



TOWNSHIP OF WEST ORANGE

66 MAIN STREET, WEST ORANGE, N.J. 07052

Department of Planning and Development

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TO: Zoning Board Members

FROM: Paul Grygiel, AICP, PP, Planning Director

DATE: September 1, 2022 – *revised April 18, 2023*

RE: **ZB-22-08/Jose Flores**
Block: 89; Lot: 21; Zone: B-1
156 Main Street
Seeking variances for construction of a new two-family dwelling

The applicant has submitted additional documents and information. This memorandum supplements my updated review memorandum dated September 1, 2022. New information is denoted in **bold**, deletions are shown in ~~strike through~~.

INTRODUCTION/LAND USE

The applicant is proposing to construct a two-family home on a currently undeveloped property on the northwest side of Main Street. Multiple “c” or bulk variances are required to permit the proposal.

The subject property consists of one tax lot that is 4,779 square feet (0.11 acres) in area. The lot is trapezoidal in shape, with 30 feet of frontage on Main Street and lot depth ranging from 161 feet to 166.4 feet. There are no buildings currently located on the subject property. The only improvements on the site are a set of stairs and concrete along the southwest property line. The property is generally level, with a steeply sloped area near the rear lot line. Site photographs taken on September 1, 2022 are included at the end of this memorandum.



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The property is located on the northwest side of Main Street a short distance to the north of its intersection with Charles Street. There is a mix of residential and nonresidential uses in the surrounding area. These include one-, two- and three-family homes along the northwest side of Main Street, mixed-use development (multifamily residential and commercial) on the opposite side of Main Street and various commercial uses and other mixed-use buildings. A parking lot for a commercial use abuts the subject property to the rear, with the Llewelyn Park single-family residential community beyond it.

Main Street is a County Road that is two lanes wide in front of the subject property, with a parallel parking lane on each side of the street. Sidewalks are provided on both sides of the street. Bus stops are located a short distance to the north at Lakeside Avenue.

SUBMISSIONS

<u>ITEM</u>	<u>SIGNED BY</u>	<u>DATE/REVISION</u>
Topographic Survey	Andrew A. Schmidt, P.L.S.	11/18/21
Engineering Plans (4 sheets)	Sandra Caceres, P.E.	7/29/22
Architectural Plans (4 sheets)	Paulo J. M. Dantas, R.A.	7/28/22
Planning Report	J. Creigh Rahenkamp, P.P.	4/9/23
Adjacent Properties Comparison	Sandra Caceres, P.E.	4/7/23

VARIANCES REQUIRED

SECTION/REQUIREMENT	PERMITTED /REQUIRED	PROPOSED
25-7.1 Minimum lot area (for two-family dwelling)	7,500 square feet (3,750 sq. ft. per unit)	4,779 square feet
25-7.1 Minimum lot area per dwelling unit	3,750 square feet	2,389.5 square feet
25-7.1 Minimum side yard	10 ft. + 8 ft.	3.1 ft. + 3.1 ft.
25-12.2 a.1. Minimum number of parking spaces	4.0 (2.0 spaces per 3-bedroom unit)	2.0¹

¹ Per Section 25-12.2 a.2.(c) of the Land Use Regulations Ordinance, "(a) two-car garage and driveway combination shall count as 3.5 off-street parking spaces, provided a minimum parking area width of 20 feet is provided for a minimum length of 18 feet" between the face of the garage door and the right-of-way. The proposed driveway width is 18 feet, meaning only the two garage spaces are counted ("Each garage car space shall be counted as 1.0 off-street parking space regardless of the dimensions of the driveway," per Section 25-12.2 a.2.(a)).



PROPOSED DEVELOPMENT

The applicant is proposing to construct a two-family dwelling on the vacant subject property. The proposed building footprint is approximately 1,535 square feet. A two-car garage is proposed on the first floor, along with a recreation room, a mechanical room and a half bathroom. Two dwelling units, each with three bedrooms and two full bathrooms, are proposed on the second and third floors.

A 16-foot wide driveway will be located in front of the dwelling providing access to the garage. Retaining walls are located on each side of the driveway. An eight-foot diameter drywell is proposed below the driveway.

A six-foot high PVC fence is proposed along the southwest property line in the rear yard. Access to the rear yard is proposed by a walkway along the southwest side of the dwelling.

DISCUSSION/RECOMMENDATIONS

The subject property is located in the B-1 Retail Business zone district, in which the proposed use is permitted. However, certain variances from bulk standards and other regulations are required as listed above. It is noted that while the minimum lot width or the minimum lot area for two-family homes (75 feet and 7,500 square feet, respectively) are not met, there are lesser minimum lot width and minimum lot area requirements for one-family homes (50 feet and 5,000 square feet) and no such requirements for non-residential uses in the B-1 zone.

The Municipal Land Use Law (MLUL) at N.J.S.A 40:55D-70c sets forth the statutory criteria for variances from the bulk regulations of a zoning ordinance and other zoning deviations that do not require a “d” variance. A “c(1)” variance is for cases of hardship due to factors such as shape or topography, or due to “an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.” A “c(2)” variance may be granted where the purposes of zoning are advanced and the benefits of deviating from the ordinance requirements outweigh any detriments. The benefits derived from granting a “c(2)” variance must include benefits to the community as a whole, not just the applicant or property owner. A “c” variance applicant also must address the “negative criteria,” and affirmatively demonstrate that the variance can be granted “without substantial detriment to the public good” and “without substantial impairment to the intent and purpose of the zone plan and zoning ordinance” of the municipality. The applicant’s planner should provide testimony as to how the above variance proofs are addressed.

It does not appear any existing trees are proposed to be removed on the subject property. However, there is a street tree in the Main Street right-of-way which will need to be removed for the construction of the proposed driveway. The applicant’s professionals should provide



testimony regarding this tree, and whether a replacement tree is proposed. **The plans have not been revised to show a replacement tree.**

The applicant has submitted additional information in support of the application.

The first document is an “Adjacent Properties Comparison” which includes tax map information overlaid on an aerial photo showing properties in the surrounding area. A chart is provided listing lot widths, lot depths, lot areas and distances between dwellings on parcels to the north and south within Tax Block 89 (i.e. on the west side of Main Street).

The second document is a planning report prepared on behalf of the applicant. According to its author, J. Creigh Rahenkamp, PP, this report represents “the outline of (his) intended testimony, which may be supplemented at the hearing.” This report references the above Adjacent Properties Comparison and other information to provide the foundation for the proofs required to be demonstrated for the requested lot area, lot width and side yard variances. The planner opines that the requested variances can be granted in accordance with both the “c(1)” and “c(2)” criteria described above for the positive criteria, and that the negative criteria are met as well. The Board must determine whether it concurs with the planner’s opinion based on the information provided in the report and through testimony regarding the subject property and its context within the surrounding area.

As noted above, the proposed driveway does not meet the minimum requirements for width when counting parking spaces, and therefore a variance is required for the number of parking spaces.





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Development on same side of street of subject property in either direction



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