

LEON S. AVAKIAN, INC. *Consulting Engineers*

788 WAYSIDE ROAD • NEPTUNE, NEW JERSEY 07753

LEON S. AVAKIAN, P.E., P.L.S. (1953-2004)
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JENNIFER C. BEAHM, P.P., AICP

February 4, 2020

Chairman Dennis Pearsall
Borough of Spring Lake Heights
555 Brighton Avenue
Spring Lake Heights, NJ 07762

**Re: Use Variance Application
Block 72, Lot 15
610 Highway 71
Spring Lake Heights, NJ
Our File SLHBA 20-01**

Dear Chairman Pearsall and Board Members:

We are in receipt of a development application for the above referenced property. The applicant has applied to the Board for approval of the two (8 x 12') temporary refrigeration units. This action has been ruled an expansion of a non-conforming use. Ordinance 22-605.1c states no non-conforming use may be expanded.

This lot received a use variance with associated waivers for a single-family home and a catering service in 2010. 610 Highway 71, Block 72, Lot 15 is on the southeast corner of Route 71 and Essex Avenue in the R-5 Single Family Zone. The lot has two (2) principle buildings two (2) sheds and two (2) recently installed refrigerators.

Escrow fees are paid in full, therefore, the Applicant is deemed complete for consideration by the Zoning Board of Adjustment.

This office has reviewed the Development Application, Addendum #1 and the following documents:

1. VARIANCE PLAN BLOCK 72-LOT 15, 610 ROUTE 71, BOROUGH OF SPRING LAKE HEIGHTS, MONMOUTH COUNTY, NJ BY R.C. ASSOCIATES CONSULTING, INC., dated December 19, 2019.
2. PLAN OF SURVEY SITUATE BOROUGH OF SPRING LAKE HEIGHTS, MONMOUTH COUNTY, NEW JERSEY, BLOCK 72, LOT 15 BY SENECA SURVEY CO., INC., dated November 5, 2009.
3. Board of Adjustment Borough of Spring Lake Heights Minutes of February 23, 1984 meeting.

4. Resolution #2010-20 of Borough of Spring Lake Heights Board of Adjustment dated December 16, 2010.
5. Notice of Violation and Order to terminate dated 11/4/19.
6. Department of the Army Memorandum for Zone Enforcement Spring Lake dated November 7, 2019.
7. Spring Lake Heights Municipal Court Summons dated December 12, 2019.
8. Aerial photograph

The Required, Existing and Proposed schedule of permitted uses, yard area and bulk requirement for this lot are as follows:

R-5 ZONE

		Allowed	Existing	Proposed
Minimum Lot Area		7,500 sf	8,004 sf ±	8,004 sf ±
Minimum Lot Frontage		50'	50.38'	50.38'
Minimum Lot Width		50'	50'	50'
Minimum Lot Depth		150'	160.08'	160.08'
First Principle Building Setbacks	Front Yard (Route 71)	30'	35.03'	35.03'
	Front Yard (Essex Avenue)	20'	12.11' (NC)	12.11' (NC)
	Side Yard (East)	10	(NA)	(NA)
	Side Yard (South)	5'	6.28'	6.28'
Second Principle Building Setbacks	Front Yard (Route 71)	30'	(NA)	(NA)
	Front Yard (Essex Avenue)	20'	18.07' (NC)	18.07' (NC)
	Side Yard (East)	10'	25.69'	25.69'
	Side Yard (South)	5'	4.52' (NC)	4.52' (NC)
Maximum Height	First Principle	32'	> 32'	> 32'
	Second Principle	32'	NG > 32'	NG > 32'
Maximum Building Coverages		25%	27.76%	30.16% (V)
Maximum Lot Coverage		50%	54.65% (NC)	57.05% (V)
Minimum Parking Space		5-7	9	9
Principle Buildings		1	2	2 (NC)
USE	Residential	Single Family	Single Family & Commercial	Single Family & Commercial (V)
Curbs, Driveways, Sidewalk		Section 22-507	NC	NC

Accessory Building		Allowed	Existing	Proposed
Amount		1	2 (NC)	4 (V)
Refrigerator (1)	Front Yard (Route 71)	30'	NA	30+
	Front Yard (Essex Avenue)	20'	NA	20+
	Side Yard (East)	5'	NA	5+
	Side Yard (South)	5'	NA	13.00
	Size/Ht.	100 sf/10'	NA	96sf/(NG)
Refrigerator (2)	Front Yard (Route 71)	30'	NA	30+
	Front Yard (Essex Avenue)	20'	NA	20+
	Side Yard (East)	5'	NA	13.48
	Side Yard (South)	5'	NA	6.67
	Size/Ht.	100sf/10'	NA	96sf (NG)
Storage Shed (1)	Front Yard (Route 71)	30'	30+	30+
	Front Yard (Essex Avenue)	20'	20+	20+
	Side Yard (East)	5'	5+	5'
	Side Yard (South)	5'	5.78'	5.78'
	Size	100sf/10'	136sf/NG (NC)	136sf/NG (NC)
Storage Shed (2)	Front Yard (Route 71)	30'	30'+	30+
	Front Yard (Essex Avenue)	20'	20'+	20'+
	Side Yard (East)	5'	5'+	5'+
	Side Yard (South)	5'	>5' (NC)	>5' (NC)
	Size/Ht.	100sf/10'	NG/NG	NG/NG

(V)= Required Variance (NC)= Pre-existing Nonconformity (NG)= Not Given

This lot has many non-conformities, and many have been approved by Resolution #2010-20 of the Spring Lake Heights Board of Adjustment.

The addition of the two (2) refrigerator units appears to require several variances listed below.

1. A variance for expansion of a non-conformity; Ordinance 22-605.1c states no non-conforming use may be expanded.
2. The maximum building coverage increases from 27.76% to 30.16%.
3. The lot coverage increases from 54.65% to 57.05%.
4. The accessory buildings other than a garage shall not exceed 100 sf and a height of 10 feet. Only one (1) garage structure and one (1) accessory building are permitted per lot. One (1) accessory building was allowed and a total of four (4) are proposed.

Variance Testimony

The Municipal Land Use Law 40:55D70c requires specific conditions to grant a “C-1” or hardship bulk variance. The specific conditions are exceptional narrowness, irregular lot configuration, topographic or unique situations of the property. In the absence of proving a hardship, the Applicant must present proof that this deviation from the Ordinance requirement substantially benefits any detriment to the neighborhood or public good. A “USE” or “D” variance requires the Applicant to address both positive and negative criteria. To satisfy the positive criteria, the Applicant must demonstrate special reasons to support this use variance. To satisfy the negative criteria, the Applicant must demonstrate this use variance can be granted without substantial detriment to the public good and without impairing the intent of the Zoning Plan and Ordinance. A “D” variance must be granted by affirmation vote of at least five (5) members.

The Applicant should address in the testimony of the public hearing the following:

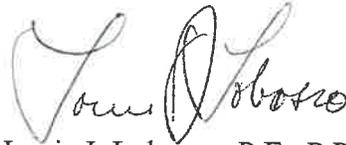
1. Adequately discuss the existing use of the lot and present recent pictures of the lot since the existing survey is old.
2. Adequately discuss the two (2) added refrigerator units, their locations and there expected term of use.
3. Adequately address each site improvement below which were conditions of the Board of Adjustment 2010-10 Resolution:
 - done* A. The rainwater harvesting system maintenance which was installed as an allowed substitute to the required drywell system.
 - done* B. Leland Cypress and arborvitaes shall be planted on the east side of property to provide a buffer for the neighbors. The planting shall be on the west side of the fence.
 - done* C. Landscaping shall be provided to the front of the commercial building.
 - done* D. Gravel to be removed east of secondary building and replaced with grass.
 - done* E. Bumper curbs to be installed for seven (7) parking spaces (one (1) handicapped).
 - done* F. A fire suppression system and commercial grade ventilation system with exhaust disposed through the roof shall be installed.
 - done* G. Small shed on south property line to be removed.
 - done* H. Refuse to be kept in area between commercial building and private residence.
 - done* I. Delivery hours shall be limited to 8:00 a.m. to 8:00 p.m.

4. Adequately discuss the positive and negative criteria for the use variance

If you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.

A handwritten signature in black ink, appearing to read "Louis J. Lobosco". The signature is written in a cursive style with a large initial "L".

Louis J. Lobosco, P.E., P.P.
Board of Adjustment Engineer

LJL/mcs

cc: Mary Ellen Karamus, Zoning Board Secretary
Mark Kitrick, Esq.
Mike Rubino, Esq.
Ray Carpenter, Broadview Associates, LLC
Stephen Miles
Mayor Christopher Campion

SLH/BA/20/SLH 20-01

June 15, 2020

Chairman Dennis Pearsall
Borough of Spring Lake Heights
555 Brighton Avenue
Spring Lake Heights, NJ 07762

**Re: Use Variance Application
Block 72, Lot 15
610 Highway 71
2nd Review
Spring Lake Heights, NJ
Our File SLHBA 20-01**

Dear Chairman Pearsall and Board Members:

We are in receipt of a development application for the above referenced property. The applicant has applied to the Board for approval of the two (8 x 12') walk-in freezers. This action has been ruled an expansion of a non-conforming use. Ordinance 22-605.1c states no non-conforming use may be expanded. The Applicant appeared in front of the Zoning Board in February and since that time has prepared a new survey and variance plan. The new variance plan has minor changes to the parking lot, an addition of a trash enclosure and minor changes to the building and lot coverage.

This lot received a use variance with associated waivers for a single-family home and a catering service in 2010. 610 Highway 71, Block 72, Lot 15 is on the southeast corner of Route 71 and Essex Avenue in the R-5 Single Family Zone. The lot has two (2) principle buildings, one (1) shed and two (2) recently installed walk-in freezers.

Escrow fees are paid in full, therefore, the Applicant is deemed complete for consideration by the Zoning Board of Adjustment.

This office has reviewed the Development Application, Addendum #1, and the following documents:

1. VARIANCE PLAN BLOCK 72-LOT 15, 610 ROUTE 71, BOROUGH OF SPRING LAKE HEIGHTS, MONMOUTH COUNTY, NJ BY R.C. ASSOCIATES CONSULTING, INC., dated December 19, 2019, with the latest revisions dated May 12, 2020.
2. SURVEY OF PROPERTY Tax Lot 51, Block 72, 610 Highway 71, Borough of Spring Lake Heights by Lakeland Surveying, dated March 11, 2020.
3. Board of Adjustment Borough of Spring Lake Heights Minutes of February 23, 1984 meeting.

4. Pandolfe, Shaw & Rubino, LLC letter of waiving time limits dated 5/15/20.
5. Pandolfe, Shaw & Rubino, LLC letter describing survey changes dated May 26, 2020.
6. R.C. Associates coverage correction dated June 11, 2020.
7. Resolution #2010-20 of Borough of Spring Lake Heights Board of Adjustment dated December 16, 2010.
8. Notice of Violation and Order to terminate dated November 14, 2019.
9. Department of the Army Memorandum for Zone Enforcement Spring Lake dated November 7, 2019.
10. Spring Lake Heights Municipal Court Summons dated December 12, 2019.
11. Aerial photograph

The Required, Existing and Proposed schedule of permitted uses, yard area and bulk requirement for this lot are as follows:

R-5 ZONE

		Allowed	Existing	Proposed
Minimum Lot Area		7,500 sf.	8,004 sf.	8,004 sf.
Minimum Lot Frontage		50'	50.38'	50.38'
Minimum Lot Width		50'	50'	50'
Minimum Lot Depth		150'	160.08'	160.08'
First Principle Building Setbacks	Front Yard (Route 71)	30'	35.1'	35.1'
	Front Yard (Essex Avenue)	20'	12.3' (NC)	12.3' (NC)
	Side Yard (East)	10	(NA)	(NA)
	Side Yard (South)	5'	6.1'	6.1'
Second Principle Building Setbacks	Front Yard (Route 71)	30'	(NA)	(NA)
	Front Yard (Essex Avenue)	20'	18.1' (NC)	18.1' (NC)
	Side Yard (East)	10'	25.9'	25.9'
	Side Yard (South)	5'	5.1' (NC)	5.1' (NC)
Maximum Height	First Principle	32'	> 32'	> 32'
	Second Principle	32'	NG > 32'	NG > 32'
Maximum Building Coverages		25%	27.71%	30.11% (V)
Maximum Lot Coverage		50%	55.5% (NC)	57.7% (V)
Minimum Parking Space		5-7	6	8
Principle Buildings		1	2	2 (NC)
USE	Residential	Single Family	Single Family & Commercial	Single Family & Commercial (V)
Curbs, Driveways, Sidewalk		Section 22-507	NC	NC

Accessory Building		Allowed	Existing	Proposed
Amount		1	2 (NC)	4 (V)
Walk-in Freezer (1) (West)	Front Yard (Route 71)	30'	NA	30+
	Front Yard (Essex Avenue)	20'	NA	20+
	Side Yard (East)	5'	NA	5+
	Side Yard (South)	5'	NA	13.00
	Size/Ht.	100 sf./10'	NA	96 sf./(NG)
Walk-in Freezer (2) (East)	Front Yard (Route 71)	30'	NA	30+
	Front Yard (Essex Avenue)	20'	NA	20+
	Side Yard (East)	5'	NA	13.48
	Side Yard (South)	5'	NA	6.67
	Size/Ht.	100 sf./10'	NA	96 sf. (NG)
Aluminum Shed (2)	Front Yard (Route 71)	30'	30'+	30+
	Front Yard (Essex Avenue)	20'	20'+	20'+
	Side Yard (East)	5'	5'+	5'+
	Side Yard (South)	5'	>5' (NC)	>5' (NC)
	Size/Ht.	100sf/10'	NG/NG	NG/NG

(V)= Required Variance (NC)= Pre-existing Nonconformity (NG)= Not Given

This lot has many non-conformities, and many have been approved by Resolution #2010-20 of the Spring Lake Heights Board of Adjustment.

The addition of the two (2) walk-in freezers in this application appears to require several variances listed below.

1. A variance for expansion of a non-conformity; Ordinance 22-605.1c states no non-conforming use may be expanded.
2. The maximum building coverage increases from 27.71% to 30.11%.
3. The lot coverage increases from 55.5% to 57.7%.
4. The accessory buildings other than a garage shall not exceed 100 sf and a height of 10 feet. Only one (1) garage structure and one (1) accessory building are permitted per lot. One (1) accessory building is allowed and a total of four (4) are proposed. Two (2) of the four (4) were approved by Resolution #2010-20.

Variance Testimony

The Municipal Land Use Law 40:55D70c requires specific conditions to grant a “C-1” or hardship bulk variance. The specific conditions are exceptional narrowness, irregular lot configuration, topographic or unique situations of the property. In the absence of proving a hardship, the Applicant must present proof that this deviation from the Ordinance requirement substantially benefits any detriment to the neighborhood or public good. A “USE” or “D” variance requires the Applicant to address both positive and negative

criteria. To satisfy the positive criteria, the Applicant must demonstrate special reasons to support this use variance. To satisfy the negative criteria, the Applicant must demonstrate this use variance can be granted without substantial detriment to the public good and without impairing the intent of the Zoning Plan and Ordinance. A "D" variance must be granted by affirmation vote of at least five (5) members.

The Applicant should address in the testimony of the public hearing the following:

1. Adequately discuss the existing use of the lot and present recent pictures of the lot.
2. Adequately discuss the two (2) added walk-in freezer units, their locations and their expected term of use.
3. Adequately discuss the added changes to the Variance Plan
 - A. Parking lot changes
 - B. Compressor to be located on the ground
 - C. Trash enclosure
4. Adequately address each site improvement below which were conditions of the Board of Adjustment 2010-10 Resolution:
 - A. The rainwater harvesting system maintenance which was installed as an allowed substitute to the required drywell system.
 - B. Leland Cypress and arborvitaes shall be planted on the east side of property to provide a buffer for the neighbors. The planting shall be on the west side of the fence.
 - C. Landscaping shall be provided to the front of the commercial building.
 - D. Gravel to be removed east of secondary building and replaced with grass.
 - E. Bumper curbs to be installed for seven (7) parking spaces (one (1) handicapped).
 - F. A fire suppression system and commercial grade ventilation system with exhaust disposed through the roof shall be installed.
 - G. Small shed on south property line to be removed.
 - H. Refuse to be kept in area between commercial building and private residence.
 - I. Delivery hours shall be limited to 8:00 a.m. to 8:00 p.m.

5. Adequately discuss the positive and negative criteria for the use variance

If you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.

A handwritten signature in cursive script, appearing to read "Louis J. Lobosco".

Louis J. Lobosco, P.E., P.P.
Board of Adjustment Engineer

LJL:mfl

cc: Mary Ellen Karamus, Zoning Board Secretary
Mark Kitrick, Esq., Board Attorney
Mike Rubino, Esq., Applicant's Attorney
Ray Carpenter, P.E., Applicant's Engineer
Stephen Miles, Applicant
Mayor Christopher Campion

SLH/BA/20/20-01