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Completeness Report #1

Date: August 29, 2019
To: South Orange Zoning Board
From: Greer Patras, AICP, PP, Board Planner
Applicant: Li Liu
Subject: Application No. 1038
284 Irvington Avenue, Block 2102 Lot 21
Expansion of a Non-Conforming Use

This report is meant to provide the Board with guidance as to the completeness of Application #1038, submitted by Li Liu. The property is in the Business B-2 zoning district, but has been used as a two-family residential structure, which is a non-permitted use in the zone. The Applicant proposes to expand the floor area which requires approval for a "d(2)" expansion of a non-conforming use.

The following items were reviewed:

- A. **Zoning Board Application Submission**, filed August 9, 2019.
- B. **Rehabilitation Notes**, signed by Raul Cabato, AIA, dated August 5, 2019.
- C. **Property Survey**, prepared by Thomas J. Rex, PLS, dated August 28, 1999.
- D. **Site Plan, Floor Plans and Elevations**, prepared by Raul Cabato, AIA, consisting of 10 sheets, dated August 5, 2019.
- E. **Zoning – Site Plan**, prepared by Raul Cabato, AIA, consisting of 1 sheet, dated August 6, 2019.
- F. **Certificate of Paid Taxes**, signed by Aderonke Zaccheus, dated August 6, 2019.
- G. **Site Photographs**, consisting of two (2) images, depicting the rear of the property.
- H. **Affadavit as to Ownership of Property**, signed August 6, 2019.
- I. **Copy of Deed**, dated October 11, 1999.

I. EXISTING CONDITIONS

- A. **Site:** The subject property is a 0.136 acre (5,916 SF) lot, located at 284 Irvington Avenue, within the Secondary Business B-2 zone.
- B. **Existing Use:** The subject lot is occupied by a two-family residential structure, which is not permitted in the B-2 zone. Apartments above the ground floor are the only permitted residential use in the B-2 district. The property and building appear to be in a state of disrepair.
- C. **Neighborhood Context:** The site is on Irvington Avenue, a commercial corridor with commercial and multifamily residential uses. Properties at the rear, which front on W.

Fairview Avenue are primarily single-family residences within the RA-50 Residential Zone. The site can be seen below, courtesy of Google Maps.



II. PROPOSAL

The Applicant proposes to expand the occupiable area of the building's third floor to accommodate two larger bedrooms and a new bathroom, for each of the two units. The existing third floor area for both units combined is approximately 780 SF and the proposed third floor area is approximately 920 SF.

The actual overall height of the structure will remain the same, though each wall will be raised to increase the habitable area.

Improvements to the driveway, landscaping, and the building exterior are unclear.

III. VARIANCE DISCUSSION

A. **Use Variance:** The Applicant seeks "d(2)" variance relief for the proposed expansion of the non-conforming use, per §185-162, and a nonconforming use cannot be enlarged without approval per §185-134.A.

No testimony is given at the Completeness Hearing, however, at the subsequent public Zoning Board hearing, the Applicant should be prepared to testify to the required proofs for D(2) variances under N.J.S.A. 40:55(d)-70(d)(2), specifically that the proposed expansion of the non-conforming use promotes the general welfare because the proposed site is particularly suitable for the proposed use, that the granting of the variance will not be substantially detrimental to the public good and will not substantially impair the zoning plan of the municipality, and that the expansion of the use is justified despite the continued omission of the use from the zone.

B. **Bulk Variance:** Compliance with the bulk requirements of the B-2 zone are as follows:

B-2 Requirement	Required	Existing	Proposed
Minimum Lot Area	10,000 SF	5,915 SF (E)	No Change
Minimum Width	75 FT	46.58 FT (E)	No Change
Minimum Front Setback	15 FT	25.33 FT	No Change
Min. Side Setback - East	10 FT	7.66 FT (E)	7.66 FT (M)¹
Min. Side Setback - West	10 FT	7.76 FT (E)	7.76 FT (M)¹
Minimum Rear Setback	32.02 FT ²	57.76 FT	57.76 FT
Maximum Height	3 ST/36 FT	3 ST/34 FT	3 ST/ 34 FT ³
Maximum Coverage	75%	<i>Must be provided</i>	<i>Must be provided</i>
Minimum Parking Spaces	<i>TBD⁴</i>	<i>Must be provided</i>	<i>Must be provided</i>
Min. Parking Side Setback	5 FT	<i>Must be provided</i>	<i>Must be provided</i>
Min. Parking Rear Setback	24 FT	<i>Must be provided</i>	<i>Must be provided</i>

(E) Existing Non-conforming (M) Variance Required

¹Where existing non-conforming conditions are exacerbated, variance relief is required.

²Where properties in the B-2 district abut the side or rear yard of a property in a residential district, then a setback of one foot for every two feet of height.

of the principal structure in the business zone is required, which equals 17'. For B-2 properties on Irvington Avenue, the rear setback must be at least 25% of the property's depth, which equals 34.02', for the 128.05' deep lot.

³The present structure has a height of 3 stories, or 34 feet. Though the Applicant proposes to raise part of the third floor roof, the height will remain 3 stories, or 34 feet.

⁴Parking is required at a rate of 2 spaces for every dwelling unit, plus 1 for each roomer, boarder or other individual residing within the unit. This must be confirmed.

IV. COMPLETENESS DISCUSSION

A. The Applicant has requested several submission waivers, which are listed below.

#10 – Letter Signed by Officer of Water Company, Sewer Authority, or Other Utility.

#11 – County Application Form

#12 – Completed County Health Department Application.

#13 – HEPSCD Application

#14 – New Jersey State Approvals

#19 – Traffic and Parking Impact Assessment

#20 – Affirmative Statement in Writing Indicating If Conditional Uses Met

#31 – Identification of Historic Site or District

#35 – Existing Critical Environmental Areas

#36 – Existing Trees

#37 – Existing Wells and Septic System

#38 – Landscaping Plan

#39 – Developer's Agreement Regarding Affordable Housing

B. The Applicant should discuss the waivers requested.

C. Given the scope of the Application, the majority of these submission items are not applicable or necessary. However, if the Board determines that some of the required

information should be provided as it relates to site suitability and the requested proposal, a limited "variance plan" could be submitted to clarify proposed improvements to the site, landscaping, buffering, drainage, parking, etc.

- D. To be complete, the Applicant must confirm all bulk variances associated with the proposed expansion and improvements. Particular attention should be given to:
- Existing and proposed impervious coverage and compliance. (We note that the B-2 district has a maximum coverage standard of 75%, but when a property has a deck, the maximum may increase by 10% if a dry wall is installed. If such exists or is proposed, this should be specified.)
 - The number of parking spaces required and provided, as well as design requirements specifically for one-to-two family residents, per §185-175.
 - Actual side yard setback, where 7.66' is shown to the east, however it appears the porch may be closer.

V. Preparation for Zoning Board Hearing:

If the Applicant is deemed complete or conditionally complete, prior to the subsequent public Zoning Board hearing, we recommend the Applicant clarify the following:

- The chart with floor areas on sheet Z-100 does not indicate whether the square footage is proposed or existing. This should be expanded to identify both.
- The existing survey does not include the correct size/location of the existing deck that has been constructed at the rear of one of the units, and appears in a state of disrepair. The Applicant should confirm whether this deck was approved. No deck is shown on the proposed site plan, but it is shown on the proposed first floor plan. The status of existing deck, proposed changes, etc. must be clarified, and compliance with the ordinance specified.
- The north arrow must be corrected.
- The Applicant's bulk chart should be expanded to include impervious coverage, and to remove "empty lot" from the existing building height column.

The Applicant should address all items discussed at the Completeness Hearing. Revised plans should be accompanied by a Response Letter or highlights on the plan to identify all changes made, to facilitate our review. We recommend all revised information be provided prior to 14 days of the public hearing.

If you have any further questions regarding this application, please feel free to contact our office.

Sincerely,



Greer Patras, AICP, PP
Board Planner