

**LEON S. AVAKIAN, INC. *Consulting Engineers***

788 WAYSIDE ROAD • NEPTUNE, NEW JERSEY 07753

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July 9, 2020

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

**Re: Residential Bulk Variance Application  
Block 23, Lot 31  
559 Ocean Road  
Spring Lake Heights, NJ  
Our File SLHBA 20-02**

Dear Chairman Pearsall:

We are in receipt of a development application for the above referenced property. The Applicant applied to construct a new house with a front porch and a new driveway on an undersized lot. The improvements require variances for the side yard setback and building coverage. Block 23, Lot 31, 559 Ocean Road is on the south side of Ocean Road seven houses east of Sixth Avenue. There is no house on this lot.

Please note that Borough Ordinance 22-517.6 for Nonconforming Lot states that a building permit may be issued without an appeal for variance:

Any nonconforming lot not meeting the definition of the previous subsection may have a building permit issued for a permitted use without an appeal for a variance, provided the building coverage is not exceeded, parking requirements are met and the nonconforming lot abuts lots on either side that are developed and the nonconforming lot is the largest possible assemblage of contiguous land under the preceding section. Where the nonconforming lots abuts either a vacant lot or an oversized developed lot, the issuance of a building permit may be delayed until the approving authority determines the reasonableness of requiring the applicant to acquire additional land to reduce or eliminate the nonconformity. Where the resulting lot is still nonconforming, the yard and height provisions may be reduced to the same percentage the area of the undersized lot bears to the zone district requirements, except that no side yard shall be less than half that required by this chapter or five (5') feet, whichever is greater, and no building shall be required to have a height less than twelve (12') feet. (Ord. #6-1989, §517.6)

All application and escrow fees have been paid in full with the original application. therefore, this application is deemed complete for review by the Zoning Board of Adjustment.

This office has reviewed the Development Application, Addendum No. 1 with exhibit and the following documents:

1. Survey of Property by the Cannon Group, P.C. dated 2/24/20

2. Plot Plan for CARNESECCHI LOT 31, BLOCK 23, 559 OCEAN ROAD by the Cannon Group, P.C., with the latest revisions dated 4/6/20
3. Champion Modular Excel Homes by ALBURTUS MODULAR, 4 sheets with the latest revisions dated 2/10/20
4. Certification of taxes paid dated 6/16/20
5. Sustainable checklist forms
6. Denial of Zoning Permit dated 4/24/20
7. A picture of the lot

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

**R-5 ZONE**

		Required or Allowed	Existing (Before Demo)	Proposed	22-517.6
Use		Single Family	Single Family	Single Family	Single Fam
Minimum Lot Area		7,500 sf	3,325 sf (NC)	3,325 sf (NC)	44.3%
Minimum Lot Frontage		50'	35' (NC)	35' (NC)	----
Minimum Lot Width		50'	35' (NC)	35' (NC)	----
Minimum Lot Depth		150'	95' (NC)	95' (NC)	----
Principal Building Setbacks	Front Yard (Ocean Road)	30'	(NA)	35'	12.9'
	Front Porch Landing (Ocean Road)	22'	(NA)	30'	9.46'
	Back Yard	10'	(NA)	15'	4.3'
	Side Yard (East)	10'	(NA)	5.5' (V)	4.3'
	Side Yard (West)	10'	(NA)	5.5' (V)	4.3'
Accessory Building Setback	Front Yard	30'	(NA)	(NA)	(NA)
	Back Yard	5'	(NA)	(NA)	(NA)
	Side Yard	5'	(NA)	(NA)	(NA)
	Side Yard	5'	(NA)	(NA)	(NA)
Maximum Height	Principal	32'	(NA)	22'	13.76'
	Accessory	15'	(NA)	(NA)	(NA)
Maximum Building Coverage		25%	(NA)	31.7% (V)	----
Maximum Lot Coverage		50%	(NA)	45.5%	----
Minimum Parking Space		2	(NA)	2	----
Driveway Setback		2'	(NA)	2'	----
Drywells (Water Infiltration System)		Required	(NA)	YES (small)	----
Mechanical Equipment in Side Yard		Screened	(NA)	(NA)	----

(V) = Required Variance

(NC) = Pre-existing Non-conformity

(NA) = Not Applicable

(NG) = Not Given

The existing lot has many nonconformities listed below:

1. An undersized lot of 3,325 sf, a lot frontage of 35' and a lot depth of 95', where 7,500 sf, 50' and 150' are required.

The Applicant's proposal requires the following variances:

1. Side yard setbacks of 5.5' where 10' is required.
2. A building coverage of 31.7% where only 25% is allowed.
3. The drywell system was designed but must be increased per ordinance.

Please be advised that Ordinance 22-517.6 states that a building permit for an undersized lot could allow yard and height provisions to be reduced by 43.3%:

1. A side yard setback of 43.3% in the R-5 Zone would be 4.3'.
2. A maximum building height at 44.3% in the R-5 Zone would be 13.76'.

Variance Testimony

As per the Borough Ordinance 22-200.2 variance can be granted:

- A. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or by reason of extraordinary and exceptional situation uniquely affecting specific piece of property of structures lawfully existing thereon, the strict application of any regulation in the zoning provisions of this chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, grant, upon an application or an appeal relating to such property a variance from such strict regulation so as to relieve such difficulties or hardship.
- B. Where in an application or appeal relating to a specific piece of property, the purposes of the Municipal Land Use Law (N.J.A.A. 40: 55D-1 et seq.) would be advanced by a deviation from the zoning regulations (Article VI of this chapter) and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to the zoning regulations; provided, however, that no variance from those departures enumerated in paragraph b, 4 below shall be granted under this paragraph; and provide further that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has power to review a request for a variance pursuant subsection 220201.2a of this chapter and N.J.S.A. 40:55D060A. 40:55D060A of the Municipal Land Use Law.

The following should be addressed in the testimony of the public hearing:

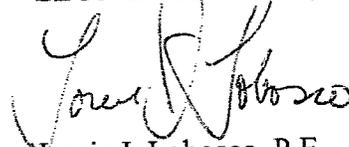
1. The Applicant should provide a clear aerial photograph that clearly shows the property and the nearby area.
2. The Applicant should discuss and describe the proposed house, porches, driveway and building height.

3. The Applicant should discuss all the proposed variances and why they believe they should be granted.
  - Side yard setbacks
  - Building coverage
  - Small drywell system
4. The Applicant should discuss the setbacks of the neighbor's property.
5. The Applicant should discuss the removal of Borough curb & sidewalk for the driveway.
6. The Applicant should discuss the replacement of Borough curb, sidewalk, apron and pavement repair of Borough property.
7. The Applicant should discuss the impact this construction will have on the neighborhood.
8. The Applicant should address the similarities or discrepancies of the proposed construction with the character of the neighborhood.
9. If the Applicant wishes to represent themselves at the meeting, attendance at the prior meeting is recommended.

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

Very truly yours,

LEON S. AVAKIAN, INC.



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

LJL:mcs

cc: Mary Ellen Karamus, Board of Adjustment Secretary  
Mayor Thomas O'Brien  
All Zoning Board Members  
Barbara VanWagner Zoning/Code Enforcement Official  
Mark Kitrick, Esq.  
George McGill, Applicant's Attorney  
James Albutus, Applicant

SLH/BA/20/20-02