

TOWNSHIP OF MIDDLETOWN

Zoning Board of Adjustment and Appeals

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Middletown, NJ 07748-2594

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TECHNICAL MEMORANDUM

DATE: March 26, 2021
BOARD: Zoning Board of Adjustment and Appeals
APPLICATION: Earle (#2021-002)
556 Navesink River Road
Block 1043, Lot 70
R-110 Zone
FAR / "D-4" Variance
Bulk "C" Variance for Maximum Building Coverage

PROJECT DESCRIPTION & VARIANCE SUMMARY

The applicant is proposing to convert unfinished storage space into two bedrooms and continue to retain the existing one-story accessory building. The residence on site has been built recently. The original plans submitted for building permits proposed to remove the one-story accessory structure. Additionally, the space on the second floor was to be utilized as unfinished storage space. The applicant is proposing to convert the existing unfinished storage space on the second floor to two bedrooms thereby increasing the FAR from the existing 0.089 to 0.128, triggering off variance relief from the maximum FAR requirement of 0.09. Furthermore, the applicant now proposes to continue to retain the accessory (gate house) building thereby requiring variance relief from the maximum building coverage requirement of 8%, where 7.9% currently exists and will increase to 8.28%.

PROPERTY DESCRIPTION, ZONING AND SURROUNDING LAND USES

The subject property, containing an area of 84,225 square feet (1.93 acres), is located on Navesink River Road in the R-110 Residential Zone District. The site is currently developed to contain a 2½ story single-family dwelling unit, tennis court, swimming pool, one-story accessory building and associated driveway.

The subject property is surrounded by predominantly residential uses. The properties along the same side of Navesink River Road as the subject site contain single family residential uses in the R-110 Zone. The property immediately to the north / opposite side of Navesink River Road is located in the R-220 Zone District and contains the Navesink Country Club. The Navesink River (North Shrewsbury River) runs behind the rear property line.

Many Neighborhoods. One Middletown!

Belford ◊ Chapel Hill ◊ Fairview ◊ Harmony ◊ Leonardo ◊ Lincroft ◊ Locust ◊ Middletown Village
Monmouth Hills ◊ Navesink ◊ New Monmouth ◊ North Middletown ◊ Nut Swamp ◊ Oak Hill ◊ Port Monmouth ◊ River Plaza

PLANNING COMMENTS

A. Variances

The subject property, at 84,225 square feet, is undersized for the R-110 zone. The proposed development requires variance relief from the FAR and maximum building coverage requirements.

1. Section 540-905.B(3) permits a maximum floor area ratio of 0.07, which can be increased to 0.09 if the front setback is at least more than 150% (112.5 feet) of the maximum required front yard setback of 75 feet in the R-110 Zone District. The house maintains a setback of 368.6 feet, therefore a maximum FAR of 0.09 is permitted. The ordinance as per Section 540-203, Definitions, excludes unfinished storage from the gross floor area calculations. With the proposed conversion of that space into two bedrooms (#4 and #5), this gets included in the FAR calculations which increases to 0.128 from the existing complying 0.089.

Statutory requirements for granting a FAR variance

The proposed FAR exceeds the ordinance requirement; therefore, variance relief pursuant to N.J.S.A. 40:55D-70(d)(4), or a D4 variance, is required. An applicant for a D4 variance need not show that the site is particularly suited for more intensive development. Rather, such as application, must show that the site will accommodate the problems associated with the floor area larger than that permitted by the ordinance.

Positive Criteria - Positive criteria is satisfied when the applicant can demonstrate that the purposes of the MLUL would be advanced by the deviation from the zoning ordinance.

Negative Criteria – Testimony should be provided that the variance can be granted without substantial detriment to the public good, and that the benefits shall substantially outweigh any detriment and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The purpose of the FAR variance is to control the intensity of use and to prevent overbuilding on residential lands.

2. Section 540-905.B(2)(a) permits a maximum building coverage of 5% but pursuant to Section 540-708, the maximum percent of building coverage and lot coverage for a detached single-family dwelling on a nonconforming lot may be increased, provided the resultant building coverage and lot coverage complies with the coverage limits in the most restrictive single-family residence zone to which the area of the nonconforming lot conforms. Therefore, the maximum permitted building coverage is 8%. The existing building coverage is at 7.9%, which will then increase to 8.28% with the proposed retention of the accessory building (gate house).

Statutory Requirements for the granting of bulk variance relief

Based on the Municipal Land Use Law standard for granting bulk variance relief, the applicant shall indicate to the Board whether a “hardship” variance or “flexible C” variance will be sought for the bulk variance indicated above, and provide testimony supporting the chosen approach.

Physical Characteristics - N.J.S.A. 40:55D-70.C(1) (a/k/a Hardship Variance) – Testimony should indicate if strict application of the setback requirement would result in peculiar and exceptional difficulties, or exceptional and undue hardship, to the applicant.

- By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
- By reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property;

- By reason of an extraordinary or exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

Benefits Outweighing Detriments - N.J.S.A. 40:55D-70.C(2) (a/k/a Flexible C Variance) - The applicant may also establish, in the absence of proving "hardship," whether the granting of a variance will further the purposes of the Municipal Land Use Law, and if the benefits of granting the variance will substantially outweigh any detriment.

Negative Criteria - Additionally, with any type of C variance, testimony should confirm that the proposed improvements requiring bulk variance relief will not create a substantial detriment to the public good or substantial impairment of the intent and purpose of the Master Plan and the Zoning Ordinance.

The variances sought should be considered with respect to the character of the neighborhood.

MISCELLANEOUS

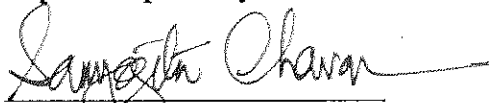
1. Section 540-905.B(2)(b) permits a maximum lot coverage of 10% but pursuant to Section 540-708, the maximum percent of building coverage and lot coverage for a detached single-family dwelling on a nonconforming lot may be increased, provided the resultant building coverage and lot coverage complies with the coverage limits in the most restrictive single-family residence zone to which the area of the nonconforming lot conforms. Therefore, the maximum permitted lot coverage is 15%. The submitted plans show that the existing impervious surface coverage is noncompliant at 25.6% and that there is no change to the same with the proposal. Please confirm that the existing calculations were conducted considering retaining the accessory building? If not, then it appears that variance relief from lot coverage would be required.
2. The applicant proposes to continue to keep the accessory structure as a gate house garden structure with no living quarters proposed. Additionally, the applicant intends to match the stucco siding and slate roof of the principal building. Should the Board choose to vote favorably on the variance, then this shall be a condition of approval.

DOCUMENTS REVIEWED

- Architectural floor plan entitled "Proposed New Residence for Concord Contracting LLC, Block 1043, Lot 70, 556 Navesink River Road, Monmouth County, Middletown, NJ" prepared by Michael James Monroe, Architect dated November 14, 2017 and revised through December 31, 2020.
- Letter from the applicant's architect, Michael James Monroe, Architect, dated February 5, 2021 providing a narrative description.

We reserve the right to make additional comments based upon the submission of additional documents or testimony presented to the Board.

Report Prepared by:



Sanyogita S. Chavan, PP, AICP
Director of Planning

LOCATION MAP

