

Statement of Legal Basis for Granting Variance Sought

Applicant: James Keefe
Address: 25 Beechwood Place, Fair Haven NJ
Block/Lot: Block 74, Lot 27
Zone: R-10B

Applicant proposes an addition and renovations to an existing single-family residence, and requests variance relief from the allowed maximum habitable floor area to permit 3,542 s.f., whereas 3,220 s.f. is the maximum permitted in the R-10B Zone.

Standard for Relief Requested:

The Board has the power to grant "c(1)" or so-called "hardship" variances from zoning ordinance requirements pursuant to N.J.S.A. 40:55D-70c(1), which provides:

Where: (a) 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 pursuant to article 8 of [the MLUL] 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 application of such regulation so as to relieve such difficulties or hardship;

The Board has the power to grant "c(2)" or so-called "flexible" variances from zoning ordinance requirements pursuant to N.J.S.A. 40:55D-70c(2), which provides:

where in an application ... would be advanced [and advances the purposes of the MLUL] by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to article 8 of [the MLUL]...

Pursuant to the last unlettered paragraph of N.J.S.A. 40:55D-70: "No variance or other relief may be granted ... without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance."

Justification for Relief Requested:

The requested bulk variance relief may be granted by the Board under either the "c(1)" or "c(2)" standards as both the "hardship" and "flexible" variance standards are met. The Property is uniquely affected by the layout and floorplan of the existing home, which is designed in such a manner that strict application of the Borough's habitable floor area limitation would result in exceptional practical difficulties and undue hardship. The Applicant's proposal largely preserves the existing home and improves the home's functionality and utility.

Based on the existing floor plan there is no practical way to add an additional bedroom without creating some additional floor space. The Applicant's proposal adds space on the second floor, and in the rear of the home all within the permitted building envelope.

This Application advances the purposes and objectives of the MLUL which are enumerated at N.J.S.A. 40:55D-2, thus satisfying the so called "positive criteria." Particularly, the following purposes would be furthered by granting the required relief:

- (a) Encourage municipal action to guide the appropriate use or development of all lands in the State, in a manner which will promote the public health, safety, morals, and general welfare;
- (e) To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities...;
- (g) To provide sufficient space in appropriate locations for...residential ... uses;
- (i) To promote a desirable visual environment through creative development techniques and good civic design and arrangement;

This Application also satisfies the "negative criteria" required for the requested relief. The Application poses no detriment to the public good and an approval of the Application will not substantially impair the intent and purpose of the Borough's zone plan and zoning ordinance.

- Applicant proposes significant improvements to the existing home which was built approximately 60 years ago. The renovation and addition creates a modern layout that suits the need of the owner and family, while also enhancing the aesthetic of the neighborhood.
- The Property is larger than the required minimum for the zone and the proposed additional floor area is located on the second floor in the existing building footprint, and in the rear yard within the permitted building envelope.
- Although the habitable floor area square footage cap is exceeded, the Applicant's proposed habitable floor area ratio of .255 remains below the maximum permitted of .28.
- Removal of the existing rear parking and garage entrance is a more efficient use of the property and minimizes impacts of driveway use to the adjacent property to the north (Lot 26).
- Existing trees and plantings at the side and rear yard property lines provide buffering from the 1st floor addition at the rear of the residence.
- Existing trees in the front yard partially buffer the front elevation from the roadway.

The benefit from granting the requested relief far outweighs any detriments.