

CITY OF JERSEY CITY

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



DATE: April 22, 2021
TO: Board of Adjustment Commissioners
FROM: Lindsey Sigmund, AICP, Senior/Environmental Planner
RE: Case #Z20-0388 23 Magnolia Avenue
Appeal Zoning Officer's Determination

Documents Reviewed:

- City of Jersey City General Development Application, received by City Planning February 7, 2021;
- Zoning Determination Letter issued by Nick Taylor, Zoning Officer for the City of Jersey City, dated November 6, 2020;
- Memo prepared by the Applicant Perrault Jean-Paul titled Affidavit in Support of Appeal, undated, received by City Planning February 7, 2021;
- Exhibits A-H received by City Planning February 7, 2021 including Pictures of damaged addition, Zoning Denial Letter, Correspondence with Division of Zoning, Roof deck approvals for neighboring properties, Jersey City Zoning Map, and excerpt from Zoning Ordinance 345-40;
- Violations from Jersey City Construction Code for 23 Magnolia Ave: Notice and Order of Penalty/Construction Violation dated June 26, 2020; Stop Construction Order dated July 14, 2020; Notice and Order of Penalty dated July 27, 2020 (see attachment).

Site Location:



Application Background and Proposal:

The subject property, known as Block 9704, Lot 18 is located at 23 Magnolia Avenue in the R-1 One- and Two-Family Housing District. The site includes a non-conforming three (3) unit dwelling. Tax records confirm that the subject building contains three (3) units. The Applicant submitted reconstruction drawings to the Division of Zoning to re-build their damaged 1-story rear yard addition and subsequently received a Zoning Determination. On November 6, 2020, the Zoning Officer issued a determination, which includes the following:

“Chapter 345, Article V, Section 60 Paragraph V3a: Your proposed rear yard addition and deck at the above location, a non-conforming three (3) unit dwelling located in the R-1 Zone, will require Zoning Board approval with all variances deemed necessary by staff.”

In response to the Determination, the Applicant/property owner submitted an intent to appeal on November 24th, 2020. The background and arguments for the appeal is included in a memo prepared by the Applicant.

“a” Appeals

MLUL grants to Boards of Adjustment the power to “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” (40:55D-70).

D(2) Variances:

The following information on d(2) Variances is included for the Board’s reference -

The expansion of a building in which a lawfully created preexisting nonconforming use is to be carried on requires a d(2) variance pursuant to 40:55D-70d(2). If the use is permitted, but the structure’s bulk is non-conforming, then a “c” variance would be required.

A non-conforming use is one that existed on a property prior to the adoption of a zoning ordinance but which the ordinance does not now permit in a particular zone. A d(2) Variance is required when an Applicant seeks to expand the non-conforming use and/or the structure containing a non-conforming use.

“If a building in question houses a non-conforming use, then presumably the buildings’ expansion would expand the use, which could not properly occur without the zoning board of adjustment’s approval of a d(2) variance” (26-6, Cox et al., 2018).

Staff Comments:

The applicant is appealing the Zoning Officer's Determination to the Zoning Board of Adjustment, who may then:

1. Uphold the Zoning Officer's determination; OR
2. Uphold the appeal, reversing the Zoning Officer's Determination.



NOTICE AND ORDER OF PENALTY

Permit/Control #: _____
Date Issued: 6/26/2020
Violation #: 20200368

IDENTIFICATION

Work Site Location: 23 MAGNOLIA AVE. Jersey City, NJ
Block: 9704 Lot: 18 Qualification Code: _____
Owner in Fee: JEAN-PAUL PERRAULT
Owner Address: 85 SYCAMORE RD JERSEY CITY NJ 07305
Agent/Contractor: _____
Address: _____
To: Owner Other:
 Agent/Contractor

ACTION

- On _____, you were found to be in violation of the State Uniform Construction Code Act and Regulations promulgated thereunder. A **Notice of Violation and Order to Terminate**, **Notice of Unsafe Structure**, **Notice of Imminent Hazard** was issued. Reinspection of the work site on _____ revealed the following violation(s) remain:
YOU DID WORK WITHOUT FIRST OBTAINING A CONSTRUCTION PERMIT
NJAC:5-23-2.14 Working without permits
Demolition work in rear of property and commencing construction for an addition. all work done without permits.
NJAC 5:23-2.34 Failure to protect adjoining property by causing damage to the exterior.
- On 6/25/2020, you were found to be in violation of the State Uniform Construction Code Act and Regulations promulgated thereunder, in that you **made a false or misleading written statement, or omitted required required information in an application or request for approval; or** **failed to obtain a construction permit; or** **failed to request required inspections; or** **allowed occupancy prior to receiving a certificate of occupancy.**
- On _____, you were found to be in violation of the State Uniform Construction Code Act and Regulations promulgated thereunder. A **Stop Construction Order** was issued. Reinspection of the work site on _____ revealed a failure to comply with that **Stop Construction Order**.

PENALTY

Therefore, you are hereby **ORDERED** to pay a penalty in the amount of \$2,000.00 for each violation for a total penalty of \$4,000.00.

Further, take **NOTICE** that for each week day that any of the said violations remain outstanding after 7/14/2020 an additional penalty of \$500.00 per week day shall result

If you wish to contest this **ORDER**, you may request a hearing before the Construction Board of Appeals of the Jersey City Construction Board of Appeals within 15 days of receipt of this **ORDER** as provided by N.J.A.C. 5:23 A-2.1. The Application of the Construction Board of Appeals may be used for this purpose.

Your application for appeal must be in writing, setting forth your name and address, the address of the building or site in question, the permit number, the specific sections of the Regulations in question, and the extent and nature of your reliance on them. You may include a brief statement setting forth your position and the nature of the relief sought by you. You may also append any documents that you consider useful

The fee for an appeal is \$50.00 and should be forwarded with your application to the Construction

Board of Appeals Office at: C/O Office of the Construction Official / City Hall Annex
1 Jackson Square, 2nd Floor
Jersey City, NJ 07305

If you have any questions concerning this matter, please call: (201) 547-5055

NOTICE and ORDER of PENALTY: _____


Construction Official

Date: 6/30/20



Jersey City
Dept. of Housing, Economic Development & Commerce
Office of Construction Official / City Hall Annex
1 Jackson Square, 2nd Floor Jersey City, NJ 07305

Construction Violation

Identification

Work Site Location: 23 MAGNOLIA AVE. Jersey City, NJ
Block: 9704
Lot: 18
Owner: JEAN-PAUL, PERRAULT
Owner Address: 85 SYCAMORE RD JERSEY CITY NJ 07305
Telephone:
Agent:
Agent Address:
Telephone:

Infraction Details

Tracking: 20200368
Subcode: Building
Issuing Officer: Peter Lolzou Telephone: (201) 547-5020
Issue Date: 6/26/2020
Infraction: Notice and Order of Penalty
Statute: Uniform Construction Code YOU DID WORK WITHOUT FIRST OBTAINING A CONSTRUCTION PERMIT
Infraction Summary: NJAC:5-23-2.14 Working without permits
Demolition work in rear of property and commencing construction for an addition. all work done without permits.
NJAC 5:23-2.34 Failure to protect adjoining property by causing damage to the exterior.
Certified Mail Number:

Enforcement Details

Inspection Date: 6/25/2020
Notice Date: 6/29/2020
Compliance Date: 7/14/2020
Compliance Inspection Date: 7/14/2020
Compliance Summary: Obtain permits for all work by submittal of design professional plans. Correct damages made to adjoining property forthwith.

Fines Details

Total Due:	\$4,000.00
Total Paid:	\$0.00
Total Owed:	\$4,000.00



STOP CONSTRUCTION ORDER

Permit/Control #: _____
Date Issued: 7/14/2020
Violation #: 20200407

IDENTIFICATION

Work Site Location: 23 MAGNOLIA AVE, Jersey City, NJ
Block: 9704 Lot: 18 Qualification Code: _____
Owner in Fee: JEAN-PAUL PERRAULT
Owner Address: 85 SYCAMORE RD, JERSEY CITY NJ 07305
Agent/Contractor: _____
Address: _____

To: Owner Other: NOTICE AND VIOLATION POST AT DOOR
 Agent/Contractor

DATE OF INSPECTION: 7/14/2020 DATE OF THIS NOTICE: 7/14/2020

ACTION

You are hereby **ORDERED** to **STOP**

Building Electrical Plumbing Fire Protection Mechanical Elevator All Construction
at the above Location as of 7/14/2020 until further notice from this enforcing agency.

This **ORDER** is entered pursuant to N.J.A.C. 5:23-2.31(d) for violation of
See Below

which provides:
NJAC5:23-2.14a..... DIGING FOOTING FOR ADDITION pl

Permission to resume construction may be obtained from this enforcing agency after the following conditions are met:

Further, take NOTICE that failure to comply with this **ORDER** may result in the assessment of penalties of up to \$250.00
per day per violation, and a certificate of occupancy will *not* be issued until such penalty has been paid.

If necessary, the enforcing agency will concurrently seek the Order of a court of competent jurisdiction restraining further work
at the above location.

If you wish to contest this **ORDER**, you may request a hearing before the Construction Board of Appeals of
the Jersey City Construction Board of Appeals within 15 days of receipt of this **ORDER**
as provided by N.J.A.C. 5:23A-2.1. The Application of the Construction Board of Appeals may be used for this purpose.

Your application for appeal must be in writing, setting forth your name and address, the address of the building or site in
question, the permit number, the specific sections of the Regulations in question, and the extent and nature of the relief
sought by you. You may append any documents that you consider useful.

The fee for an appeal is \$50.00 and should be forwarded with your application to the Construction

Board of Appeals Office at: C/O Office of the Construction Official / City Hall Annex
1 Jackson Square, 2nd Floor
Jersey City, NJ 07305

If you have any questions concerning this matter, please call: (201) 547-5055

By Order of Joseph Severino Date: 7/15/2020
Subcode Official



NOTICE AND ORDER OF PENALTY

Permit/Control #:
Date Issued: 7/27/2020
Violation #: 20200427

IDENTIFICATION

Work Site Location: 23 MAGNOLIA AVE, Jersey City, NJ
Block: 9704 Lot: 18 Qualification Code:
Owner in Fee: JEAN-PAUL PERRAULT
Owner Address: 85 SYCAMORE RD, JERSEY CITY, NJ 07305
Agent/Contractor:
Address:
To: [X] Owner [] Other
[] Agent/Contractor

ACTION

- [] On _____, you were found to be in violation of the State Uniform Construction Code Act and Regulations promulgated thereunder. A [] Notice of Violation and Order to Terminate, [] Notice of Unsafe Structure, [] Notice of Imminent Hazard was issued. Reinspection of the work site on _____ revealed the following violation(s) remain: See Below NJAC 5:23-2.31..... FAIL TO STOP CONSTRUCTION WORK AFTER ISSUING STOP WORK ORDER.(Construction work in progress interior and exterior of building) pay penalty NC
[] On _____, you were found to be in violation of the State Uniform Construction Code Act and Regulations promulgated thereunder, in that you [] made a false or misleading written statement, or omitted required required information in an application or request for approval; or [] failed to obtain a construction permit; or [] failed to request required inspections; or [] allowed occupancy prior to receiving a certificate of occupancy.
[X] On 7/25/2020, you were found to be in violation of the State Uniform Construction Code Act and Regulations promulgated thereunder. A Stop Construction Order was issued. Reinspection of the work site on 7/25/2020 revealed a failure to comply with that Stop Construction Order.

PENALTY

Therefore, you are hereby ORDERED to pay a penalty in the amount of \$2,000.00 for each violation for a total penalty of \$2,000.00.

Further, take NOTICE that for each [] week [X] day that any of the said violations remain outstanding after 7/25/2020 an additional penalty of \$2,000.00 per [] week [X] day shall result

If you wish to contest this ORDER, you may request a hearing before the Construction Board of Appeals of the Jersey City Construction Board of Appeals within 15 days of receipt of this ORDER as provided by N.J.A.C. 5:23 A-2.1. The Application of the Construction Board of Appeals may be used for this purpose.

Your application for appeal must be in writing, setting forth your name and address, the address of the building or site in question, the permit number, the specific sections of the Regulations in question, and the extent and nature of your reliance on them. You may include a brief statement setting forth your position and the nature of the relief sought by you. You may also append any documents that you consider useful

The fee for an appeal is \$50.00 and should be forwarded with your application to the Construction Board of Appeals Office at: C/O Office of the Construction Official / City Hall Annex 1 Jackson Square, 2nd Floor Jersey City, NJ 07305

If you have any questions concerning this matter, please call: (201) 547-5055

NOTICE and ORDER of PENALTY:

[Signature] Construction Official

Date:

7/27/20