

CITY OF JERSEY CITY

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



DATE: 2/22/2023
TO: Zoning Board Commissioners
FROM: Tanya R Marione, AICP, PP
RE: 4 Highview Road – Z22-085
'a' Appeal of the zoning officer's violations

Applicant, SG&A Management LLC, has filed an 'a' appeal on October 20, 2022 disputing the zoning officer's violations:

- 1) Sent on September 1, 2022 for operating an illegal bed and breakfast and
- 2) Sent on September 15, 2022 that the applicant performed excessive work without zoning approval.

Additionally, the applicant received three (3) zoning interpretations:

- 1) Sent on February 5, 2021 that the proposed renovation, addition and conversion of a single family, previously approved by Zoning in 2017, to a two unit dwelling will require Planning board approval
- 2) Sent on May 11, 2021, that the proposed single family project that includes full bathrooms on internally connected duplex floors, a second and third kitchen on internally connected duplex floors, a swimming pool in the cellar will require zoning board approval
- 3) Sent on October 17, 2022 that the as-built plans submitted would require planning board approval for full bathrooms on the floors of an internally connected duplex, multiple kitchens on the floors of an internally connected duplex, a swimming pool on the cellar level, a full bathroom on the cellar level, encroachment of the rear yard deck and stairs onto the minimum required rear yard setback, and increasing the gross floor area of all structures on a project parcel by 50 percent

The relevant ordinance citations for the above are referenced below (citations are from Chapter 345 prior to the latest revision adopted November 2, 2022):

345-40.E.7. Minimum Rear Yard:

- a. The rear yard setback shall be added to the front yard setback (as determined above) to produce a total of not less than thirty-five (35) feet, provided however, that in no case shall a rear yard be less than twenty (20) feet. The mathematical formula for this calculation is as follows.

X = required front yard setback

Y = required rear yard setback

X + Y = at least 35 feet

345-40.E.8. Maximum building height:

Three stories with a minimum floor to ceiling height of nine feet, a maximum floor to ceiling height of twelve (12) feet, and a maximum of five additional feet between the top of the third floor and the topmost point of any peaked roof (where a peaked roof is deemed appropriate under the design standards), provided that a minimum of two adjacent floors must be connected solely by means of a staircase internal to the unit, and provided that only one of the two internally connected floors may have a kitchen and/or a full bath.

345-60.D.1 – 2. Yard Regulations

1. Projections and Encroachments: Minimum required yards shall be entirely free of buildings, structures (excluding parking, patios and walkways) or parts thereof and no building or structure shall project into any minimum required front, side or rear yard nor shall any use be made of any such yard, except as follows:
 - a. Cornices and eaves may project not more than two feet into any required yard.
 - b. Sills, leaders and similar ornamental or structural features may project six inches into any required yard.
 - c. An open fire escape, where required by fire code, may project into a required rear yard not more than five feet and shall be the minimum width necessary to meet fire code. Enclosed fire escapes shall not be permitted to encroach into the rear yard.
 - d. Uncovered steps may project not more than four feet into any required front and rear yard.
 - e. Television and radio aerials masts, outdoor fireplaces and children's playground equipment are permitted in any required rear yard.
 - f. Window wells affording light and air to basement and cellar areas are permitted in all required yards.
 - g. Balconies, as defined in this chapter, may project into a required rear yard not more than five feet, may project into a required sideyard not more than eighteen (18) inches, and may project into a required front yard not more than twelve (12) inches, provided that no single balcony shall extend along more than fifty (50) percent of the width of the building.
2. Any addition(s), vertical or horizontal, to a structure which is nonconforming with respect to yard requirements at the time of adoption of this ordinance shall adhere to the yard requirements for the district in which said structure is located.

345-40.C. Uses incidental and accessory to the principal use, such as:

6. Swimming pools (See 345-60.G.2.b. for specific standard

345-60.I.2.b. Swimming Pools

- i. Pools for private use shall be located on a lot containing a residential building. Pools shall be located in the rear yard only. Setbacks shall be measured from the water's edge and no pool shall occupy more than seventy-five percent (75%) of the rear yard. A deck around the pool shall be a separate structure and such decks shall also meet the setback standards for the pool. All pools shall adhere to the setbacks as set forth in this Chapter for accessory structures.
- ii. Pools in multi-family developments and in hotels shall not be located within the front yard. All pools shall be landscaped to be below grade with setbacks measured from the water's edge adhering to the requirements for a principal structure. No pool shall occupy more than fifty percent (50%) of the area part of the yard in which it is located.
- iii. All lighting shall be screened from dwelling units in the area to prevent direct or reflected light from being a nuisance. No public address system shall be erected with any pool. All health and safety codes shall be met in the erection and maintenance of a pool.
- iv. Enclosure of swimming pools shall be required as set forth in the Uniform Construction Code.

345-60.I.2.c. Decks and Patios

- i. Decks attached to a principal structure shall meet the setbacks of principal structures.
- ii. A six foot high screen shall be required if the deck projects beyond the rear building line of the adjacent lot.

345-16.A.6. Thresholds for Major Site Plan Review

Additions increasing gross floor area of all structures on a project parcel by 50 percent or 2,500 square feet, whichever is less.

345-62.N. Residential Design Standards

Cellar apartments are not permitted.

345-76. - Enforcement.

- A. Zoning Officer. It shall be the duty of the Zoning Officer and his or her staff to administer and enforce this chapter. No structure shall be erected without a building permit and no structure or lot shall use or have its use changed so as to be in violation of this chapter, In no case shall a building permit be issued for the construction or alteration of any structure nor shall a certificate of occupancy be issued for a new occupant with a new use, or new use by the present occupant, until the proposed construction or alteration or use conforms to the provisions of this chapter. It shall be the duty of the Zoning Officer to cause any structures, plans or premises to be inspected or examined and order the owner in writing that any condition be remedied which is found to exist in violation of any provisions of this chapter. It shall be the duty of the Zoning Officer to keep a record

of all applications and all permits which are either issued or denied, with notations of any conditions involved, which data shall form a part of the City public records.

B.

Building Permits. Applications for building permits shall be submitted in a form required by the Building Code of Jersey City and with sufficient data to confirm conformance with all applicable portions of this chapter. Building permit applications shall also be accompanied by an approved site plan as required by this chapter prior to the granting of a building permit.

Staff offers the following relevant citations from the Municipal Land Use Law (emphasis added by staff)

N.J.S.A. 40:55D-70 Powers.

Powers. The board of adjustment shall have the power to:

- a. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance;
- b. Hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act;

N.J.S.A 40:55D-37

a. The governing body may by ordinance require approval of subdivision plats by resolution of the planning board as a condition for the filing of such plats with the county recording officer and approval of site plans by resolution of the planning board as a condition for the issuance of a permit for any development, **except that subdivision or individual lot applications for detached one or two dwelling-unit buildings shall be exempt from such site plan review and approval**; provided that the resolution of the board of adjustment shall substitute for that of the planning board whenever the board of adjustment has jurisdiction over a subdivision or site plan pursuant to subsection 63b. of this act.

Below is a timeline of the applicant’s submissions to both the building and zoning divisions. See Attachment A for corresponding documentation:



