

February 25, 2022

Tonya Tardibuono, Zoning Board Secretary
Borough of Park Ridge
53 Park Avenue
Park Ridge, NJ 07656

Application No. ZB21-22 Variance Application
Michael and Christine DePol (Applicant)
30 Fourth Street (Block 809, Lot 7)
First Planning Review
Colliers Engineering & Design Project No. PRZ-0011

Dear Ms. Tardibuono,

As requested, our office has reviewed Application No. ZB21-22 submitted by Michael and Christine DePol (the Applicant), seeking variance relief for the construction of a detached single family residential structure.

The following documents, which were submitted in support of the Application, have been reviewed:

1. Application of Appeal to the Zoning Board of Adjustment, dated October 28, 2021;
2. Application for Soil Moving, dated October 29, 2021;
3. FAR Memo, prepared by Brigitte Bogart, dated November 10, 2021;
4. Building Material Percentages, prepared by Albert Dattoli Architect, dated October 25, 2021;
5. Architectural Elevations, prepared by Albert Dattoli, of Albert Dattoli Architect, dated September 30, 2021;
6. Plot Plan & Sediment Control Plan, prepared by Tibor Latincsecs, PE and Stephen P. Eid, PE, PLS, of Conklin Associates, dated September 10, 2021;
7. Park Ridge Zoning Review Application, signed by Applicant October 29, 2021, denial by zoning officer issued January 4, 2022;
8. Zoning Office Denial of Application, dated January 4, 2022; and,
9. Completeness Review, prepared by Gregory J. Polyniak, PE, PP, CME, CPWM and John J. Dunlea, PE of Neglia Engineering Associates, dated December 6, 2021 and revised through January 28, 2022.

A. Existing Conditions

The subject site, known as Lot 7 of Block 809, is a 13,500 square foot parcel located in the R-20 One-Family Residential zone district. The property is located on the west side of Fourth Street, approximately 650 feet north of the intersection with Leach Avenue, and approximately 720 feet south of the intersection with Ridge Avenue. The parcel contains approximately 90 feet of frontage along Fourth Street.

The subject site is currently developed with a 1.5 story detached single family structure, occupying a footprint of approximately 1,500 square feet. Other existing site improvements include a driveway, walkways, and a frame shed.

Uses immediately adjacent to the subject site are detached single family in character.



Figure 1: Subject Site and Surrounding (Source: Bergen County GIS)

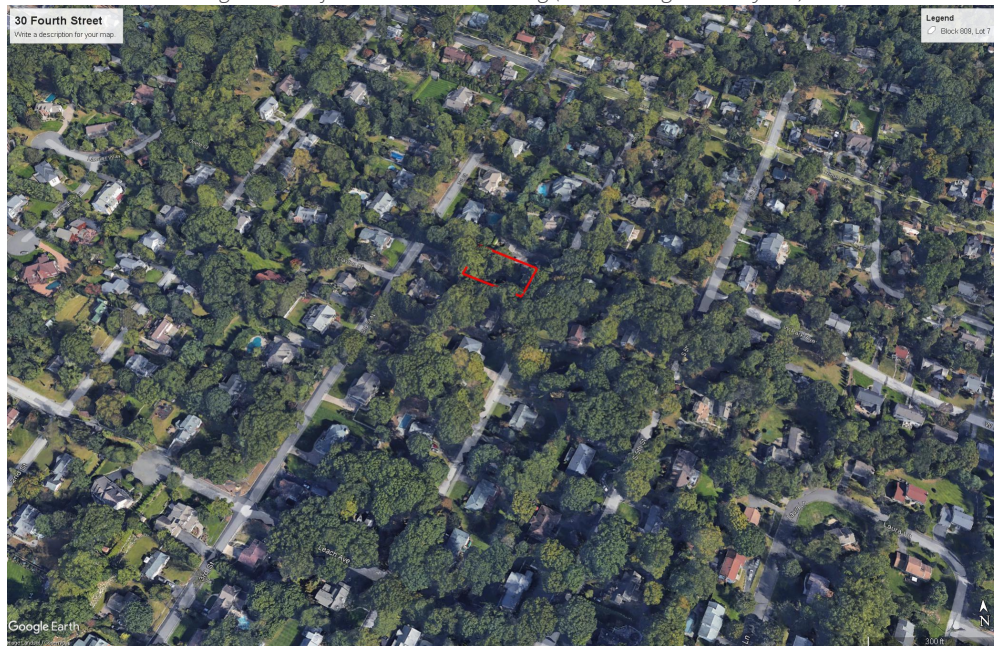


Figure 2: Subject site with property boundaries approximated. (Source: Google Earth.)

B. Applicable Land Use Controls

The subject site is located in the R-20 One-Family Residential zone district. The bulk requirements for the district and the conformance by the proposed development are provided in the following section.

The Borough's Land Use Element of its Master Plan, adopted in 2009, evaluated concerns at the time of the scale of single-family residential neighborhoods, noting the importance of the goal of maintaining the existing character and scale of single-family residential development. In describing the "Low Density-2 Residential" category, the Land Use Element states that "This area has developed in a relatively uniform residential pattern with most of the area characterized by detached single-family residences on lots approximately 20,000 square feet in area....A primary objective of the residential component of the land use plan is to reinforce this existing scale of development at this single-family residential density. It is recommended that future development in this portion of Park Ridge be in accordance with this density."¹

The 2009 Master Plan recommended new area and bulk regulations to address floor area ratio and dwelling volume for all single-family zoning districts in the Borough, the goal of which was to "[E]mphasize the important [sic] of the preservation of natural resources, encourage development of new and renovated dwellings that are compatibility [sic] with existing neighborhood character, establish the appropriate building scale, form and mass and create an [sic] proper setback relationship to the street and to the adjacent dwellings." The Master Plan outlined "key design and planning principles" that should be considered when residents/developers plan a home renovation or the construction of a new dwelling:

- Encourage the use of building setbacks on the upper floor levels to maintain adequate space, light, and a sense of openness from surrounding residences in existing residential neighborhoods;
- Promote alternative locations and orientations for garage and parking areas in order to emphasize the pedestrian qualities of the streetscape;
- Discourage fencing and retaining walls that front on public streets;
- Encourage building designs that reflect the natural landscape and scale of the surrounding neighborhood through use of smaller building components, cantilevered overhangs, and articulated exterior vertical walls;
- Establish massing and roof design criteria that emphasize the use of smaller elements that reflect the scale of the neighborhood;
- Provide more detailed design guidelines addressing grading, drainage, stream and tree preservation, resource conservation, green building, and universal design principles;
- Respect the existing views, privacy, access to light, and safety of neighboring properties;
- Reflect the local design goals and policies as expressed in the local community plan.²

¹ Borough of Park Ridge Comprehensive Master Plan (2009), page 20.

² Ibid, page 26.

This goal was further illustrated by the following recommendations:

- “New development and remodel/additions should not be disharmonious with the existing street setback patterns. One of the objectives of this plan is to promote single-family residential development (including additions and alterations) that are compatible with the existing neighborhood character. The design of these developments should consider the composition and integration of the outdoor spaces and the buildings that make up the physical neighborhood. The relationships between properties, including the existing setbacks and spaces between buildings, the heights, lengths and materials of walls, roof forms, fences and plantings should be considered. Generally speaking, the floor area of the proposed development should not substantially exceed the median home size in the surrounding neighborhood, taking into consideration site-specific factors, such as lot size, bulk and mass, topography, vegetation, and the visibility of the proposed dwelling. The relationships between residences on adjacent properties and between houses and the public street or area can be complex, and need to respect the privacy, views, light, solar access and noise effects on neighboring properties, to name a few. The relationships of building size, scale, image and location related to the public street are also important issues in the design of a single family dwelling.³
- Upper level setbacks in the design of residences to avoid excessive building bulk viewed from adjacent lots.

C. Proposed Conditions

The Applicant is seeking to demolish the existing 1.5 story single family structure, deck and outside improvements and replace it with a 2-story structure, pervious paver driveway, covered porch and patio. The proposed dwelling would contain a footprint of 2,996 square feet, approximately twice the footprint of the existing dwelling. The proposed development would also include new landscaping, stormwater system, and standby generator.

BULK REQUIREMENTS – R-20 SINGLE FAMILY RESIDENTIAL ZONE DISTRICT				
	Required	Existing	Proposed	Variances
Minimum Lot Area (sq. ft.)	20,000	13,500	13,500	ENC
Minimum Lot Width (ft)	110	90	90	ENC
Minimum Street Frontage (ft)	83	90	90	
Minimum Lot Depth (ft)	160	150	150	ENC
Minimum Front Yard Setback (ft)	40	48.1	40.2	
Minimum Rear Yard Setback (ft)	50	67.7	43.8	V
Minimum Side Yard Setback (ft)	22	22.2 & 21.9	18 & 22	V
Maximum Dwelling Width	60% lot width (54 feet)	45.6	50	
Maximum Building Height (ft)	32	Not provided	28.8	

³ Ibid, page 28.

BULK REQUIREMENTS – R-20 SINGLE FAMILY RESIDENTIAL ZONE DISTRICT				
	Required	Existing	Proposed	Variances
Maximum Building Coverage	18	11.3	22.2	V
Maximum Impervious Coverage	40	22.3	34.4	
Maximum Floor Area Ratio	22	11.3	28.0	V
Maximum Gross Floor Area (sq. ft.)	4,800	1,525*	3,780*	
ENC-Existing Nonconforming Condition				
V-Variance				
*Applicant shall clarify				

D. Variances

Summary

The Application requires the following variances:

1. "D(4)" Use Variance for Floor Area Ratio
2. "C" Bulk Variance for Maximum Building Coverage
3. "C" Bulk Variance for Minimum Side Yard Setback
4. "C" Bulk Variance for Rear Yard Setback
5. "C" Bulk Variance for parking in a front yard

In addition to the above, the site contains the following nonconforming conditions that do not appear to be modified by this application:

6. Minimum Lot Area
7. Minimum Lot Width
8. Minimum Lot Depth

'd' Variances

1. Ordinance Section §101-8 (Schedule IV-2): Maximum Floor Area Ratio.

The R-20 Zone District permits a maximum floor area ratio of 22 percent. The Applicant is proposing a total of 3,780 square feet of floor area on this 13,500 square foot site, which would yield a floor area ratio of 28 percent. Based on the lot area, a maximum floor area of 2,970 square feet would be permitted on this property. "D(4)" density variance approval is required to permit the floor area ratio deviation.

The Board should note that the Zoning Code permits floor area ratio bonuses under § 101-19, subsections D (Green building strategies) or E (Architectural guidelines) for residential development. The applicant is seeking both of these bonuses, and has supplied calculations and descriptions for the architectural guidelines bonus, as well as what appears to be an annotated excerpt of a LEED checklist for the green building strategies bonus. Concerning the architectural We agree with the Board Engineer's assessment that the applicant shall provide additional

information concerning the proposed improvements, particularly as it relates to the building façade projections, that would qualify it for the architectural guidelines bonus. Similarly, with regard to the green building strategies, we agree with the Board Engineer's assessment that since the application is not applying for LEED certification, then this bonus would not be applicable, based on the wording of the ordinance. It is our opinion, however, that if such green building strategies are being pursued, they could still go toward the Applicant's proofs in satisfying the positive and negative criteria. Considering that the LEED checklist submitted appears to be an excerpt (and appears to include calculations not pertaining to this project), the Applicant should be prepared to provide testimony on each of the green building strategies that are proposed as part of this development.

N.J.S.A. 40:55D-70D: Municipal Land Use Law Requirements.

Pursuant to the Municipal Land Use Law, a "D" use variance requires the Applicant to demonstrate to the Board that the variance can be granted without substantial detriment to the public good and without substantial impairment of the intent of the zone plan and zoning ordinance.

Positive Criteria (Special Reasons):

The Board should note that the court found, in Coventry Square v. Westwood Zoning Bd. of Adjustment, 138 N.J. 285 (1994), that the applicant need not show "special reasons" that a site is particularly suited for more intensive development if the use is permitted. The applicant is only required to demonstrate that the site will accommodate the problems associated with a larger floor area than that permitted by Ordinance. These problems typically involve the relationship of the proposal to the neighboring properties, such as intrusion into the side yard or visual incompatibility with the existing and surrounding buildings. The Board needs to determine whether the intent of zone plan and zoning ordinance will be substantially impaired by the proposed increase in floor area.

Negative Criteria:

The Applicant must demonstrate that the grant of the variances would not be substantially detrimental to the public good or substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance.

Regarding the "substantial detriment to the public good" prong of the negative criteria, the court affirmed in Medici v. BPR Co., 107 N.J. 1, that the focus is on the impact of the proposed use variance upon the adjacent properties and whether or not it will cause such damage to the character of the neighborhood as to constitute "substantial detriment to the public good".

The court also stated, with regards to the "substantial detriment to the zone plan and zoning ordinance" prong of the negative criteria, that "the added requirement that boards of adjustment must reconcile a proposed use variance with the provisions of the master plan and zoning ordinance will reinforce the conviction expressed in Ward v. Scott [11 N.J. 117 (1952)], the negative criteria constitute an essential 'safeguard' to prevent the improper exercise of the variance power" (107 N.J. 22). William Cox notes that the focus is on the "extent to which a

grant of the variance would constitute an arrogation of governing body and planning board authority.”⁴

The applicant should provide the answers to the following questions regarding the negative criteria:

- i. What impact—esthetic, noise, lighting, parking, traffic, etc.—would the grant of this use variance have on the surrounding properties?
- ii. In what ways does the proposed use lessen or substantially increase any adverse impacts on surrounding properties as compared to other uses permitted in this district that could be developed on this particular lot?
- iii. What changes can be made, in terms of revisions to the plan or conditions, to mitigate any of the potential increased impacts from this proposed use?
- iv. Are there similar nonconforming uses nearby?
- v. What changes have occurred in the community since the adoption of the Zoning Ordinance and Master Plan that would justify an approval for this particular use?

‘c’ (Bulk) Variances

As noted above, the proposed development requires bulk variance relief from the following:

2. Ordinance Section §101-8 (Schedule IV-2): Maximum Building Coverage.

The R-20 Zone District requires a maximum building coverage of 18 percent. The Applicant is proposing 22.2 percent of building coverage. Bulk variance relief is required to permit this deviation. Is relief cognizable under “C(1)” hardship or “C(2)” flexible variance provisions?

3. Ordinance Section §101-8 (Schedule IV-2): Minimum Rear Yard Setback

The R-20 Zone District requires a minimum rear yard setback of 50 feet. The Applicant is proposing a rear yard setback of 43.8 feet. Bulk variance relief is required to permit this deviation. Is relief cognizable under “C(1)” hardship or “C(2)” flexible variance provisions?

4. Ordinance Section §101-8 (Schedule IV-2): Minimum Side Yard Setback

The R-20 Zone District requires a minimum side yard setback of 22 feet. The Applicant is proposing minimum side yard setbacks of 18 feet and 22 feet on each side of the proposed dwelling. Bulk variance relief is required to permit this deviation. Is relief cognizable under “C(1)” hardship or “C(2)” flexible variance provisions?

5. Ordinance Section §101-62B: Parking Location

The ordinance prohibits off-street parking in a required front yard. While an attached garage is proposed, the proposed development also includes a parking area in the front yard. As such,

⁴ Cox, W. M., as revised and updated by Jonathan E. Drill and Lisa A. John-Basta (2021). *New Jersey Zoning and Land Use Administration, 2021 Edition*. Newark, NJ: Gann Law Books. (p. 772).

bulk variance relief is required to permit this deviation. Is relief cognizable under “C(1)” hardship or “C(2)” flexible variance provisions?

In addition to the above, the site contains the following nonconforming conditions that do not appear to be modified by this application:

6. Ordinance Section §101-8 (Schedule IV-2): Minimum Lot Area

The R-20 Zone District requires a minimum lot area of 20,000 square feet, where 13,500 square feet exists.

7. Ordinance Section §101-8 (Schedule IV-2): Minimum Lot Width

The R-20 Zone District requires a minimum lot width of 110 feet, where 90 feet exists.

8. Ordinance Section §101-8 (Schedule IV-2): Minimum Lot Depth

The R-20 Zone District requires a minimum lot width of 160 feet, where 150 feet exists.

N.J.S.A. 40:55D-70C: Municipal Land Use Law Requirements.

NJSA 40:55D-70(c) sets forth the criteria by which a variance can be granted from the bulk requirements of a zoning ordinance. The first criteria is the C(1) or hardship reasons including exceptional narrowness, shallowness or shape of a specific piece of property, or exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or extraordinary and exceptional situation uniquely affecting a specific piece of property.

The second criteria involves the C(2) or flexible “C” variance where the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

The Applicant should be advised that, pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-70C), deviation from a bulk standard can be granted under either a “C(1)” hardship variance or a “C(2)” flexible variance.

A “C(1)” hardship variance can be granted to relieve peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of a specific piece of property that is uniquely affected by (a) exceptional narrowness, shallowness or shape, (b) exceptional topographic conditions or physical features, or (c) other extraordinary and exceptional situation affecting the property or the lawfully existing structures. For a “C(1)” variance, the Applicant must demonstrate that there is some specific physical feature of the property that prevents compliance with the ordinance.

A “C(2)” flexible variance requires the Applicant to demonstrate that the benefits of allowing the proposed deviation will substantially outweigh any detriments associated with the deviation. The Applicant must show that the requested “C(2)” variance will result in a better plan for the property.

For both “C(1)” and “C(2)” variances, the Applicant must also demonstrate to the Board that:

1. The purposes of zoning (see N.J.S.A. 40:55d-2) would be advanced by the proposed deviation. Furthering one or more purposes of zoning would indicate that there is a benefit to granting the proposed variance.
2. The variance can be granted without substantial detriment to the public good. The focus is on the impact of the proposed variance upon the adjacent properties and whether or not it will cause such damage to the character of the neighborhood as to constitute "substantial detriment to the public good".
3. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The Applicant must demonstrate that the variance is not inconsistent with the intent and purpose of the ordinance requirements from which relief is sought.

E. Waivers/Exceptions

The Applicant has not requested any waivers/exceptions, nor have we identified any as part of our review.

F. Comments

1. Dwelling width calculations in the table suggest that the maximum dwelling width is 60 feet. By our calculations, 60 percent of the 90 foot lot width would be 54 feet. In addition, the table suggests that the dwelling width of the existing and proposed structures is 50 feet. Based on our measurement, the existing structure appears to have a width of approximately 45.5 feet, while the proposed structure is 50 feet. The applicant shall clarify.
2. As indicated in the previous section, the Applicant's testimony should focus on how, if at all, the proposed design is consistent with the scale and character of the surrounding area.
3. In accordance with § 101-23C, no part of any driveway shall be located nearer than 10 feet to any other driveway on an adjoining parcel. These measurements have not been provided. The Applicant shall clarify.
4. Plans indicate that the new residential dwelling will contain a backup generator, but it is not clear if an HVAC system is proposed. The Applicant shall clarify. The Board should note that § 101-21A (8) requires that the closest portion of a HVAC unit shall be located a maximum of 5 feet from the principal structure, and a minimum of 15 feet from all property lines. If the HVAC unit is located in the side yard, then screening is also required.
5. Our office defers to the Board Engineer on comments relating to any proposed site grading modifications.

We reserve the right to make additional comments based upon further review or submission of revised plans or new information.

Should you have any questions concerning the above comments please do not hesitate to contact my office.

Sincerely,

Colliers Engineering & Design, Inc.



Nicholas Dickerson, PP, AICP, CFM
Board Planner

cc: Brian Giblin, Esq. Board Attorney (via email btgiblin@msn.com)
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Antimo A. Del Vecchio Esq., Applicant's Attorney (200 Market Street, Suite 401, Montvale NJ 07645)
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Albert Dattoli, Applicant's Architect (70K Chestnut Ridge Road, Montvale NJ 07645)
Brigette Bogart, Applicant's Planner (205 Franklin Avenue, Wyckoff, NJ 07481)