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LLC

January 9, 2023

Borough of North Plainfield
Zoning Board of Adjustment
Municipal Building
263 Somerset Street
North Plainfield, NJ 07060-4895

**RE: Planning Review – Application of 46-48 Grove N Plainfield, LLC
Block 91, Lot 15.01 (46-48 Grove Street)
Request for “c” and “d” Variance and Site Plan Approvals**

Dear Members of the Zoning Board of Adjustment:

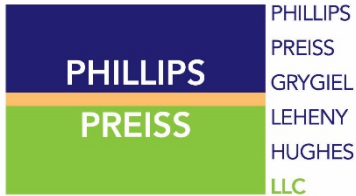
Introduction

As per your direction, I have reviewed the above-referenced development application. The applicant is requesting site plan and variance approvals to construct a four-unit multi-family residential building to replace a building in the same location that was destroyed by fire. As a multi-family residential building is not a permitted use in the R-4 zone or H-2 overlay zone and the proposed building is increasing the number of prior existing bedrooms, a “d(2)” variance is required for expansion of a nonconforming use. A bulk or “c” variance and a “d(6)” building height variance are required as well.

As part of my analysis, I undertook the following tasks: review of aerial photographs and inspection of the subject premises and surrounding land uses; review of the filed application materials, including a boundary and topographic survey prepared by David J. Von Steenburg, PLS of Morgan Engineering & Surveying dated August 30, 2022; a use variance information page (1 sheet) prepared by Wayne T. McCabe, PP of McCabe & McCabe dated June 9, 2022; architectural plans (seven sheets) prepared by Steve J. Druga, AIA dated March 4, 2022; and a site plan (three sheets) prepared by Paul V. Ashworth, AIA, NCARB of PVA Architect dated September 20, 2022; a dumpster enclosure detail and plot plan (1 sheet) prepared by Wayne T. McCabe, PP of McCabe & McCabe dated June 9, 2022; analysis of the pertinent sections of Borough of North Plainfield Zoning Ordinance and Master Plan; and review of relevant case law related to the granting of variances.

Description of Site and Surrounding Area

The subject property is located on the northeast side of Grove Street across from Prospect Place and is designated as Block 91, Lot 15.01. The property is 6,900 square feet (0.16 acres) in area and is rectangular for its first 140 feet of depth, with a 25-foot deep by 40-foot wide appendage at the rear. The lot is 60 feet wide at the street line and 165 feet deep. The lot was formerly developed with a four-family dwelling, which was partially destroyed by fire in 2020, with the remaining portion of the building



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“demolished as a matter of public safety,” according to the applicant. Only portions of the foundation and basement remain, along with a two-car garage and ancillary site improvements. Access to the rear parking area and garage are provided by a driveway on Duer Street across a right-of-way on Block 91, Lot 15.02 that also provides access to parking on the adjacent property to the northwest on Grove Street, Block 91, Lot 16. Site photographs are appended to this letter.

The area surrounding the subject property is developed primarily with a mix of residential land uses. Adjoining and nearby properties include multi-family residential buildings containing three to six units. There are also one- and two-family homes as well as commercial, public and institutional uses in the vicinity.

Summary of Development Proposal

The applicant is proposing to construct a new residential building in the footprint of the building that previously existed on the subject property. The building is proposed to be an actual reproduction of the original residence, with some alterations to the interior layout. There were two one-bedroom apartments and two two-bedroom apartments in the previously existing building. The new building is proposed to include:

- Two two-bedroom units (Units 1 and 2)
- One three-bedroom unit (Unit 4)
- One four-bedroom unit (Unit 3)

Therefore there will be four units, but a total of eleven bedrooms, compared to a total of six bedrooms in the original building. Two of the units will include space in the basement and on the first floor, and the other two units will be located on the second floor and in the attic. Each unit will have two full baths, except for the three-bedroom unit, which will have one full bath. A washer and dryer are proposed in Units 1 and 2, but are not proposed in Units 3 and 4. The building will have front and rear covered porches.

The existing parking area in the rear will include seven parking spaces and the two-car garage will be converted to a one-car garage, for a total of eight proposed parking spaces. The parking area will be paved with asphalt and two seepage pits will be provided under the parking lot.

A trash enclosure is proposed between the building and the parking lot. It is proposed to be seven feet by nine feet and comprised of a six-foot tall stockade fence with gates. Landscaping is proposed primarily in the front yard, with some shrubbery along the sides of the building. One Red Maple tree is proposed in the front yard and another is proposed in the rear.

Zoning Compliance

The subject property is located in the R-4 Residence Zone, as well as the H-2 Historic District Residence Zone, an “overlay” zoning district. Pursuant to § 22-105.1 of the Zoning Ordinance, the only permitted uses in the R-4 zone are “Any use as permitted in the R-3 Residence Zone subject to all required conditions of that zone,” and in turn the R-3 zone permits “Any use permitted in the R-1 and R-2 Residence Zones” as well as two family dwellings. Permitted uses in the H-2 zone are any use permitted in the R-1, R-2 and R-3 Residence Zones, subject to the required conditions of the R-2 zone.

Permitted uses in the R-1 and R-2 Residence Zones (and therefore the R-4 zone and H-2 zone) as listed in § 22-103.1 are as follows:

- One-family dwellings.
- State accredited schools and public buildings and uses owned or operated by the Borough or its agent or by the Board of Education.
- Churches, synagogues and other religious buildings and uses.
- Not more than two roomers or boarders per one-family dwelling.
- Accessory uses limited to off-street parking and signs.
- Accessory buildings and structures normally incident and subordinate to the principal use including private garages, property maintenance and storage buildings, private swimming pools and cabanas and similar utility and recreational buildings and structures.

The proposed building meets the definition of an “apartment building” in the North Plainfield Land Development Ordinance (“a building designed and used for three or more dwelling units”). An apartment building is not a permitted use in the R-4 zone.

The following table lists the bulk requirements for the R-4 zone, as well as the proposed development’s compliance with each:

Standard	Requirement	Proposed
Maximum Building Height (Stories)	2 ½	2 ½
(Feet)	35	39 V
Minimum Lot Width (ft.)	50 (building line), 30 (lot frontage)	60
Minimum Front Yard (ft.)	30, or average setback	33.2
Minimum Rear Yard (ft.)	25% of lot depth, but not less than 20	53
Minimum Side Yards (ft.)	4 one/30% of lot width aggregate (18 ft.)	5.6/11.6 V
Minimum Lot Area (sq. ft.)	6,000 (one-family), 7,500 (two-family)	6,900
Maximum Building Coverage (%)	30	20.87

V: variance required



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Therefore, the proposal requires a “c” variance for combined side yards, and a “d(6)” variance for building height, which exceeds the maximum permitted by more than 10 percent.

Off-street parking requirements for residential uses are set forth in Section 22-117.2 of the Land Development Ordinance, which requires “at least two off-street parking spaces for each dwelling unit in any residential use plus one off-street parking space for each roomer and boarder.” Eight parking spaces are required according to this standard for the proposed four units. The following are the requirements for off-street parking based on the New Jersey Residential Site Improvement Standards (RSIS), which supersedes local development regulations for residential parking:

Two-bedroom units: 2.0 spaces X 2 = 4 spaces

Three-bedroom unit: 2.1 spaces

Four-bedroom unit: 2.1 spaces

Total required: 8.2 spaces

Therefore if rounded down, the requirement is also eight spaces.

There is one preexisting nonconforming condition with regard to parking, as § 22-117.5m of the Land Development Ordinance requires a minimum parking access drive width of 24 feet for two-way traffic flow, while the existing access way on Lot 15.02 serving the parking lots on both the subject property and Lot 16 is 12 feet wide.

Master Plan Considerations

The Borough of North Plainfield’s current Master Plan was adopted in 2014. This document includes a number of background studies and plan elements, and provides general goals and objectives as well as land use recommendations for the municipality. The Master Plan Land Use Plan designates the subject property and adjacent lots for Single Family, Two-Family, Townhouse use, consistent with the current zoning designation. In addition, the Land Use Plan includes the subject property in the Washington Park Historic District.

Planning Analysis and Issues for Consideration by the Board

I offer the following for your consideration in reviewing this application:

1. As noted, the proposed development would increase the number of bedrooms on the property from six to eleven, which represents an expansion of a nonconforming use. The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70d(2) permits a board of adjustment to grant a variance to allow the expansion of a nonconforming use. Per the MLUL, a "d" variance may be granted only "in particular cases for special reasons." An applicant for a “d(2)” variance need not demonstrate particular site suitability or otherwise show it

would have been entitled to a variance for the initial nonconformity, but still must satisfy the same positive and negative criteria test as other “d” variance applicants. Therefore, a “d(2)” variance applicant must provide “special reasons” to address the “positive criteria,” and address the “negative criteria,” by demonstrating that the variance can be granted “without substantial detriment to the public good” and “without substantial impairment to the intent and purpose of the zone plan and zoning ordinance” of the municipality. The applicant’s planner must provide testimony addressing the above proofs.

2. As noted, the applicant is also requesting “c” or bulk variances. The MLUL at N.J.S.A. 40:55D-70c permits a board of adjustment to grant variances from the bulk regulations of a zoning ordinance and other zoning deviations that do not require a “d” variance. A “c(1)” variance is for cases of hardship due to factors such as shape or topography, or due to “an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.” A “c(2)” variance may be granted where the purposes of zoning are advanced and the benefits of deviating from the ordinance requirements outweigh any detriments. The benefits derived from granting a “c(2)” variance must include benefits to the community as a whole, not just to the applicant or property owner. A “c” variance applicant also must address the “negative criteria,” and affirmatively demonstrate that the variance can be granted “without substantial detriment to the public good” and “without substantial impairment to the intent and purpose of the zone plan and zoning ordinance” of the municipality. The applicant’s planner must address the above requirements.
3. The application also requires “d(6)” variance for height in excess of 10 percent and 10 feet of the permitted height. Pursuant to Grasso v. Spring Lake Heights, 375 N.J. Super. 41 (App. Div. 2004), the applicant must provide special reasons to show that the site will accommodate the problems associated with a height greater than permitted by the ordinance. The applicant must also address the negative criteria as listed above. It is recognized that a building with the same or similar height previously existed on the subject property, but as it is no longer standing, this variance is required. The applicant should confirm the height of the previously existing building.
4. Testimony should be provided regarding the proposed differences in the interior layout of the building from the previously existing building, and the reasoning for the increase in the number of bedrooms.
5. Testimony should be provided regarding utilization and allocation of the parking spaces. The applicant should also confirm whether any common open space or other amenities for building residents are proposed.



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6. The applicant should discuss the reasoning for providing laundry facilities in the two two-bedroom units, but not in the other two units which are proposed to contain three and four bedrooms.

If the Board has any questions or comments on the above, I would be happy to address them at the public hearing.

Respectfully submitted,

Paul Grygiel, AICP, PP
Principal

Attachment: site photographs

Site Photographs – taken January 5, 2023 at approximately 10:30 AM



Front view of subject property from across Grove Street



Looking into subject property from sidewalk adjacent to front steps



Remains of former building viewed from front yard



Remains of former building viewed from rear yard



Garage in rear yard



Entrance to access driveway for subject property on Duer Street



Properties to the northwest on same side of Grove Street



Properties to the southeast on same side of Grove Street