

**CITY OF JERSEY CITY**

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



Interdepartmental Memorandum

DATE: 1.13.21  
TO: Zoning Board Commissioners  
FROM: Cameron Black AICP, PP, Senior Planner  
RE: Case #Z20-058 Block 28604, Lot 28  
177 Lembeck Avenue "c" variances

**BACKGROUND**

177 Lembeck, LLC's site is a 25' x 60' (1,493.7 sq. ft.) lot in an R-1 zone and the applicant is proposing to construct a 3-story (29.96') 2 family residential building with a 1-car garage (17'x23').

"c" Variances: garage dimensions, front and rear yard setback, side yard setback, and building coverage

**Unit Summary:**

Unit 1 – (2 bed & 1.5 Bath)

787 square feet with 185 square feet of patio area

Unit 2 – (3 Bed & 2.5 Bath)

1,367 square feet & 370 square feet of roof deck



Applicant's Site is outlined in red

**SEE APPENDIX A FOR FINDINGS NEEDED FOR “c” VARIANCE RELIEF - page 4-5**

**REQUIRED “c” VARIANCES/DEVIATIONS**

#	REQUIREMENT	PROPOSED
1	Rear Yard min. 20’	9.12’
2	2 car garage 13’x44’	1 car garage 17’ x 23’5”
3	Front & Rear Combined of 35’	5.87’ + 9.12’ = 15’
4	Combined side yards of 5’	3’ to the East
5	60% building coverage	65.40%
6	2,500 square feet	Existing Undersized Lot (1,493 square feet)

**REQUIREMENTS AND STANDARDS FOR CONSIDERATION**

**Garage Requirements**

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

5. Garages constructed as part of the ground floor of any new two family house shall be at least thirteen (13) feet wide and at least forty-four (44) feet deep except on corner lots as described in E.3 above; shall comprise at least fifty percent (50%) of the ground floor interior space; and shall accommodate at least two cars.

**Lot Requirements**

1. All existing lots of record at time of the adoption of this ordinance are considered conforming.
2. Minimum Lot Size: Two thousand five hundred (2,500) square feet.
3. Minimum Lot Width: Twenty-five (25) feet.
4. Minimum Lot Depth: One hundred (100) feet.

**Front Yard Setback:**

Front yard setback shall match the setback of the Front Primary Façade (see Article I for definition of Front Primary Façade) of the closest permitted use on either side of the subject parcel, provided that the building setback to be matched shall be closest to the predominant (most frequently occurring) setback on the block front. A current signed and sealed survey of the subject property showing adjacent building setbacks on both sides along with photos showing the entire block front to the left and right of the subject property must be provided to the Zoning Officer as part of the application for a building permit.

**Side Yards:**

- a. Detached Buildings:

Minimum setback for one side: Two feet.

Minimum setback for both sides: Five feet one inch



Photo A - photographed on 12.14.20

**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 B

### 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

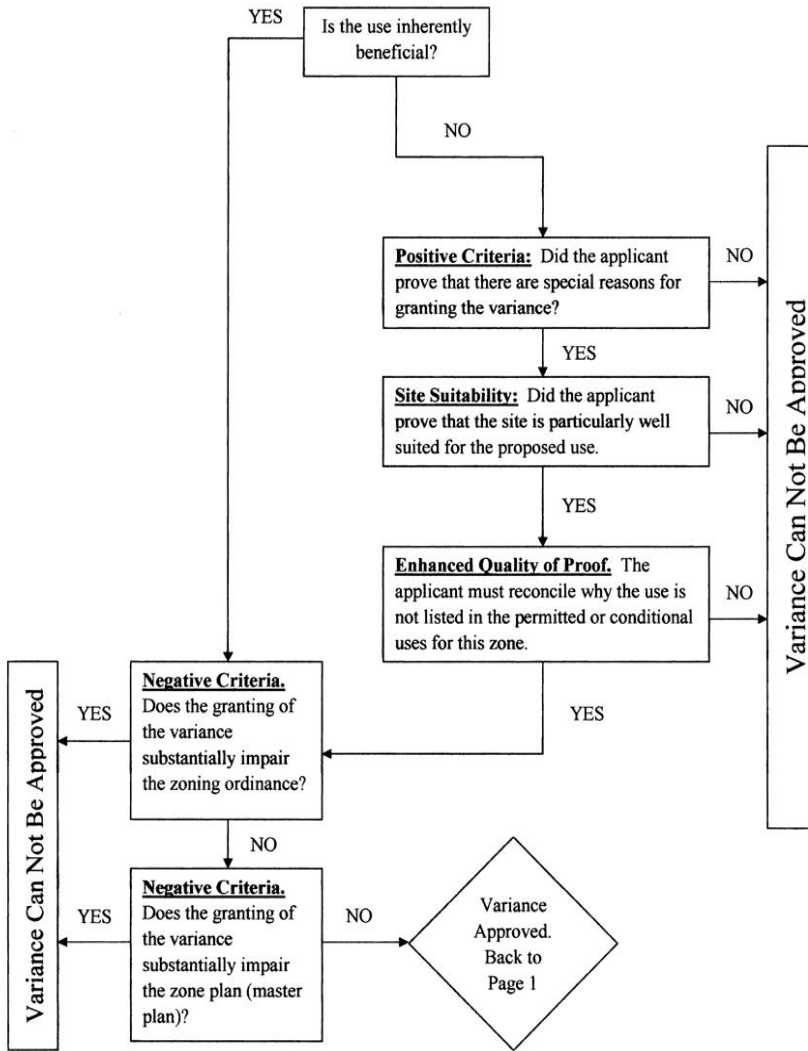
- 1) without substantial detriment to the public good, and
- 2) without substantially impairing the intent and purpose of the zone plan and zoning ordinance

#### **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