

**RESOLUTION OF THE BOARD OF ADJUSTMENT OF NORTH BERGEN
FOR USE, SITE PLAN, AND OTHER VARIANCES
#01-15 SUBMITTED BY 6233 KENNEDY BLVD, LLC
FOR PROPERTY LOCATED AT
6221 MEADOWVIEW AVENUE
TOWN OF NORTH BERGEN, NEW JERSEY
BLOCK 25, LOT 205**

WHEREAS, an application has been made by Applicant, 6233 KENNEDY BLVD, LLC, for the use, site plan and other variances for the major subdivision of the subject site into five lots and for the development of two, identical two-family residences and two, identical one-family residences at 6221 Meadowview Avenue, Block 25, Lot 205, in the Township of North Bergen, New Jersey; and

WHEREAS, the Board of Adjustment has reviewed the application for use and other variance at the subject premises at a meeting on January 7, 2015 and February 4, 2015; and

WHEREAS, it appears that due notice of a hearing in the above application before the Board of Adjustment of the Township of North Bergen on January 7, 2015 and February 4, 2015 at or around 7:00 P.M., at the Municipal Building of the Town of North Bergen, was duly served upon the property owners within a two hundred (200) foot radius of the above described premises as prescribed by the Municipal Land Use Law; and

WHEREAS, the Applicant has submitted proof that it has complied with the applicable procedural requirements including payment of fees and public notices; and

WHEREAS, the Board did consider the testimony of the architect, Demetrios Kaltsis, and received Exhibit ZB-1, a nine-page Mayo Lynch report plus one page of pictures from Jill A. Hartmann dated January 6, 2014, received Exhibit ZB-2, a five-page Boswell McClave Engineering report dated December 1, 2014, received Exhibit ZB-3, a nine-page Mayo Lynch report from Jill A. Hartmann dated February 4, 2015 and other such information as presented to the Board by Applicant's Attorney, J. Alvaro Alonso, Esq. After careful consideration of this application the Board of Adjustment has made the following findings of fact and reached the following conclusions:

- (1) Please note that the Board first reviewed the Applicant's application on January 7, 2015. The Board carried over its review of Case No. 01-15 to the February 4, 2015 meeting.
- (2) The subject site contains an existing three-family residence that will remain after the subject site is subdivided. The subject site is 14,685 square feet. This application is for the major subdivision of one lot into five lots and for the development of two, identical two-family homes and two, identical one-family homes in an R-1 zone resulting in the need for a d(2) variance as the plans propose an expansion of a pre-existing of a non-conforming use variance. In addition, the Applicant requires a d(6) variance for height because the topography of the subject site creates a hardship. Other "C" variances and bulk variances are also required.

The following conditions to the Applicant's proposed plans were agreed upon on January 7, 2015:

- (1) While the Applicant's proposed plans met the 10 percent landscaping zoning ordinance, they did not meet the zoning ordinance requiring a 5-foot wide front yard landscaping area with no break in landscaping from the driveway or the sidewalk. Therefore, the Applicant must revise the landscaping plans so that there is a 5-foot wide front yard landscaping area in each of the proposed lots.
- (2) The Board was concerned that space on the ground floor of the two-family residences could be converted to an illegal apartment. Therefore, the Applicant must revise the plans and combine the proposed storage area with the master bedroom suite in order to prevent the space from being converted into an illegal apartment.

(3) The Applicant must increase the lot widths of the two-family residences from 30 feet to 32 feet. This would provide an additional foot on each side yard and eliminate the side yard variance.

(4) The Applicant must increase the size of the parking garage in the two, one-family residences to accommodate two cars as the proposed plans only accommodate one car. This will also decrease the size of the recreational room on the ground level by approximately half its proposed size, and therefore, prevent the area from being converted into an illegal apartment.

(3) The allowable height in the zone is a maximum height of 30 feet. Proposed Lot 205.5, which is the preexisting, non-conforming, three-family residence, has a height of 19 feet. Proposed Lot 205.1 has a proposed height of 34 feet, and therefore, requires a d(6) variance. Proposed Lot 205.2 has a proposed height of 34 feet, and therefore, requires a d(6) variance. Proposed Lot 205.3 has a proposed height of 30 feet. Proposed Lot 205.4 has a proposed height of 30 feet, 3 inches, and therefore, requires a d(6) variance.

The required maximum lot coverage is 35 percent. Proposed Lot 205.5, which is the preexisting, non-conforming, three-family residence, has a maximum lot coverage of 14.4 percent. Proposed Lot 205.1 has a maximum lot coverage of 47.5 percent, and therefore, requires a variance. Proposed Lot 205.2 has a maximum lot coverage of 43.32 percent, and therefore, requires a variance. Proposed Lot 205.3 has a maximum lot coverage of 39.9 percent, and therefore, requires a variance. Proposed Lot 205.4 has a maximum lot coverage of 39.9 percent, and therefore, requires a variance.

The required impervious surface coverage is 65 percent. Proposed Lot 205.5, which is the preexisting, non-conforming, three-family residence, has a proposed impervious surface coverage of 94.03 percent, and therefore, requires a variance. Proposed Lot 205.1 has a proposed impervious surface coverage of 83.4 percent, and therefore, requires a variance. Proposed Lot 205.2 has a proposed impervious surface coverage of 79.56 percent, and therefore, requires a variance. Proposed Lot 205.3 has a proposed impervious surface coverage of 77.7 percent, and therefore, requires a variance. Proposed Lot 205.4 has a proposed impervious surface coverage of 77.7 percent, and therefore, requires a variance.

The front yard setback required is 10 feet. Proposed Lot 205.5, which is the preexisting, non-conforming, three-family residence, has a proposed front yard setback of 2 inches. Proposed Lot 205.1 has a proposed front yard setback required of 20 feet. Proposed Lot 205.2 has a proposed front yard setback of 20 feet. Proposed Lot 205.3 has a proposed front yard setback of 20 feet, one inch. Proposed Lot 205.4 has a front yard setback of 20 feet.

The rear yard setback required is 30 feet. Proposed Lot 205.5, which is the preexisting, non-conforming, three-family residence, has a proposed rear yard setback of 15 feet, 6 inches, and therefore, requires a variance. Proposed Lot 205.1 has a rear yard setback of 17 feet, 5 inches, and therefore, requires a variance. Proposed Lot 205.2 has a rear yard setback of 20 feet, 10 inches, and therefore, requires a variance. Proposed Lot 205.3 has a rear yard setback of 22 feet, 4 inches, and therefore, requires a variance. Proposed Lot 205.4 has a rear yard setback of 22 feet, 4 inches, and therefore, requires a variance.

The number of parking spaces required is 4 spaces except for Proposed Lot 205.3 and 205.4 which only require 2 spaces. Proposed Lot 205.5, which is the preexisting, non-conforming, three-family residence, has proposed 4 parking spaces. Proposed Lot 205.1 has proposed 4 parking spaces. Proposed Lot 205.2 has proposed 4 parking spaces. Proposed Lot 205.3 has proposed 3 parking spaces. Proposed Lot 205.4 has proposed 3 spaces.

(4) There was testimony presented for the application by the Applicant's architect, Demetrios Kaltsis, 901 80th Street, North Bergen, New Jersey. Mr. Kaltsis testified that the property is a corner lot located on the west side of Meadowview Avenue. He testified that there are no proposed construction

modifications to the existing, non-conforming three-family residence. With respect to the two-family residences, and the one-family residences, Mr. Kaltsis testified that both the two-family residences are identical and that both the one-family residences are identical.

Mr. Kaltsis testified that the two, two-family residences have a total of four stories due the drop from Meadowview Avenue. The basement is an open storage area with a sliding glass door to a rear yard. The ground level has a two-car, enclosed garage. The first unit has a master bedroom suite, full bathroom, and laundry room on the ground level. The first unit has an open area layout with a living room/dining room and kitchen area on the second floor. There is also one full bathroom and two bedrooms on the second floor. The second unit in the two-family residence is on the third floor. The second unit has an open area layout with a living room/dining room, kitchen area, and mechanical room. The second unit has one full bathroom and three bedrooms.

Mr. Kaltsis testified that the two, one-family residences are three stories high. The one-family residence has a one-car enclosed garage on the ground floor with one parking space in the front yard. There is an open space to the rear of the ground level with a full bathroom and mechanical room. The second floor of the one-family residence has open area layout with a living room, dining room, and kitchen. The third floor has three bedrooms, two full bathrooms, and a laundry room. One bedroom is a master bedroom suite.

Both the two-family residences and the one-family residences have a brick and stucco façade and a simple hip roof design.

The Board heard testimony from residents, Guy Di Vincent, 6211 Meadowview Avenue, North Bergen, New Jersey, and Orlando Cepeda, Jr., 6220 Meadowview Avenue, North Bergen, New Jersey. Both residents expressed concern about the proposed plans and the lack of parking that they would create on Meadowview Avenue.

- (5) The Municipal Land Use Law (MLUL) as applied in *Medici v. BPR. Co.*, 107 N.J. 1, 1986 sets forth the standard of review for variances such as presented within the application. The Court has determined that the grant of the use variance can only be established showing, in addition to proof of special reasons, that the variance sought is not inconsistent with the intent and purpose of the master plan and zoning ordinance. Specifically, the positive criteria requires a showing by the Applicant that the granting of the variance will effectuate the intents and purposes of the MLUL and advance the goals and objectives of the municipal master plan. The negative criteria requires a showing that the variance can be granted without substantial detriment to the public good, that the benefit outweigh the detriments, and that granting of the variance will not substantially impair the intent and purpose of the zone plan and ordinance.

The Board is fully satisfied that Applicant has demonstrated the requisite proof as required by the MLUL, *Medici v. BPR. Co.*, as well as the requirements of the Township of North Bergen Master Plan. The record amply shows that the major subdivision of the subject site into five lots and for the development of two two-family residences and two single-family residences is not an inconsistent use within the R-1 zone. The Board specifically finds that there is no detriment to the surrounding area by allowing for the major subdivision of the subject site into five lots and for the development of two two-family residences and two single-family residences. Further, the Board finds that there is no harm to the master plan or zoning ordinance because the proposed use is permitted and consistent with the surrounding uses of the area. The Board also finds that the structures proposed on the subject site pose a hardship in height, thereby permitting d(6) variance relief. The Board finds that the applicant has sustained his burden of establishing the enhanced proofs and further finds that there will be no detrimental impact to the master plan and the surrounding area.

The following conditions to the Applicant's proposed plans were agreed upon on January 7, 2015:

- (1) While the Applicant's proposed plans met the 10% landscaping zoning ordinance, they did not meet the zoning ordinance requiring a 5 foot wide front yard landscaping area with no break in landscaping from the driveway or the sidewalk. Therefore, the Applicant must revise the landscaping plans so that there is a 5 foot wide front yard landscaping area in each of the proposed lots.
- (2) The Board was concerned that space on the first floor of the two-family residences could be converted to an illegal apartment. Therefore, the Applicant must revise the plans and combine the proposed storage area with the master bedroom suite in order to prevent the space from being converted into an illegal apartment.
- (3) The Applicant must increase the lot widths of the two, two-family residences from 30 feet to 32 feet. This would provide an additional foot on each of the side yards and eliminate the side yard variance.
- (4) The Applicant must increase the size of the parking garage in the two, one-family residences to accommodate two cars as the proposed plans only accommodate one car. This will also decrease the size of the recreational room on the ground level by approximately half its proposed size. This will prevent the recreational room from being converted into an illegal apartment.

Please note that the Applicant revised the plans in order to comply with the Board's conditions. During the February 4, 2015 meeting, the Applicant provided the Board with the revisions. The ground floor unit of the two-family residences was altered so that the storage area and master bedroom suite were combined and a walk-in closet was created. The ground floor of the single-family residences has been altered in order that two cars can be parked in the garage. The size of the recreation room in the one-family residence was also decreased due to the increased size of the garage. The Applicant also revised the plans to include a 5-foot deep planter in the front yards of the proposed lots.

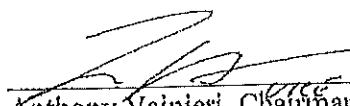
Now, therefore, be it resolved, that the Board of Adjustment of the Township of North Bergen approves the issuance of variance relief use, density, and parking, on the condition that:

- (1) Applicant's final site plan is consistent with the changes, amendments, and adjustments testified to; and
- (2) Applicant complies with all adjustments requested by Board professional, Derek McGrath in the engineering report; and Jill Hartmann, the Planner.
- (3) Subject to compliance with any federal, state, county or other agency approval exercising jurisdiction over the premises.

Subject further to all statements, representations, reports, plans and material offered and/or reviewed by the North Bergen Board of Adjustment.

CERTIFICATION

I certify that this Resolution is a true copy of a Resolution GRANTED By the Board of Adjustment on February 4, 2015 and memorialized on MARCH 12, 2015.


Anthony Vainieri, Chairman of the Board
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