

CITY OF JERSEY CITY

Department of Housing, Economic Development & Commerce
 Division of City Planning
 Interdepartmental Memorandum



DATE: 11/13/20
 TO: Planning Board Commissioners
 FROM: Cameron Black, Senior Planner, AICP, PP
 RE: Case # P20-006
 244 Clinton Avenue , Block: 18302 , Lot 51
 Minor Subdivision and Site Plan with "c" variances

APPLICATION SUMMARY

The applicant, Jae Jang, AIA, proposes to keep the existing structure and subdivide a 50' x 90' (4,500 sq. ft.) lot into two 25' x 90' lots (2,250 sq. ft.). On the newly created lot, the applicant proposes to build a 2-family home with a 2 car garage in the R-1 Zone. Variances are required for the minimum lot depth of 90', the rear yard setback of 15' and the lot area of 2,250 sq. ft.



Applicant's Site Outlined in Red

"c" VARIANCES/DEVIATIONS FOR SITE PLAN

| # | REQUIREMENT | PROPOSED |
|---|-----------------------|---------------|
| 1 | Minimum rear yard 20' | 15' rear yard |

"c" VARIANCES/DEVIATIONS FOR SUBDIVISION

| # | REQUIREMENT | PROPOSED |
|---|--------------------------------|--------------------------|
| 1 | Minimum lot depth of 100' | Lot depth of 90' |
| 2 | Minimum lot area 2,500 sq. ft. | Lot are of 2,250 sq. ft. |



Photo A – Site Looking North

SEE APPENDIX A FOR FINDINGS NEEDED FOR “c” VARIANCE RELIEF

REQUIREMENTS AND STANDARDS FOR CONSIDERATION

Below are Design Standards from the JC LDO and the R-1 Zoned Plan to provide guidance for Commissioners:

345-70

B. Automobile Parking Design Standards.

1. Curb cuts shall be limited to the minimum number necessary.
2. Parking shall not be the dominant visual element of the site.
3. Parking which is visible from the street or other areas exposed to public view shall be screened and softened by landscaping, low screen walls or a combination of elements.
4. Broad expanses of paving shall be broken up with landscaping.
5. The use of common or shared driveways which provide access to more than one site is encouraged.

§ 345-40

R-1:

[Amended 6-13-2007 by Ord. No. 07-101]

1. Where there is construction of two or more homes with permitted driveways on adjacent lots, new driveways shall be located so as to maximize on-street parking space; no existing street

tree shall be removed to create a driveway without prior approval by the Jersey City Division of Parks & Forestry.

Staff Comments Regarding variances:

1. Applicant's expert shall provide testimony regarding how the site is unique and/or hardshipped necessitating the variances for the undersized lot, lot depth and rear yard setback.
2. Staff recommends to the board that the applicant provide testimony for addressing the proofs necessary to meet the negative criteria for a rear yard setback variance. Specifically, that the undersized lot depth is an appropriate build out of the land, and the proposed project will not substantially affect any neighbors, nor will the variances cause any substantial detriments to the public good, nor impairment to the intent and purpose of the Jersey City Zone Plan and Zoning Ordinance.

STAFF RECOMMENDS APPROVAL WITH THE FOLLOWING CONDITIONS:

1. The architect of record, shall be retained during construction and shall submit a signed and sealed affidavit affirming that site construction was consistent with approved plans prior to the issuance of any Certificate of Occupancy.
2. All materials and color selections shall be as shown on the final plans.
3. No changes to the facade and site design, including materials as well as any changes that may be required by the Office of Construction Code, shall be permitted without consultation and approval by the planning staff.
4. All testimony given by the Applicant and the expert witness in accordance with this application shall be binding.
5. All street trees and landscaping shall be installed in accordance with 345-66 and the City's Forestry Standards, prior to an issuance of a Certificate of Occupancy.

APPENDIX A

FINDINGS NEEDED FOR “c” VARIANCE RELIEF

The following findings are required for “c” Variance Relief:

- 1) Hardship “C1” Variance Standard under N.J.S.A. 40:55(D)-70(c)(1):
 - a. Pertinent information: Exceptional narrowness, shallowness, or shape of the property, exceptional topographical conditions, and/or other exceptional situations.
 - b. Based on this information, the strict application of the Ordinance would result in exceptional difficulties to, and undue hardships upon, the developer of such property.
 - c. The conditions causing hardship are peculiar to the subject property, and do not apply generally to other properties in the same district.
 - d. Other means to cure the deficiency (such as purchase or sale of property) do not exist, or are unreasonable or impracticable.
 - e. The variance requested is the reasonable minimum needed.

- 2) Flexible “C2” Variance Standard under N.J.S.A. 40:55D-70(c)(2):
 - a. The justifications must relate to a specific piece of property;
 - b. The purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirement;
 - c. The variance can be granted without substantial detriment to the public good;
 - d. The community benefits of the deviation would substantially outweigh any detriment and;
 - e. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

NEGATIVE CRITERIA

No relief may ever be granted unless it can be done

- 1) without substantial detriment to the public good, and
- 2) without substantially impairing the intent and purpose of the zone plan and zoning ordinance

1) Substantial detriment to the public good – Balancing Requirement.

The focus of this first prong of the negative criteria is on the variance’s effect on the surrounding properties. The board must weigh the zoning benefits from the variance against the zoning harms. In many instances, conditions of approval address the negative criteria standard and help to mitigate the impact of the variance.

2) Substantial impairment to the intent and purpose of the zone plan and ordinance.

The focus of this second prong of the negative criteria is on the power to zone based on ordinance and not variance

