

TOWNSHIP OF MIDDLETOWN

Zoning Board of Adjustment and Appeals

One Kings Highway
Middletown, NJ 07748-2504

JAMES HINCKLEY
Chairman



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AMY H. CITRANO, P.P., A.I.C.P.
Director of Planning

ERIN URIARTE
Secretary

Tel: (732) 615-2102
Fax: (732) 615-2103

TECHNICAL MEMORANDUM

DATE: June 7, 2022
BOARD: Zoning Board of Adjustment and Appeals
APPLICATION: Minkler Residence (#2022-005)
54 Chapel Hill Road
Block 873, Lot 130
R-10 Zone
Bulk "C" Variance for Side-Yard Setback

PROJECT DESCRIPTION & VARIANCE SUMMARY

The applicant is proposing to remove an existing detached two-car garage and to construct a 2 ½ story (27.75') 2,360 square foot addition on the rear and eastern side of the existing single family home. The addition will include a mother-daughter unit on the first floor, and additional living space on the second floor.

Variance relief is required for side-yard setback. The side-yard setback requires 12' minimum where 3.9' is proposed on the east side. An additional variance may be required regarding the number of stories proposed. Please see Additional Planning Comment #1.

The subject property contains the following existing non-conforming conditions:

- Front yard setback where 25 feet is required, and 19.1 feet exists for the principal structure; and
- Side yard setback where 12 feet is required for principal structures, and 0.2 feet exists on the west side.

PROPERTY DESCRIPTION, ZONING AND SURROUNDING LAND USES

The subject property is located in the R-10 zone and contains an area of 9,429 square feet on Chapel Hill Road. The site is currently developed with a 2-story, 22.7' single-family dwelling, front porch, detached two-car garage and driveway.

The subject property is surrounded by single-family residential uses in the R-10 zone and a cemetery to the east of the property in the R-15 zone.

PLANNING COMMENTS

Variances

The proposed development requires variance relief from the side-yard setback requirement. Section 540-914.A(2) requires a side setback of 12', where 3.9' is proposed.

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

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 structure 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 proposal 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.

Additional Planning Comments

1. As per the Township code’s definition of “half story,” the attic’s ceiling height cannot be more than 7 feet to be considered a half story. The attic ceiling height appears to be taller than 7 feet. The applicant shall confirm in testimony that the ceiling height of the attic is no more than 7 feet. If the attic ceiling height is greater than 7’, it shall be considered a “story,” and bulk “c” variance relief for maximum stories permitted will be required.
2. The applicant is proposing a mother-daughter unit. Upon review of regulations for mother-daughter units contained in the Township code, the following standards shall be made conditions of approval:
 - a. The unit shall not be rented.
 - b. Common utilities must be maintained for both units.
 - c. A deed restriction with the following language to be filed with the Monmouth County Clerk’s Office before occupancy of the unit:

“The grantor and grantee specifically represent and warrant that this deed contains a Deed Restriction whereby the property use is restricted for use by grantor and grantees’ immediate family. Although the structure is built as a mother-daughter structure allowing for separate entrances and cooking facilities, a second, unrelated family cannot occupy a portion of the dwelling as tenants. This deed restriction is intended to prohibit a multifamily use.”
3. Grading Plan approval shall be made a condition of approval.

DOCUMENTS REVIEWED

- Additions and Alterations for: The Minkler Residence, consisting of five sheets, prepared by Minkler Architecture and Design, dated March 3, 2022;
- Certification that property taxes are current;
- Zoning Officer denial; and
- Development Permit Application.

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

Report Prepared by:



Amy H. Citrano, PP, AICP
Director of Planning

LOCATION MAP

