisting of one (1) sheet prepared by Joseph M. Spataro, RA, AIA of 2408 Greentree Drive, Manasquan, New Jersey, dated May 14, 2025, with no revision date.

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. **Submission Waivers**

The Applicant is not requesting any waivers from the land development ordinance checklist as outlined below:

Appendix A - Application Checklist and Documents Required To Be Submitted
[Amended 7-23-2019 by Ord. No. 2019-18]

2. Project Description

- A. The existing lot contains a 2 – story single-family dwelling with a covered front porch, rear detached garage, rear upper porch, rear paver patio, side yard concrete walk, and shared driveway.
- B. The property is located on the south side of Monmouth Avenue, between Atlantic Avenue and Madison Avenue, (Lot 5, Block 85) with a total area of 4,999.5 square feet.
- C. The Applicant is proposing to demolish the existing rear yard detached garage and construct a 2 – story garage apartment with (2) internal parking spaces and a gravel driveway containing (2) additional parking spaces.

3. Zoning and Land Use

- A. The property is located in the R-1 Residential Single-Family Zone and a detached 2 – story garage apartment is not permitted as an accessory use in this zone unless the lot contains a minimum of 7,500 square feet.
- B. The Applicant is requesting Board approval for variances with use and lot coverage and others as described in this letter.

4. Variances and Design Waivers

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

Principal Use	Required	Existing	Proposed
Minimum Lot Area	5,000 sf.	4,999.5 sf. (NC)	No Change
Minimum Lot Width	50 ft.	33 ft. (NC)	No Change
Minimum Lot Depth	100 ft.	150 ft.	No Change
Minimum Lot Frontage	N.G.	N.G.	N.G.
Minimum Front Yard Setback	25 ft.	26.6 ft.	No Change
Minimum Rear Yard Setback	25 ft.	63.7 ft.	No Change
Minimum Side Yard Setback	4 ft.	3.81 ft. (NC)	No Change
Maximum Percent Building Coverage	35%	29.2%	31.7%
Maximum Percent Lot Coverage	60%	65.7% (NC)	64.46% (V)
Maximum Number of Stories	2	2	No Change
Maximum Building Height	35 ft.	Complies	Complies
Square Footage of Principal Structure	N.G.	1,204 sf.	No Change
Off-Street Parking Spaces	2	2	2
Accessory Use/Structure	Required	Existing	Proposed
Minimum Front Yard Setback	N/A	N/A	N/A
Minimum Rear Yard Setback	5 ft.	1.6 ft. (NC)	5 ft.
Minimum Side Setback	5 ft.	2.8 ft. (NC)	5 ft.

Maximum Number of Stories	2	1	2
Maximum Building Height (peak)	25 ft.	N.G.	25 ft.
Maximum Garage Height (eave)	12 ft.	N.G.	8.5 ft.
Square Footage of Accessory Structure	800 sf. (each floor)	258 sf.	381 sf.
Distance Between Principal & Accessory Structure	20 ft.	41 ft.	37.55 ft.

(V) Variance

(N.G.)-Not Given

(NC) Existing Non-Conformity

Existing non-conformities -Six (6)

-Removing Two (2)

Proposed Variances - One (1) – Use

One (1) - Bulk

- B. In accordance with Section 450-26.B.(1)(a) states, *a minimum lot size of 7,500 square feet is required for permitted accessory use garage apartments.* The existing lot area is 4,999.5 square feet, which does not meet the minimum requirement for accessory garage apartments. **A Use variance is required.**
- C. In accordance with Section 450-26.D.(1)(a) states, *the minimum lot area is 5,000 square feet.* The existing lot area is 4,999.5 square feet, which is an existing non-conformity.
- D. In accordance with Section 450-26.D.(1)(b) states *the minimum lot width is 50 feet.* The existing lot width is 33 feet, which is an existing non-conformity.
- E. In accordance with Section 450-26.D.(1)(e) states *the minimum side yard setback is 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 four feet.* The existing principal structure side yard setback is 3.81 feet, which is an existing non-conformity.
- F. In accordance with Section 450-26.D(1)(h) states *the maximum impervious coverage is 60% of the lot area.* The existing impervious coverage is 65.7%, which is an existing non-conformity. The Applicant is proposing an impervious coverage of 64.46%. **A variance is required.**
- G. In accordance with Section 450-26.D.(1)(k) states *the minimum (accessory structure) rear yard setback is 5 feet.* The existing accessory structure rear yard setback is 1.6 feet, which is an existing non-conformity. The Applicant is proposing an accessory structure rear yard setback of 5 feet.
- H. In accordance with Section 450-26.D.(1)(j) states *the minimum (accessory structure) side yard setback is 5 feet.* The existing accessory structure side

yard setback is 2.8 feet, which is an existing non-conformity. The Applicant is proposing an accessory structure side yard setback of 5 feet.

- I. In accordance with Section 450-41.A.(6) (Residential Parking and Driveway Requirements) states *driveways and parking areas shall be improved with a dust-free durable, all-weather material, said material is deemed to include concrete, asphalt, brick or concrete pavers but shall exclude gravel, stone or other similar material. The area between the end of the driveway and the street, inclusive of the sidewalk, shall be concrete with a minimum depth of six inches reinforced with welded wire mesh, designed and constructed in accordance with details and specifications provided by the Borough Engineer. The surface of the apron shall be at the same elevation as the sidewalk sections, which are joined to each side so that the sidewalk continues uninterrupted where it crosses the driveway.* The Applicant is proposing a rear yard gravel driveway for the garage apartment accessory structure. **A variance is required.**

5. **Required Proofs for Variance Relief**

- A. ***D(1) Use Variance: 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 Township 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 principal 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. C Variances: A number of “c” variances are required. There are two types of c variances with different required proofs.

- 1) Boards may grant a c(1) variance upon proof that a particular property faces hardship due to the shape, topography, or extraordinary and exceptional situation uniquely affecting the specific property.
- 2) Boards may grant a c(2) variance based upon findings that the purposes of zoning enumerated in the MLUL are advanced by the deviation from the ordinance, with the benefits of departing from the standards in the ordinance substantially outweighing any detriment to the public good. The Supreme Court’s ruling in Kaufmann v. Planning Board for Warren Township provides additional guidance on c(2) variances, stating that “the grant of approval must actually benefit the community in that it represents a better zoning alternative for the property. The focus of the c(2) case, then, will be...the characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community.”
- 3) C variances must also show consistency with the negative criteria as well.

6. General Comments

- A. 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.
- B. General Note should be added to the plan indicating the planting area between the sidewalk and curb must remain natural grass.
- C. The Applicant shall provide testimony addressing the proposed parking and on-site circulation associated with the proposed garage apartment.
- D. Our office recommends a section of pipe on the property should be perforated pipe and surrounded by stone to allow runoff to seep into the ground within the limits of the property.

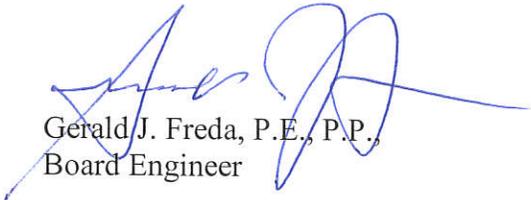
- E. Applicant to provide testimony with regard to roof leaders for the proposed garage apartment.
- F. The Applicant should provide information that taxes are currently paid.
- G. The Applicant shall secure any and all construction permits needed for the project.

Our office reserves the right to provide additional comments upon receipt of revised plans.

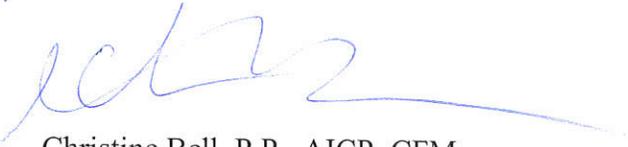
If you have any questions, or require additional information on this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Gerald J. Freda, P.E., P.P.,
Board Engineer



Christine Bell, P.P., AICP, CFM
Board Planner

JOG

cc: Kristie Dickert, Board Secretary
Anne Marie Rizzuto, Esq., Board Attorney
Christine Bell, A.I.C.P., P.P., Board Planner
Richard B. Stone, Esq., Applicants Attorney
Laurence G. Murphy, P.E., Applicants Engineer
Jefferson Berry, Applicant

BB/PB/25/25-08