

TOWNSHIP OF BERKELEY
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
MAY 12, 2010
7:00 PM PUBLIC HEARING

- A. SALUTE TO THE FLAG
- B. ROLL CALL, DECLARATION OF QUORUM
- C. SUNSHINE ACT STATEMENT: This meeting was advertised in the Asbury Park Press, and posted on the Township's bulletin board as required by the "Open Public Meeting Act".
- D. Please be advised that there is to be **NO SMOKING** in this building in accordance with New Jersey Legislation.
- E. OLD/NEW BUSINESS:
- F. AGENDA:

1. **JERMAN** **BOA#09-5291 (Carried from 4/14/10)**

Variance(s) requested: Bulk Variances
Project: Single-family dwelling on an Undersized Lot
Block(s): 527 Lot(s): 15 & 17
Address: Maryland Ave. Zone: R-125
Denial Reads: The Applicant proposes to construct a single-family dwelling on a 10,000 s.f. lot where 12,500 s.f. is required.

2. **JERMAN (IF REVISED PLANS RECEIVED)** **BOA#09-5272 (Carried from 4/14/10)**

Variance(s) requested: Bulk Variances
Project: Single-family dwelling on an Undersized Lot
Block(s): 509 Lot(s): 11
Address: Roosevelt Ave. Zone: R-125
Denial Reads: Applicant proposes to construct a single-family dwelling on this 5,500 s.f. lot where 12,500 s.f. is required with a 50 foot lot frontage where 100 feet is required, 20 foot combined side yard setback where 25 feet is required, and a 24 foot rear yard setback where 30 feet is required.

- G. RESOLUTIONS TO BE ADOPTED.
- H. APPROVAL OF MEETING MINUTES.
- I. ADJOURNMENT: Next meeting of the Board of Adjustment will be on May 26, 2010 at 7:00 PM



MEMO TO: Berkeley Township Zoning Board of Adjustment

FROM: Robert J. Russo, P.E., P.P., C.M.E.
 Office of the Zoning Board of Adjustment Engineer and Planner

DATE: December 10, 2009

RE: **Jerman Variance – Review #1**
Application: Single Family Dwelling on an undersized lot
Block 527, Lot 15 & 17
Zoning District: R-125
Fronting on: Maryland Avenue
Plan: Property Development Plan, prepared by
Nelke, Constantine & Assoc., Inc.
dated October 15, 2009
BOA#: 09-5291
Our File No.: PBAZ0527.01/ 600.01

In accordance with your request, our office has reviewed the following variance application submitted for the above referenced property. The following comments are offered with regard to the same:

A. PROJECT OVERVIEW

1. The denial states that the "applicant proposes to construct a single-family dwelling on a 10,000 s.f. lot where 12,500 s.f. is required". The lot in question is located on the southeastern corner of the intersection of Maryland Avenue and Hoover Avenue, within the R-125 zone. The lot is currently vacant and wooded. The applicant is proposing to construct a four bedroom single family dwelling and associated site improvements on the lot. Maryland Avenue, where the applicant is proposing to front the dwelling, is currently paved with a 24' +/- wide pavement width.
2. R-125 Zone Requirements and Variances Requested (as per Schedule I, Section 35-95)

<u>Primary Use</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Requested</u>
Min. Lot Area	12,500 sf	10,000 sf	10,000 sf	<input checked="" type="checkbox"/>
Min. Lot Frontage	100 ft	100 ft	100 ft	<input type="checkbox"/>
Front Yard Setback	35 ft	N/A	58 ft	<input type="checkbox"/>
Rear Yard Setback	30 ft	N/A	30 ft	<input type="checkbox"/>
Side Yard Setback	10 ft	N/A	10 ft	<input type="checkbox"/>
Combined Side Yard	25 ft	N/A	N/A	<input type="checkbox"/>
Max. Lot Coverage by Building	25%	N/A	20%	<input type="checkbox"/>
Max. Building Height	35 ft	N/A	< 35 ft	<input type="checkbox"/>
Min. Floor Area	1,250 sf	N/A	1,872 sf	<input type="checkbox"/>

*In accordance with Note #3 with regard to Schedule I, the following minimum floor areas apply:
 1-bedroom 950 sf, 2-bedroom 1,100 sf, 3-bedroom or larger 1,250 sf.

B. GENERAL REVIEW COMMENTS

1. The applicant is proposing to serve the proposed dwelling by utilizing the public sanitary sewer system and public water.





Memo to Berkeley Township Zoning Board
Our File: PBAZ0527.01
December 10, 2009
Page 2 of 3

2. The applicant should consolidate lots 15 and 17.
3. The applicant should revise the zoning schedule on the survey submitted to Zone R-125. It currently indicates that the property is located in zone R-150.
4. The applicant should provide invert elevations for the proposed sanitary sewer lateral and existing sewer main. A detail should be provided for the sanitary sewer lateral and water service.
5. Pursuant to the MLUL Section 40:55D-70, the Board of Adjustment may grant a bulk variance request if:
 - c.(1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property.
 - c.(2) where in an application or appeal relating to a specific piece of property the purposes of this act...would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment

It has to be determined whether the property in question meets any or all of the reasons established in the MLUL to permit the granting of the variance and whether the enforcement of the Berkeley Township General Ordinances will cause undue hardship to the property owner.

C. DISCUSSION ITEMS (The applicant should be prepared to discuss the following items)

1. Providing documentation of a good faith effort to acquire sufficient adjoining lands to achieve a conforming lot, or by offering to sell the non-conforming property to adjacent owners. Please note that the applicant has sent a letter to the Township, who is the adjoining property owner, requesting that the Township sell the lot, Lot 19, to the applicant or purchase the applicant's property. The purchase of Lot 19 would provide the required lot area for the zone and therefore, the property would be a conforming building lot. The Township responded to the applicant on November 2, 2009 and agreed to sell Lot 19 for an asking price of \$30,000.00. The applicant responded to the Township in a letter dated November 6, 2009, stating that he is willing to purchase the property but for a cost of \$15,000.00. The applicant should provide testimony regarding the status of same.
2. Testimony to satisfy both the positive and negative criteria of the Municipal Land Use Law, such that:
 - a. The proposed use is particularly suited to the particular property.
 - b. There are special reasons that allow a departure from the zoning regulations in this particular case. The granting of a variance must be shown to implement one or more of the purposes of the MLUL 40:55D-2.
 - c. The variance can be granted without substantial detriment to the public good.
 - d. The variance will not substantially impair the intent and purpose of the zoning plan and ordinance.





Memo to Berkeley Township Zoning Board
Our File: PBAZ0527.01
December 10, 2009
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D. MISCELLANEOUS

1. Should the Zoning Board of Adjustment grant the relief requested by the applicant, approval of this application should be conditioned upon the following:
 - a. The Applicant resubmitting the following for review by the Zoning Board of Adjustment Engineer:
 - i. A plan which includes those items covered above and discussed at the Board meeting.
 - ii. Proof of submission to the following agencies indicating service can be provided to the location:
 - a. US Postal Service
 - b. Police Traffic Safety
 - c. Berkeley Township Public Works Department
 - d. Bureau of Fire Prevention
 - b. The Applicant certifying to the following:
 - i. The proposed structure should not encroach into existing easements (i.e. shade tree, utility, drainage, etc) without proper consent from the Township.
 - ii. The proposed grading will not impact adjacent property and that the plan as submitted is a true and accurate representation of the existing and proposed improvements on the site
 - iii. Payment all outstanding professional review fees of the Board and the Township
 - c. The Applicant providing the following to the Building Department at time of application for a building permit:
 - i. The applicant submitting for a grading permit in accordance with Section 11-1.5.
 - ii. The applicant submitting architectural plans of the proposed dwelling, to show compliance with building codes.
 - iii. The applicant submitting a Tree Removal/Replacement Plan in accordance with Ordinance 03-25-0AB, unless waiver request is granted by the Board.
 - iv. Proof of approval and/or waivers, if required from all agencies having jurisdiction including:

- | | |
|---|--|
| <input type="checkbox"/> NJDEP Wetlands | <input type="checkbox"/> NJDEP Tidelands |
| <input type="checkbox"/> Waterfront development | <input type="checkbox"/> Flood Plain Management |
| <input type="checkbox"/> CAFRA | <input checked="" type="checkbox"/> Ocean County Soil Conservation |
| <input type="checkbox"/> Ocean County Board of Health | <input checked="" type="checkbox"/> Ocean County Planning Board |
| <input checked="" type="checkbox"/> Berkeley Twp Sewerage Authority | <input checked="" type="checkbox"/> Berkeley Twp Municipal Utility Authority |
| <input type="checkbox"/> Aqua Water Company | <input type="checkbox"/> Pinelands Area |

The right is reserved to present additional comments pending the receipt of revised plans and/or the testimony of the Applicant before the Board

Should you have any questions regarding this matter, please do not hesitate to contact this office.

RJR/rr
cc: Board Attorney
Jeffrey Jerman
Nelke, Constantine & Associates, Inc.





MEMO TO: Berkeley Township Zoning Board of Adjustment

FROM: Robert J. Russo, P.E., P.P., C.M.E.
 Office of the Zoning Board of Adjustment Engineer and Planner

DATE: June 16, 2009

RE: **Jerman Variance – Review #1**
Application: Single Family Dwelling on an undersized lot
Block 509, Lot 11
Zoning District: R-125
Fronting on: Roosevelt Avenue
Plan: Property Development Plan, prepared by
Nelke, Constantine & Assoc., Inc.
dated March 16, 2009
BOA#: 09-5272
Our File No.: PBAZ0509.02/ 600.01

In accordance with your request, our office has reviewed the following variance application submitted for the above referenced property. The following comments are offered with regard to the same:

A. PROJECT OVERVIEW

1. The denial states that the "applicant proposes to construct a single-family dwelling on this 5,500 s.f. lot where 12,500 s.f. is required with 50 foot lot frontage where 100 feet is required, 20' combined sideyard setback where 25' is required and a 24' rear yard setback where 30' is required". The lot in question is located on the east side of Roosevelt Avenue, approximately 100' to the south of its intersection with Virginia Avenue, within the R-125 zone. The lot is currently vacant and wooded. The applicant is proposing to construct a three bedroom single family dwelling and associated site improvements on the lot. Roosevelt Avenue is currently paved with a 28' wide pavement width.
2. R-125 Zone Requirements and Variances Requested (as per Schedule I, Section 35-95)

<u>Primary Use</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Requested</u>
Min. Lot Area	12,500 sf	5,500 sf	5,500 sf	<input checked="" type="checkbox"/>
Min. Lot Frontage	100 ft	50 ft	50 ft	<input checked="" type="checkbox"/>
Front Yard Setback	35 ft	N/A	58 ft	<input type="checkbox"/>
Rear Yard Setback	30 ft	N/A	24 ft	<input checked="" type="checkbox"/>
Side Yard Setback	10 ft	N/A	10 ft	<input type="checkbox"/>
Combined Side Yard	25 ft	N/A	20 ft	<input checked="" type="checkbox"/>
Max. Lot Coverage by Building	25%	N/A	15%	<input type="checkbox"/>
Max. Building Height	35 ft	N/A	< 35 ft	<input type="checkbox"/>
Min. Floor Area	1,250 sf	N/A	1,650 sf	<input type="checkbox"/>

*In accordance with Note #3 with regard to Schedule I, the following minimum floor areas apply:
 1-bedroom 950 sf, 2-bedroom 1,100 sf, 3-bedroom + 1,250 sf.

B. GENERAL REVIEW COMMENTS

1. The applicant is proposing to serve the proposed dwelling by utilizing a septic system and public water





Memo to Berkeley Township Zoning Board
Our File: PBAZ0509.02
June 16, 2009
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2. The applicant should address the following grading deficiencies:
 - The applicant should provide top and bottom of wall elevations for the proposed retaining wall along the southern property line.
 - The applicant should provide a minimum 2% grade in all lawn areas, where possible.
 - It appears that the proposed retaining wall located along the southern property line will block the run-off from the north side of existing Lot 7. This should be addressed.
 - It appears that the proposed elevation "56" contour along the front of the property does not tie in properly with the existing elevation "56" contour. This appears to create a ponding water situation in the front yard near the roadway.
 - The high point spot elevation on the northwestern side of the property appears to be incorrect.
 - We recommend that the applicant amend the proposed grading plan to better follow the existing drainage patterns and to prevent adverse impacts to the adjoining properties.
3. The applicant is proposing to install a 2' to 2.5' high retaining wall along the southern property line which will run parallel to the proposed driveway. For safety concerns, this type of drop-off adjacent to a driveway is not recommended.
4. It appears that the proposed driveway will not be aligned with the proposed garage, making the garage unusable by vehicles. This should be addressed.
5. As indicated above, the entire lot is wooded. The applicant is proposing to clear the entire lot and is therefore requesting a waiver from section 03-25-OAB of the Township ordinance which requires the applicant to submit to the Zoning Officer a plan to clear no more than 50% of the side and rear yard setbacks for the zone. The applicant should provide testimony to the Board regarding the need for this waiver request.
6. The applicant should indicate on the plans the existing water main location, size and type.
7. Pursuant to the MLUL Section 40:55D-70, the Board of Adjustment may grant a bulk variance request if:
 - c.(1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property.
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It has to be determined whether the property in question meets any or all of the reasons established in the MLUL to permit the granting of the variance and whether the enforcement of the Berkeley Township General Ordinances will cause undue hardship to the property owner.

C. DISCUSSION ITEMS (The applicant should be prepared to discuss the following items)

1. Providing documentation of a good faith effort to acquire sufficient adjoining lands to achieve a conforming lot, or by offering to sell the non-conforming property to adjacent owners.
2. Ownership, specifically whether a contract of sale exists, and is contingent upon obtaining said variances.





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Our File: PBAZ0509.02
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3. Testimony to satisfy both the positive and negative criteria of the Municipal Land Use Law, such that:
 - a. The proposed use is particularly suited to the particular property.
 - b. There are special reasons that allow a departure from the zoning regulations in this particular case. The granting of a variance must be shown to implement one or more of the purposes of the MLUL 40:55D-2.
 - c. The variance can be granted without substantial detriment to the public good.
 - d. The variance will not substantially impair the intent and purpose of the zoning plan and ordinance.

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| <input type="checkbox"/> Aqua Water Company | <input type="checkbox"/> Pinelands Area |

The right is reserved to present additional comments pending the receipt of revised plans and/or the testimony of the Applicant before the Board

Should you have any questions regarding this matter, please do not hesitate to contact this office.

RJR/RRA/rra

cc: Board Attorney
Jeffrey Jerman
Nelke, Constantine & Associates, Inc.

