



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, Township Planner

DATE: November 29, 2023

RE: **ZB 23-10 / Feleke**
Block: 116; Lot: 62; Zone: R-T
18 Kling Street
Seeking “d” and “c” variance approvals to convert two-family dwelling to three-family dwelling

INTRODUCTION

The applicant is seeking use variance approval to permit the conversion of an existing two-family dwelling on the subject property to a three-family dwelling.

LAND USE

The subject property is located on the north side of Kling Street in the middle of the block between Main Street and Columbia Street. The lot is rectangular as it is 30 feet wide and 125 feet deep, for a lot area of 3,750 square feet. A three-story building that currently contains two dwelling units is located on the subject property, along with a detached garage at the rear of the lot. Photographs of the subject property are included at the end of this memorandum.

The surrounding area is developed with a mix of single-family, two-family and three-family dwellings. There are also some commercial uses in the vicinity, as well as a public parking lot owned by the Township, other public uses and institutional uses.



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SUBMISSIONS**ITEM****SIGNED BY****DATE/REVISION**

Architectural/site plans (3 sheets)
 Boundary Survey
 Planning Report

Scott Monro, R.A., AIA
 Belton Brevard, IV, P.L.S.
 John McDonough, LA, AICP, PP

9/26/23
 8/4/23
 11/7/23

VARIANCES REQUIRED

<i>“d(1)” Variance</i>			
SECTION/REQUIREMENT	PERMITTED /REQUIRED	EXISTING	PROPOSED
25-7.1 Permitted Use	One-family detached dwelling, two-family dwelling, certain other uses	Two-family dwelling	Three-family dwelling
<i>“d(5)” Variance</i>			
SECTION/REQUIREMENT	PERMITTED /REQUIRED	EXISTING	PROPOSED
25-7.1 Minimum lot area per dwelling unit (density)	3,750 square feet	1,875 square feet	1,250 square feet
<i>“c” Variance</i>			
SECTION/REQUIREMENT	PERMITTED /REQUIRED	EXISTING	PROPOSED
25-7.1 Minimum lot area	7,500 square feet (for two-family dwelling)	3,750 square feet	3,750 square feet
25-9.8 Minimum residential floor area for multi-family residential	600 sq. ft. (efficiency apartment), 800 sq. ft. (1 bedroom apartment)	Not applicable	467 square feet
25-12.2a.1. Minimum number of parking spaces	6 (see discussion below)	5	5

The parking requirements table on the architectural plans utilizes the New Jersey Residential Site Improvement Standards’ (RSIS) ratios for one-family and two-family residential development. There is no standard in the RSIS for three-family residential. However, the West Orange Land Use Regulations Ordinance in Section 25-12.2a.1. indicates that “Three-family dwellings shall



be subject to the parking requirements for townhouse development.” Applying those standards would result in the following:

One 1BR unit @ 1.8 spaces per unit = 1.8 spaces
One 2BR unit @ 2.3 spaces per unit = 2.3 spaces
One 3BR unit @ 2.4 spaces per unit = 2.4 spaces
Total required = 6.5 spaces (rounded down to 6)

Five spaces are provided on the subject property, meaning an additional variance is required.

PROPOSED DEVELOPMENT

The applicants are proposing to modify the interior layout of the existing building on the subject property to create an additional dwelling unit. The building currently includes two dwelling units: a three-bedroom unit on the first floor and a four-bedroom unit on the second and third floors. The proposal would convert the existing four-bedroom apartment into two dwelling units: a two-bedroom unit on the second floor and a one-bedroom unit on the third floor. The second floor unit would be accessed by internal stairways in the front and rear of the building. Access to the third-floor dwelling unit would be provided by an interior stairway at the front of the building. A secondary means of egress would be an existing fire escape at the rear of the building.

Parking is proposed to be provided in the existing driveway, garage and rear yard. No exterior changes are proposed on the site.

DISCUSSION/RECOMMENDATIONS

Required Variances

The subject property is located in the R-T two-family residential zone district. The R-T zone permits one-family detached dwellings, two-family dwellings, and various nonresidential uses. While the existing two-family dwelling is permitted, a three-family dwelling is not a permitted use, and therefore a use variance is required to permit the proposal.

The Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70d(1) enables a board of adjustment to grant a variance to permit “a use or principal structure in a district restricted against such use or principal structure.” An applicant for a “d” variance must comply with the requirements of the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-70d. A “d” variance may be granted only “in particular cases for special reasons,” which for a “d(1)” variance generally relates to the particular suitability of a site to accommodate the proposed use.



In addition, the proposal does not comply with the requirement for minimum lot area per unit, which can be viewed as a control on residential density. In the event the Board determines a “d(5)” density variance is required, the applicant must demonstrate that “the site will accommodate the problems associated with a proposed use with a greater density than permitted by the ordinance” and that the increased intensity serves one or more of the purposes of zoning, per the Grubbs v. Slothower court case.

In addition, the MLUL at N.J.S.A 40:55D-70c permits a board of adjustment to grant 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.

For all of the requested variances, the applicant must also address the “negative criteria,” and affirmatively demonstrate that the variances 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.

Other Issues

The applicant should confirm whether any changes are proposed to the layout of the existing three-bedroom unit on the first floor.

The applicant is referring to the third floor apartment as a “studio” unit. However, the architectural plans refer to it as a one-bedroom unit, consistent with its layout on the plans.

It is noted that essentially the entire rear yard area in front of the garage is paved, along with a driveway along the western property line. The rear yard of the adjacent lot to the east (Lot 62.01, 16 Kling Street) has similar existing conditions. It is noted that both lots are owned by the applicants.





