



**I. SUBDIVISION SUMMARY:**

Both lots are conforming, but they trigger variances for the side yard setback on the old lot.

EXISTING:

**Lot 58** (5,000 sq. ft.)

PROPOSED:

**Lot 58.01** (2,500 sq. ft.) R-1 Zone

**Lot 58.02** (2,500 sq. ft.) R-1 Zone

**II. STAFF COMMENTS REGARDING SUBDIVISION:**

1. Plat bulk requirements table needs to be updated with regards to all variances requested.
2. Resolutions of the subdivision and site plan are filed with the deeds for these new lots.
3. All comments made by the Jersey City Engineering Department must be incorporated in the final signature plans.

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

**REQUIRED “c” VARIANCES/DEVIATIONS**

#	REQUIREMENT	PROPOSED
1	Combined side yards of 5’	3’ combined on lot 58.02’ to the East
2	30% front yard landscaping	0% front yard landscaping

**REQUIREMENTS AND STANDARDS FOR CONSIDERATION**

**Side Yards:**

- a. Detached Buildings:

Minimum setback for one side: Two feet.

Minimum setback for both sides: Five feet one inch

**2. Front Yard Landscaping.**

a. At least 60 percent of the area between the building line and street line on residential lots shall be landscaped, provided, however, that for new construction in the R-1 District, or for construction of three-family detached housing in the R-3 District, which includes either a front garage and driveway, or driveway access through the front yard to a side or rear yard parking area, or rear yard garage in lieu of a front yard garage access, a minimum of 30 percent of the area shall be landscaped.



Photo A - photographed on 7.12.21

**REQUIRED “d” VARIANCES**

#	PERMITTED	PROPOSED
1	One or two family home	- Existing lot 58.02 Multi-Family (3 units )

**SEE APPENDIX B FOR REQUIRED PROOFS FOR USE**

**Staff Comments Regarding “d” Variances:**

Staff Comments:

1. Applicant’s experts shall provide testimony justifying the d(1) variance for use.
2. The existing 3 family home does not appear to pose any risk to jeopardizing the public’s general welfare or well-being nor does it appear to jeopardize and air, light, or space.

**Staff Comments Regarding “c” Variances:**

**Staff Comments:**

1. Applicant’s expert shall provide testimony supporting that variance relief is justified under the “C1” and “C2” standards. This should include, but not in any way be limited to testimony addressing that the site is uniquely and particularly suitable for the proposed use, testimony reconciling the master plan and zone plan and testimony confirming that there will not be any detriment to the zone plan or public good.

**Staff recommends approval with the following conditions in the event the application is approved:**

1. Architect of record shall submit a signed and sealed affidavit confirming that the final building was constructed as approved, prior to issuance of the Certificate of Occupancy.
2. All materials and color selections shall be shown on Final Plans. No change 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 with and approval by planning staff.
3. All testimony given by the applicant and their expert witnesses in accordance with this application shall be binding.
4. 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.

### No relief may ever be granted unless it can be done

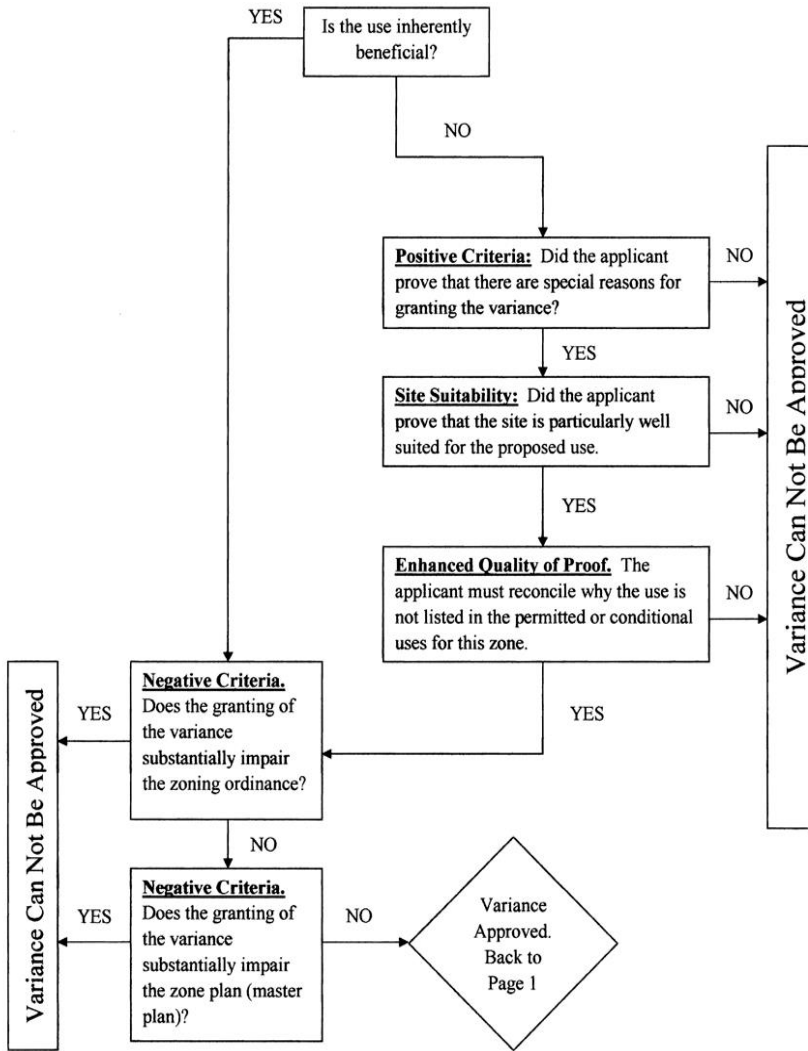
- 1) without substantial detriment to the public good, and
- 2) without substantially impairing the intent and purpose of the zone plan and zoning ordinance

#### **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



✦ Kasler Associates ✦ 34 Little Brook Road ✦ Springfield ✦ NJ ✦ 07081  
 908.598.1666 ✦ www.KaslerAssociates.com