

**BOROUGH OF PARK RIDGE
ZONING BOARD
FEBRUARY 15, 2022
VIRTUAL REGULAR MEETING MINUTES**

The Public Meeting of the Zoning Board of the Borough of Park Ridge was held virtually on the above date.

Chairman Pantaleo stated that the meeting was being held in accordance with the Open Public Meetings Act.

Chairman Pantaleo asked everyone to stand and recite the Pledge of Allegiance.

Roll Call Board:

Mr. Michael Brickman	Present
Mr. Mike Curran	Present
Mr. Jake Flaherty	Present
Mr. Michael Mintz	Present
Mr. Frank Pantaleo	Present
Dr. Gregory Perez	Present (8:22PM)
Ms. Lynda Nettleship-Carraher	Present
Mr. Jeff Rutowski	Absent

Also Present:

Mr. Brian Giblin Jr. - Attorney	Present
Ms. Tonya Tardibuoono	Present
Mr. John Dunlea – Engineer	Present
Mr. Nick Dickerson – Planner	Present

Approval of Minutes

The minutes of January 18, 2022 were approved on a motion from Mr. Mintz, seconded by Mr. Flaherty, and carried by all members eligible to vote.

RESOLUTION#2022-5

#ZB 21-19

Matthew & Maral Richard

234 Homestead Place

Block 2406 / Lot 5

Single Family Home Addition

A motion was made by Mr. Mintz to approve the memorializing resolution. The motion was seconded by Mr. Brickman, and carried by all members eligible to vote.

A Board discussion took place regarding resuming in person meetings. All members were not in agreement to return to in person meetings. This matter will be discussed again at the March 2022 meeting.

NEW APPLICATION

#ZB21-15

**Ramon Fonseca
42 Highview Avenue
Block 1808 / Lot 13
2nd Floor Addition**

Mr. Giblin Jr. made an announcement that this application will be carried to the virtual April 19, 2022 Zoning Board of Adjustment meeting on at 8:00 p.m. The applicant agreed to consent to an extension of time. No additional notice will be required.

Public Questions

Ms. Dawn Parrasch – How many times can an application be postponed?

Mr. Mark Sgro – Why are we finding out so late that this application has been postponed?

Mr. Giblin answered their questions and explained the process.

CONTINUED APPLICATION

#ZB21-16

**Ellen Kramer
8 Frederick Court
Block 1203 / Lot 41
Addition / Alteration**

Attorney, Ms. Jennifer Knarich, from the law firm of Price, Meese, Shulman & D'Arminio was present as the attorney for the applicant.

Proof of service is in order.

The applicant is seeking the following variances:

Rear Yard Set-Back
Floor Area Ratio
Gross Floor Area
Deck Setback

The following people will be offering their testimony:

Architect – Mr. John Gilchrist
Planner – Michael Kauker

John Gilchrist

The applicant's Architect, Mr. John Gilchrist, went over his qualifications and was sworn in by Attorney Giblin, Jr. and accepted as an expert witness.

Exhibit A-1 was marked as submitted revised plans dated September 6, 2021.

Mr. Gilchrist went over the required variances:

MINIMUM REAR YARD:

REQUIRED - 35 Ft.

EXISTING - 30.4 Ft.

PROPOSED - 29.5 Ft.

VARIANCE - 5.5 Ft.

MAXIMUM FLOOR AREA RATIO:

REQUIRED - 30%

EXISTING - 35.08%

PROPOSED - 36.35%

VARIANCE - 6.35%

MAXIMUM GROSS FLOOR AREA:

REQUIRED - 3,333 Sf.

EXISTING - 3,784 Sf.

PROPOSED - 3,921 Sf.

VARIANCE - 588 Sf.

DECKS:

REQUIRED - 20 Ft.

EXISTING - 20 Ft.

PROPOSED - 15 Ft.

VARIANCE - 5 Ft.

Mr. Gilchrist explained that the applicant is looking to expand the kitchen / dining room and cannot expand into the foyer or family room due to the existing roof line. The addition will be a one-story addition.

Mr. Dunlea went over the existing outstanding comments on his revised review letter dated September 16, 2021 (attached). Mr. Dunlea has the following comments:

- A soil moving permit may be required.
- Due to the minor increase in impervious coverage, a stormwater management plan is not required.
- Any outdoor lighting installed must not create disturbances to the surrounding areas.
- No additional landscaping will be required as the site is well landscaped at this time.

Mr. Dickerson went over the existing outstanding comments on his review letter dated September 8, 2021 (attached). Mr. Dickerson asked if any FAR bonuses have been looked at according to Borough Code §101-19. Mr. Gilchrist replied no, none of the bonuses would apply to this application.

A conversation regarding the deck took place.

There were no members of the public wishing to be heard.

Michael Kauker

The applicant's Planner, Mr. Michael Kauker went over his qualifications and was sworn in by Attorney Giblin, Jr. and accepted as an expert witness.

Mr. Kauker discussed the required variances.

Mr. Kauker spoke about the property's topography. He mentioned that the property to the left is at a higher elevation, and the property to the right is at a lower elevation.

Exhibit A-2 was marked as 8 photographs submitted from Kauker and Kauker LLC.

Mr. Kauker spoke about the photographs as shown on Exhibit A-2.

Exhibit A-3 was marked as a photograph of an aerial view of 8 Frederick Court.

Mr. Kauker spoke about the photograph as shown on Exhibit A-3 and mentioned the proposed addition will be well screened from the neighbors.

Mr. Kauker spoke about Park Ridge's Master Plan and why the Floor Area Ratio requirements are added to Borough Codes.

Exhibit A-4 was marked as an excerpt from 2009 Park Ridge Master Plan.

Mr. Kauker spoke about Exhibit A-4.

Mr. Kauker commented that the FAR requirement was added after the 11-lot subdivision, that 8 Frederick Court is located in, was constructed.

Mr. Kauker commented that the property is odd shaped due to the rear property line at a slight angle.

Mr. Dickerson asked if the surrounding homes were all in similar size. Mr. Kauker replied yes.

Mr. Brickman asked if the proposed addition was completely behind the home. Mr. Kauker replied yes.

As per Mr. Mintz request, Mr. Kauker described the rear property line and pointed out on the survey how the rear property line is at a short angle.

Mr. Mintz asked Mr. Kauker to briefly explain positive and negative criteria for D variances.

Mr. Kauker commented that no existing landscape will be disturbed during the construction.

Dr. Perez asked where the water run off will be diverted to. Mr. Kauker replied that no run off will be diverted to neighboring properties as the water run off will be diverted to the existing system.

Dr. Perez asked about erosion concerns due to the deck. Mr. Kauker replied none, as the property will be seeded and mulched immediately after construction.

There were no members of the public wishing to be heard.

Mr. Curran asked about the FAR bonus spoken about earlier. Mr. Gilchrist replied the FAR bonus would not apply to this application.

Ms. Knarich gave a summation on this application.

A Board discussion took place regarding the application for 8 Frederick Court. Some questions were asked about the location of the deck.

Mr. Giblin Jr. will draft a resolution that will be voted on at the March 15, 2022 Board of Adjustment meeting.

A motion was made by Mr. Flaherty to grant the requested variances. The motion was seconded by Mr. Brickman, and carried by a roll call vote as follows:

Mr. Michael Brickman	Yes
Mr. Mike Curran	Yes
Mr. Jake Flaherty	Yes
Mr. Michael Mintz	Yes
Dr. Gregory Perez	Yes
Ms. Lynda Nettleship-Carraher	Yes
Chairman Frank Pantaleo	Yes

Board Discussion

No Board discussion took place.

The meeting was adjourned on a motion from Mr. Mintz, seconded by Mr. Brickman, and carried by all.

Respectfully Submitted,



Tonya Tardibuono

Resolution #2022-5
Application # ZB21-19
ZB 2-15-2022

BOROUGH OF PARK RIDGE

ZONING BOARD OF ADJUSTMENT RESOLUTION

WHEREAS, MATTHEW and MARAL RICHARD (hereinafter referred to as "Applicant"), being the owner of premises known as 234 Homestead Place, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also being known as Lot 5 in Block 2406 on the Tax Assessment Map for the Borough of Park Ridge, applied to the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE (hereinafter referred to as "BOARD"), seeking a variance to install an addition to the exiting house; and

WHEREAS, the premises are located in the R-15 Residential Zoning District as same is defined by the Zoning Ordinance of the Borough of Park Ridge; and

WHEREAS, the BOARD has received the exhibits and documents with respect to this application as more particularly set forth on the list attached hereto and made part hereof; and

WHEREAS, the BOARD held a hearing in connection with the application, upon due notice as required by law, on January 18, 2022; and

WHEREAS, the BOARD has carefully considered the application and all evidence and testimony submitted in connection therewith; and

WHEREAS, the BOARD voted to approve the aforesaid application following the close of the public hearing thereon on January 18, 2022, and the within resolution is a memorialization of said approval pursuant to N.J.S.A. 40:55D-10g (2);

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE that the BOARD hereby makes the following findings of fact:

1. Applicant is the owner of premises located at 234 Homestead Place in the Borough of Park Ridge, also known and designated as Lot 5 in Block 2406 on the Tax Map of the Borough of Park Ridge, a conforming lot containing 20,403.5 sq. ft. (15,000 square feet required) with a lot width of 100.8 feet (100 feet required) and a lot depth of 201.67 feet (150 feet required) and currently improved with an existing single family residential structure.
2. The applicant proposes to construct an addition on the rear and side of the existing structure. Pursuant to the zoning ordinances the subject property is required to have a front yard setback of 30 feet whereas the applicant proposes 26.5 feet. In addition, the zone also requires a side yard setback of 18 feet whereas the Applicant proposes to maintain the existing side yard setback of 15.55 feet.
3. The applicant elicited the testimony of Mary Boyajian, R.A., their architect, in support of the application.
4. Ms. Boyajian testified that the existing structure on the property is non-conforming.
5. Ms. Boyajian testified the existing front stair case is in the setback, which will be covered during the construction of the addition.
6. Ms. Boyajian testified there will be no disturbance to any existing easements.
7. Ms. Boyajian testified the rear patio material was currently unknown but it will be a hard scape patio.
8. Ms. Boyajian testified there would be no modifications to the existing driveway.
9. Ms. Boyajian testified that the proposed addition would increase the non-conforming

but those increases are considered *de minimis*.

10. Ms. Boyajian testified that the character of the neighborhood and homes in the area would not be impacted by the addition to the home.

11. The BOARD finds that by reason of the location of the existing house on the lot, the strict application of the Zoning Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the Applicant pursuant to N.J.S.A. 40:55D-70(c) (1).

5. The BOARD further finds that the proposed renovations and addition will enhance the aesthetics of the appearance of the building and will promote a desirable visual environment. The BOARD finds and concludes that the benefits from the granting of the variances proposed outweigh any detriment pursuant to N.J.S.A. 40:55D-70 (c) (2).

6. Moreover, the Board further finds that

(a) The proposed improvements are aesthetically pleasing and further the zoning purpose of maintaining the housing stock.

By reason of the foregoing, the BOARD finds that a decision to grant the variances from the required single curb cut ordinance will not result in any substantial detriment to the public good nor will same impair the intent and purpose of the zone plan or Zoning Ordinance of the Borough of Park Ridge.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE, by virtue of the foregoing, and pursuant to the authority of N.J.S.A. 40:55D-70(c)(1) and (2), the BOARD does hereby grant the Applicant's requested variance from ordinance so as to permit the construction of the additions as shown on the plans to the Board with a front yard setback of 26.5 feet where 30 feet is required and a side yard setback of 15.55

<p style="text-align: center;">EXHIBIT LIST</p> <p style="text-align: center;">BOROUGH OF PARK RIDGE ZONING BOARD</p>

APPLICANT: ZB 21-19
ADDRESS: 234 Homestead Place
BLOCK: 2406 LOT 5
ZONE: R-15

EXHIBIT:	ITEM NO.	DATE:
Application	1	8/13/2021
Denial of Application	2	5/07/2021
Plot plan by Mary Boyadjian, R.A.	3	10/22/2021
Survey by James Sapio	4	1/08/2010

feet where 18 feet is required.

Ayes: 6

Nays: 0

Dated: February 15, 2022

Introduced by:

Seconded by:

Approved

Michael Mintz @
Michael Mintz
Michael Brinkman @
Michael Brinkman
Frank Pantaleo @
Frank Pantaleo



EXPERIENCED
DEDICATED
RESPONSIVE

negliaapp.com

August 31, 2021

Revised September 16, 2021

Via: E-Mail

Borough of Park Ridge
53 Park Avenue
Park Ridge, New Jersey 07656

Attn.: Ms. Tonya Tardibuono, Secretary

Re: **Variance Application – Engineering Review**
Applicant(s): Ellen Kramer
8 Frederick Court (Block 1203, Lot 41)
Borough of Park Ridge, Bergen County, New Jersey
NEA File No.: PKRDSPL21.025

Dear Ms. Tardibuono,

As requested, we have reviewed the recently submitted Variance Application for determination of completeness and applicable bulk requirements. The submittal included the following documents:

- A Borough of Park Ridge, Application of Appeal, prepared by the Applicant, dated July 25, 2021;
- A Denial of Application, Borough of Park Ridge, prepared by Tonya Tardibuono, Park Ridge Zoning Officer, dated June 15, 2021;
- Park Ridge Zoning review application, dated June 4, 2021;
- A signed and sealed architectural plan sheet, entitled "Residential Addition and Renovations for Ellen Kramer & Timothy McGrath, 8 Frederick Court, Borough of Park Ridge, New Jersey 07656, Lot 41, Block 1203," prepared by John J. Gilchrist, Architect., dated May 30, 2021, with a latest revision date of September 6, 2021;
- A property survey, entitled "Location Survey, Lot 41 – Block 1203 in the Borough of Park Ridge, Bergen County, New Jersey for Ellen Kramer," prepared by Stephen P. EID, P.E., P.L.S., dated July 20, 2021; and
- E-Mail correspondence from Ellen Kramer, dated August 12, 2021.

1. **Property Description**

The subject property is a single lot identified as Block 1203, Lot 41, per the Borough of Park Ridge Tax Map Sheet No. 12. The subject property is commonly known as 8 Frederick Court and is located on the northeasterly side of Frederick Court, approximately 375 feet from the intersection with Pascack Road. The property is approximately 10,786 square feet (0.25 acres), and is located within the R-10 Zone, per the Borough of Park Ridge Zoning Map.

The existing site is currently occupied by a two-story frame, residential dwelling with an asphalt driveway providing access onto Frederick Court. Additional site features include keystone retaining walls, paver walkways, trench drain, paver patio,

LYNDHURST

34 Park Avenue
PO Box 426
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p. 201.939.8805 f. 201.939.0846

MOUNTAINSIDE

200 Central Avenue
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Mountainside, NJ 07092
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and rear deck. The Applicant proposes a one-story addition, new paver patio and new wood deck in the rear yard.



2. Completeness Review

NEA previously issued a completeness review of the subject application and recommended that the application be deemed **complete**. Overall, NEA takes no exception to this application being heard by the Zoning Board of Adjustment.

3. Variances / Waivers

We defer to the Board Planner regarding the determination of variances and waivers. NEA recognizes the following potential variances, as identified within the submitted application, which we defer to the Board Planner on final determination regarding same:

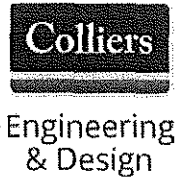
- Minimum Rear Yard: 35 feet permitted, 30.4 feet under the existing conditions, and 29.5 feet proposed;

- Maximum Building Height: 32 feet permitted, 34.1 feet under the existing conditions with no proposed change to the same (this is an existing non-conforming condition);
- Maximum Floor Area Ratio: 30% permitted, 35.08% under the existing conditions, and 36.35% proposed;
- Maximum Gross Floor Area: 3,333 square feet permitted, 3,784 square feet under the existing conditions, and 3,921 square feet proposed; and
- Minimum Deck Rear Yard Setback: 20 feet permitted and 15 feet proposed.

4. Engineering Comments

- 4.1 Any import or export of soil to/from the site will be subject to the submission of a Soil Movement Application. A soil movement application shall be submitted, as required, if this variance application is granted approval. The Applicant shall note that the soil movement application contains specific checklist items that require submittal for completeness and review. Therefore, additional engineering comments may be provided upon formal submittal of the Soil Movement Application. The Applicant shall provide testimony at the Board hearing with respect to anticipated site disturbances and soil movement required to construct the proposed improvements. **This comment remains applicable.**
- 4.2 The Applicant shall provide testimony at the Board hearing addressing any existing or proposed deed restrictions, easements, or covenants or lands dedicated to public use which may exist of the subject property. **This comment remains applicable.**
- 4.3 The Applicant shall protect any perimeter fencing, curbs, walkways, plantings, and walls on adjacent properties during construction. The Applicant shall be responsible for any damage to neighboring or public properties during the construction of the proposed improvements. Notation stating the same shall be provided on the plans. **This comment remains applicable for the duration of construction. The above requested notation shall be added to the plans.**
- 4.4 The submitted plan shall be revised to include a construction detail for the proposed new paver patio area within the rear yard. **This comment has been addressed. No further action is required.**
- 4.5 The Applicant proposes improvements that will result in an increase in impervious coverage of 74 square feet, as compared to the existing conditions. Due to the de minimus nature of the overall increase in impervious coverage, on-site stormwater storage is not required. However, the Applicant shall revise the plans to illustrate the location of the proposed roof leaders associated with the proposed building addition. NEA strongly recommends that all new leaders be connected to a subsurface conveyance system. **The above determination and recommendation remain applicable. As noted above, the plans shall be revised to illustrate the location of proposed roof leaders.**
- 4.6 Based upon the nature of the proposed improvements, it does not appear that any lighting improvements are included as part of this application. However, the Applicant shall provide testimony confirming the same. **This comment remains applicable.**
- 4.7 Based upon the nature of the proposed improvements, it does not appear that any landscaping improvements are included as part of this application. The Applicant shall provide testimony confirming the same. Additionally, the Applicant shall confirm that all existing trees on the property are to remain. **This comment remains applicable.**
- 4.8 The Applicant shall ensure that all disturbed work areas are stabilized with topsoil, seed, hay, and straw mulch to ensure lawn growth. The Applicant shall revise the plans to include notation indicating the same. **This comment remains applicable. The above requested notation shall be added to the plans.**
- 4.9 The Applicant shall ensure that stormwater runoff does not negatively affect neighboring properties, during and after construction. Any damages caused by an increase in runoff or improper drainage shall be repaired by the Applicant. Any damages incurred to surrounding public or private property as a result of construction shall be

331 Newman Springs Road
Suite 203
Red Bank New Jersey 07701
Main: 877 627 3772



September 8, 2021

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

Application No. 2321-16 Variance Application
Ellen Kramer (Applicant)
8 Frederick Court (Block 1203, Lot 41)
First Planning Review
Colliers Engineering & Design Project No. PRZ-0010

Dear Ms. Tardibuono,

As requested, our office has reviewed Application No. 2321-16 submitted by Ellen Kramer (the Applicant), seeking variance relief for an expansion to an existing 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 July 25, 2021;
2. Park Ridge Zoning Review Application, dated June 4, 2021;
3. Zoning Office Denial of Application, dated June 15, 2021;
4. Location Survey, prepared by Stephen P. Eid, PE & PLS, of Conklin Associates, dated July 20, 2021;
5. Completeness Review, prepared by Gregory J. Polyniak, PE, PP, CME, CPWM and John J. Dunlea, PE of Neglia Engineering Associates, dated August 9, 2021 and revised through August 19, 2021;
6. Engineering Review, prepared by Gregory J. Polyniak, PE, PP, CME, CPWM and John J. Dunlea, PE of Neglia Engineering Associates, dated August 31, 2021;
7. Response Letter to Engineering Review, prepared by John J. Gilchrist AIA, of John J. Gilchrist Architect, PC, dated September 6, 2021; and,
8. Preliminary Plans (incl. Site Plan and First Floor Plan), prepared by John J. Gilchrist, Architect, dated May 30, 2021 and revised through September 6, 2021.

A. Existing Conditions

The subject site, known as Lot 41 of Block 1203, is a 10,786 square foot parcel located in the R-10 Single Family Residential Zone District. The property is located on the north side of Frederick Court, approximately 360 feet west of the intersection with Pascack Road. The parcel contains approximately 99 feet of frontage along Frederick Court.

The subject site is currently developed with a 2-story detached single family structure, occupying a footprint of 1,983 square feet. Other existing site improvements include a paved driveway, paver patio, and deck.

Adjacent uses to the subject site are predominantly detached single family in character.

Maser Consulting is now Colliers Engineering & Design

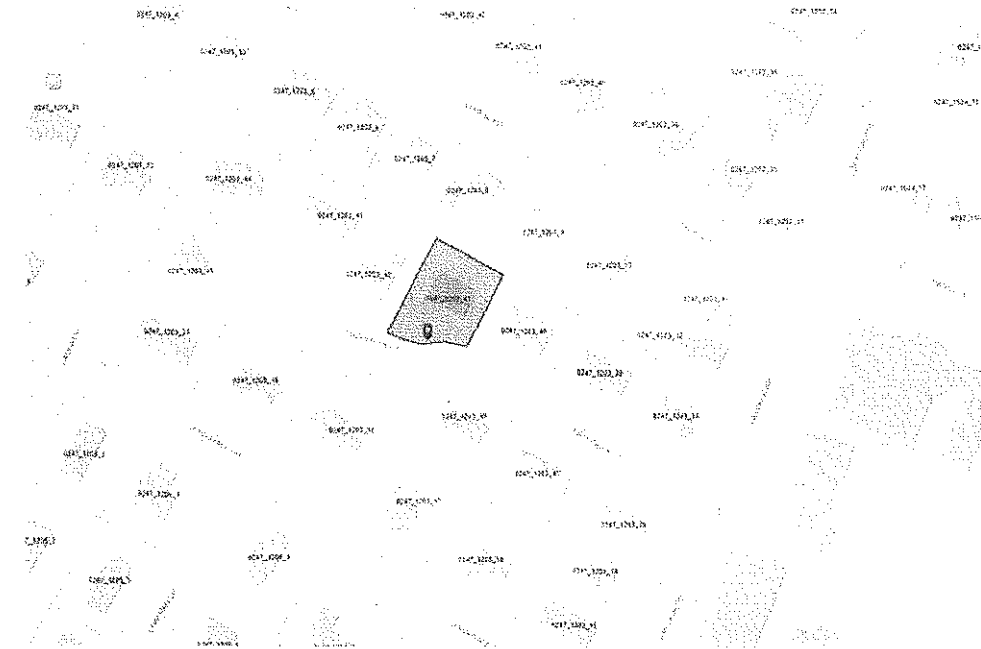


Figure 1: Subject Site and Surrounding (Source: Bergen County GIS)



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

B. Applicable Land Use Controls

The subject site is located in the R-10 Single 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 "Medium Density Residential" category¹, the Land Use Element states that "The neighborhoods that make up this land use category have been developed with smaller setbacks that [sic] the remainder of the municipality. Given this fact, it is the primary objective of this category to ensure that all new developments, renovations and additions be sensitive to the adjacent dwellings by maintaining adequate setbacks, and constructing structures which are in scale with the surrounding neighborhood."²

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."³ This goal was further illustrated by the following recommendations:

- "New development and model/additions should not be disharmonious with the existing street setback patterns.....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 are 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."⁴
- Upper level setbacks in the design of residences to avoid excessive building bulk viewed from adjacent lots.

¹ Noted in the 2009 Master Plan as R-1, however this district does not exist. Given that the section describes lots measuring 10,000 square feet in area, our office is not aware of any R-1 district and presume that this was a typo and was intended to refer to the R-10 district. This is supported by the fact that the tract that was later subdivided to create the subject property is shown on the Land Use Plan map as "Medium Density Residential."

² Borough of Park Ridge Comprehensive Master Plan (2009), page 21.

³ Ibid, page 26.

⁴ Ibid, page 28.

C. Proposed Conditions

The Applicant is seeking to expand the existing single family structure with a one-story addition to the rear of the building. In addition to some internal modifications, the addition would expand the building footprint off of the dining room by 137 square feet into an area that contained a portion of the deck. As part of this application, the existing deck and patio would be removed and replaced with a 15 foot by 38 feet 8-inch deck, and a 67 square foot paver patio.

BULK REQUIREMENTS - R-10 SINGLE FAMILY RESIDENTIAL ZONE DISTRICT				
	Required	Existing	Proposed	Variances
Minimum Lot Area (sq. ft.)	10,000	10,786	No Change	
Minimum Lot Width (ft)	85	92	No Change	
Minimum Street Frontage (ft)	75	99	No Change	
Minimum Lot Depth (ft)	120	120	No Change	
Minimum Front Yard Setback (ft)	25	25.9	No Change	
Minimum Rear Yard Setback (ft)	35	30.4	29.5	V
Minimum Side Yard Setback (ft)	15	20.1	No Change	
Maximum Dwelling Width (65% lot width)	Approx. 60 ft	52	No Change	
Maximum Building Height (ft)	32	34.1 (ENC)	No Change	ENC
Maximum Building Coverage	20%	18.38	19.66	
Maximum Impervious Coverage	40%	27.41	28.09	
Maximum Floor Area Ratio	30%	35.08	36.35	V
Maximum Gross Floor Area (sq. ft.)	3,333	3,784	3,921	V
Deck Setback to Rear/Side Yards (ft)	20	20	15	V
ENC-Existing Nonconforming Condition V-Variance				

D. Variances

Summary

The Application requires the following variances:

1. "D(4)" Use Variance for Floor Area Ratio
2. "C(2)" Bulk Variance for Rear Yard
3. "C(2)" Bulk Variance for Maximum Gross Floor Area
4. "C(2)" Bulk Variance Deck Setback

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

5. Maximum Building Height.
6. Chimney setback.

'd' Variances

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

The R-10 Zone District permits a maximum floor area ratio of 30%. The Applicant is proposing a total of 3,921 square feet of floor area on this 10,786 square foot site, which would yield a floor area ratio of 36.35%. The existing structure is already nonconforming, with a floor area ratio of 35.08%; the proposed development would exacerbate this nonconforming condition. Based on the lot area, a maximum floor area of 3,235.8 square feet is permitted on this property. "D(4)" density variance approval is required to permit the floor area ratio deviation.

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.”⁵

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

- i. What impact—aesthetic, 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 5101-8 (Schedule IV-2): Minimum Rear Yard.

The R-10 Zone District requires a minimum rear yard setback of 35 feet. The Applicant is proposing 29.5 feet of rear yard setback, a deficit of 5.5 feet. The property currently is nonconforming for rear yard setback at 30.4 feet; the proposed development would further exacerbate this nonconforming condition. 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 5101-8 (Schedule IV-2): Maximum Gross Floor Area.

The R-10 Zone District requires a maximum gross floor area of 3,333 square feet. The Applicant is proposing a total gross floor area of 3,921, or 588 square feet more than permitted. 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 5101-21A(1)(a): Rear setback for decks greater than 325 square feet.

The code requires a 20 foot setback for decks containing more than 325 square feet of area. The proposed deck measures approximately 580 square feet in area and is proposed to be located 15 feet from the rear lot line. Bulk variance relief is required to permit this deviation. Is relief cognizable under “C(1)” hardship or “C(2)” flexible variance provisions?

⁵ 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).

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

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

The R-10 Zone District requires a maximum building height of 32 feet, where 34.1 feet currently exists. The proposed addition measures only one story in height, and will not modify this existing nonconforming condition.

6. Ordinance Section §101-16B(3): Maximum Projection by Chimney.

The Ordinance permits chimneys to project a maximum distance of 3 feet into required yard. While the existing chimney projects only 2.4 feet from the existing structure into the rear yard, the existing structure is nonconforming at 30.4 feet from the rear property line where 35 feet is required. The proposed addition will not modify the location of the existing chimney.

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. The Board should note that the Zoning Code permits floor area ratio bonuses under Section 101-19, subsections D (Green building strategies) or E (Architectural guidelines) for residential development. Our office has not received any information that would suggest that these design guidelines or green building strategies are being considered. 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. Testimony shall be provided on the proposed internal modifications to the residential structure. The plans provided suggest that the dining room and kitchen will be expanded; the Applicant shall clarify.
4. In addition to the above, the plans only show the proposed modifications to the first floor. The Applicant shall clarify if these additions will be constructed on slab, or if this expansion will also include an expansion to the basement. Testimony shall also be provided as to whether any modifications to the basement will also be made. The Board should note that gross floor area (and the floor area ratio) excludes areas where the finished floor level is greater than three feet below the average grade measured six feet from the structure. Based on the plans provided, the finished floor area of the proposed basement is not clear, nor is the average grade as measured six feet from the structure. Any areas where the finished floor level of the basement is three feet or less below the average grade measured six feet from the structure shall be included in the gross floor area and floor area ratio measurements.
5. The Applicant has indicated that no new landscaping is proposed, nor are any trees proposed for removal. The Applicant's testimony should include photographic evidence of the rear and side yard areas, showing existing vegetative screening with neighboring properties, if any.



Engineering
& Design

6. Our office defers to the Board Engineer on comments relating to any proposed site grading modifications.

Should you have any questions concerning the above comments please do not hesitate to contact my office. We reserve the right to make additional comments based upon further review or submission of revised plans or new information.

Sincerely,

Colliers Engineering & Design, Inc.

A handwritten signature in black ink, appearing to read "ND", written over a horizontal line.

Nicholas Dickerson, PP, AICP, CFM
Board Planner

cc: Brian Giblin, Esq. Board Attorney (via email btgiblin@msn.com)
Gregory Polyniak, PE, PP, CME, CPWM and John J. Dunlea, PE, Board Engineer (via email gpolyniak@negliaengineering.com & jdunlea@negliaengineering.com)
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