

September 18, 2019

Ms. Kelly Hugg, Secretary
Berkeley Township Zoning Board
Pinewald-Keswick Road, PO Box B
Bayville, New Jersey 08721

Re: Application No. 19-5863
Construction of Single-Family Dwelling with 'c' Variance Relief
Jeffrey Jerman
Maryland Avenue
Block 491, Lot 19
R-125 Zone
Our File: 1506-Z-348

Dear Ms. Hugg & Board Members:

Remington & Vernick Engineers has received the above-captioned Application for review. Applicant seeks variance relief to construct a two-story, three-bedroom residential dwelling with a basement. The existing lot is vacant and wooded and proposed to be cleared. A one-car garage will be located at grade and a covered porch is proposed on the 1st floor.

Subject application is located in the R-125 Zoning District. Subject application is not located in the Pinelands.

This report consists of our review of the Subject Application for conformance with the Berkeley Township Land Development Ordinance (Chapter 35) and is limited to planning issues. Engineering and legal issues shall be reviewed by the Board Engineer and Solicitor, respectively.

Comments are limited to the information presented to date. The Applicant may present additional information and testimony at the Board hearing.

I. OWNER & APPLICANT INFORMATION

Owner & Applicant: Jeffrey Jerman
P.O. Box 922
Point Pleasant, NJ 08742

II. SUBMITTALS

TITLE / DESCRIPTION	PREPARED / SIGNED / SEALED BY	DATE	DATE LAST REVISED
Refusal of Permit	John Battisti Zoning Officer	07/18/19	
Certified Mailing List and 200' Area Map		07/22/19	
Checklist L.D. 8: Berkeley Township Application for "C" Variance Checklist	Unsigned	Undated	

TITLE / DESCRIPTION	PREPARED / SIGNED / SEALED BY	DATE	DATE LAST REVISED
Tree Removal Certification	Applicant	08/09/19	
Site Inspection Permission Form		Undated	
Berkeley Township Zoning Board of Adjustment Application		08/16/19	
Appeal to Berkeley Township Board of Adjustment		08/09/19	
Notice of Hearing		Undated	
Building Permit Plot Plan	Jeff Daum, P.E. Nelke, Constantine & Assoc., Inc.	07/09/19	08/05/19
Architecturals (A)	Dario L. Pasquariello, R.A. Dario Architecture Design	02/26/19	
Plan of Survey	Jay F. Pierson, P.L.S. Nelke, Constantine & Assoc., Inc.	06/06/19	

(A) The architectural plans shall be signed and sealed by a licensed professional architect as required by law.

III. ZONING

A. Use:

Subject is located in the R-125 Zoning District, which is governed by §35-96.2, which permits detached single-family dwellings for residential purposes, together with its accessory structures.

B. Area & Bulk Standards:

ITEM	REQUIRED	PROPOSED	STATUS
Minimum Lot Area	12,500 SF	5,000 SF	Variance
Minimum Lot Frontage	100 FT	50 FT	Variance
Minimum Front Yard Setback	35 FT	35 FT	Conforms
Minimum Side Yard Setback	10 FT	12.5 FT	Conforms
Combined Side Yard Setback	25 FT	25 FT	Conforms
Minimum Rear Yard Setback	30 FT	30 FT(1)	Conforms
Minimum Floor Area	1,250 SF	1,492 SF	Conforms
Maximum Lot Coverage	25%	18%	Conforms
Maximum Building Height	35 FT	27 FT	Conforms
Off-Street Parking (RSIS)	3 bdrm = 2 spaces	2 spaces	Conforms
Accessory Side/Rear Yard	7 FT	To be determined	To be determined

Notes:

1. The zoning schedule shows a variance for the proposed distance to the rear yard landing. Section 35-95 Schedule 1 Note 10.D allows entrance stoops and stairways to be exempted from the

setback requirements unless they are more than 6 feet from the structure. The dimension should be provided to determine if a variance is required. Also the stairs should be depicted on the plan.

IV. ADDITIONAL COMMENTS

- A. The chimney shall be depicted and dimensioned as shown on the architectural plan. It is allowed to protrude into the rear yard setback no more than 2 feet per Section 35-95 Schedule 1, Note 10B.*
- B. Per §35-67.1, sidewalks are required along all streets. The variance plan does not indicate the construction of sidewalk along Maryland Avenue. A waiver is required and proper justification shall be provided.*
- C. Exterior-mounted mechanical equipment is not shown. Testimony shall be provided that any units will be located at least 7 feet from the property line.*
- D. In accordance with Section §23-2.6, a Tree Removal/Replacement Plan shall be submitted showing locations of wooded areas and demonstrating that no more than 50% of the side yard will be disturbed, cut or removed. The plans show grading within the area designated to remain as wooded in both of the side yards. A waiver is required to remove more than 50% of the side yard wooded area. Alternatively, the grading can be adjusted if this is feasible.*

V. VARIANCE(S)

- A. Applicant requires variance relief under N.J.S.A. 40:55D-70(c); commonly referred to as a 'c' or "bulk" variance for Minimum Lot Area and Minimum Lot Frontage.
- B. Additional variance relief may be required pending Applicant's response to the issues identified in the body of this report.

In order for the Board to grant a 'c' variance, an Applicant must demonstrate, to the Board's satisfaction, that: (1) such action will relieve peculiar and exceptional practical difficulties or exceptional and undue hardship upon the developer of the subject property resulting from the strict application of the zoning ordinance (typically known as a Hardship Variance); OR (2) that granting a variance to allow departure from the zoning ordinance would advance one of the purposes of the Municipal Land Use Law (N.J.S.A. 40:55d-1 et seq. ["MLUL"]) and that the benefits of the deviation would substantially outweigh any detriment (typically known as the Special Reasons). Collectively, these are known as the Positive Criteria.

The granting of a 'c' variance requires the affirmative vote of a majority of the Board members present at the hearing.

The MLUL defines "peculiar and exceptional practical difficulties" and "exceptional and undue hardship" as:

(a). [where] 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... would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property... [N.J.S.A. 40:55D-70c(1)]

Under N.J.S.A. 40:55D-2, the MLUL enumerates as its purposes:

- a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;*
- b. To secure safety from fire, flood, panic and other natural and man-made disasters;*
- c. To provide adequate light, air and open space;*
- d. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;*
- e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;*
- f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;*
- g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all NJ citizens;*
- h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;*
- i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;*
- j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land;*
- k. To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site;*
- l. To encourage senior citizen community housing construction;*
- m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;*
- n. To promote utilization of renewable energy resources;*

- o. To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to complement municipal recycling programs.*

Variance Justification

Applicant has provided no justification for the variance requests. **Applicant is asked to address these issues within the context of the requirements for variance relief detailed above.**

Any resubmissions in response to this report should be accompanied by a point-by-point response to all items, with revisions on the plans clouded or highlighted to indicate changes. In order to facilitate the Board's decision-making process, Applicants are strongly encouraged to resolve as many items as possible prior to the hearing on this matter.

As always, Board members, Applicants and their professionals should feel free to contact me in our Toms River office if they have any questions or require additional information.

God Bless America,

REMLINGTON & VERNICK ENGINEERS

Melanie J. Adamson

Melanie J. Adamson, P.E., P.P., C.M.E.
Board Planner

MJA:ag

cc: Mr. Alex Pavliv, Esq. - Board Attorney
Mr. Raymond W. Savacool, P.E., P.P., C.M.E - Board Engineer
Mr. Jeffrey Jerman - Applicant/Owner (P.O. Box 922, Point Pleasant, NJ 08742)
Mr. Jeff Daum, P.E. - Applicant's Engineer
Mr. Jay F. Pierson, P.L.S. - Applicant's Surveyor
Mr. Dario L. Pasquariello, R.A. - Applicant's Architect