



YOUR GOALS. OUR MISSION.

KNPB-R2020

May 3, 2024  
Via Email and Regular Mail

Mackenzie Bittle, Planning Board Secretary  
Borough of Keansburg  
29 Church Street  
Keansburg, NJ 07734

**Re: New Dwelling/Bulk Variance Requests  
Harry R. Hoff  
4 Berry Street  
Block 112, Lot 1  
Single Family Residential (R-5) Zone  
First Engineering Review**

Dear Ms. Bittle:

As requested, we have reviewed the above referenced application to construct a new elevated one (1) story, 2-bedroom, single-family frame dwelling located at 4 Berry Street. The applicant has submitted the following documents in support of this application:

1. Keansburg Planning Board of Adjustment Site Plan Application Packet, dated January 5, 2024.
2. Letter of Denial, prepared by Kathy Burgess, Assistant Zoning Officer, of the Borough of Keansburg, dated October 17, 2022.
3. Certification & Assessment of Taxes for 4 Berry Street, dated January 16, 2024.
4. Legal Notice prepared by Harry R. Hoff, undated.
5. Location Land Survey of 4 Berry Street, prepared by Thomas Craig Finnegan, P.L.S., of Thomas Craig Finnegan Land Surveying, LLC, dated October 12, 2023, consisting of one (1) sheet.
6. Topographic Land Survey of 4 Berry Street, prepared by Thomas Craig Finnegan, P.L.S., of Thomas Craig Finnegan Land Surveying, LLC, dated February 5, 2015, consisting of one (1) sheet.
7. Plan entitled "Proposed Dwelling Shown on 4 Berry Street" prepared by Thomas Craig Finnegan, P.L.S., of Thomas Craig Finnegan Land Surveying, LLC, dated October 3, 2022, consisting of one (1) sheet.
8. Architectural Plans entitled "New Residence – 4 Berry Street" prepared by Jason Peist, A.I.A., of Jason Peist Architect, LLC, dated August 18, 2020, last revised September 28, 2022, consisting of one (1) sheet.

#### **A. Project Description**

The subject property, also known as 4 Berry Street, is an undersized vacant lot located within the Single Family Residential (R-5) Zoning District. The existing property is an interior lot surrounded by developed residential properties, with road frontage along Berry Street, and formerly contained a single-family dwelling which was damaged during Hurricane Sandy. The property is located in the "AE" Flood Zone, with a flood elevation of 11 feet. The applicant indicates that the lot meets criteria of N.J.S.A. 40:55D-70(c)(1), which grants the Board approval to authorize variances or other forms of relief "by reason of exceptional narrowness, shallowness or shape of a specific piece of property."



The applicant is seeking approval to construct a new elevated one (1) story, 2-bedroom, single-family frame dwelling with associated driveway, and utilities. The ground floor of the proposed building will be used as a garage and storage space with access provided via a new driveway extending from Berry Street, while the first floor and attic above will be used as living space. This application was previously denied a development permit for not meeting the required 25-foot setback from the street property line and for the increased in size of the replacement structure as indicated in the denial letter dated October 17, 2022.

**B. Bulk Requirements**

In accordance with Section 22-5.5 of the Ordinance, the existing and proposed bulk deficiencies for the proposed structure are noted as follows:

	<b>DESCRIPTION</b>	<b>REQUIRED</b>	<b>EXISTING</b>	<b>PROPOSED</b>
1	Minimum Lot Area	5,000 SF	2,000 SF <sup>(E)</sup>	<b>2,000 SF <sup>(V)</sup></b>
2	Minimum Lot Frontage	50'	N/A	<b>40' <sup>(V)</sup></b>
3	Minimum Front Yard Setback	25'	N/A	<b>10' <sup>(V)</sup></b>
4	Minimum Side Yard Setback	7.5'	N/A	<b>4.5' <sup>(V)</sup></b>
5	Minimum Side Yard Setback - <i>Total</i>	15'	N/A	<b>12' <sup>(V)</sup></b>
6	Minimum Rear Yard Setback	25'	N/A	<b>10' <sup>(V)</sup></b>
7	Min. Gross Residential Ground Floor Area	600 SF	N/A	696 SF
8	Maximum Lot Coverage – <i>Principal Bldg.</i>	25%	N/A	<b>31.25% <sup>(V)</sup></b>
9	Maximum Lot Coverage – <i>All</i>	50%	N/A	48.90%
10	Maximum Building Height	2 ½ Stories (35')	N/A	1 Story (23.83')
11	Minimum Improved Off-Street Parking*	2	N/A	<b>1</b>

(E) – Existing Nonconformity

(C) – Calculated

(W) – Waiver

(V) – Variance

NA – Not Applicable

NS – Not Specified, the applicant shall confirm this dimension.

\* Exhibit 1, (Subsection 22-9.3) of the Ordinance requires a total of two (2) Off-Street Parking Spaces for the proposed 2-bedroom, single-family frame dwelling. Specifically, Section 22-9.3. a.5 states “*A one-car garage and driveway combination shall count as 2 off-street parking spaces, provided the driveway measures a minimum of thirty (30’) feet in length between the face of the garage door and the sidewalk or thirty-five (35’) to the curblin. Two-car garage and driveway combination shall count as 4.0 off-street parking spaces, provided the minimum width of the driveway is twenty (20’) feet and its minimum length is as specified above for a one-car garage.*” *We note that the applicant is proposing a one-car garage and driveway combination, however only twenty-four (24) feet of driveway length is being provided. Therefore, a driveway waiver will be required. While the twenty (20) feet of driveway length does not comply with required minimum of thirty (30’) feet, it appears the driveway as proposed can accommodate a parking space for one vehicle. Our office would not have any objection to the granting of a driveway waiver from the Board.*





### C. Dimensional “c” Variance Considerations

Upon hearing testimony and input from the public (if any), the Board should evaluate the positive and negative criteria set forth below to determine whether the Applicant has met its burden of proof for a “c(1)” or “c(2)” variance for the bulk conditions and pre-existing non-conformities noted in the chart above, as well as variances per the below Sections of the Ordinance regarding construction of non-compliant structures, as listed below:

1. Section 22-5-2.c of the Ordinance states that no building or structure shall hereafter be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land or building or portion of a building or structure to be used, designed, or arranged to be used for any purpose unless in conformity with all of the regulations herein specified for the district in which it is located. **The applicant proposes to construct a new 1-story single-family dwelling which does not meet the bulk regulations of the (R-5) Zoning District.**
2. Section 22-5.5.e of the Ordinance states that standards and regulations shall be in accordance with the schedule referred to in Section 22-5. **We note the property is an undersized lot with an area of 2,000 square feet, whereas the minimum lot area required in the R-5 Single Family Zone is 5,000 square feet.**
3. Section 22-7.3.c of the Ordinance states that no nonconforming use may be expanded. **We note the proposed building is an expansion of an existing nonconforming use.**
4. Section 22-7.3.e of the Ordinance states that if any nonconforming structure shall be more than partially destroyed, then the structure may not be rebuilt, restored or repair, except in conformity with Borough development regulations. **We note a nonconforming one-story dwelling was previously demolished at 4 Berry Street and is now proposed to be replaced by a new building which is not in conformity with Borough development regulations.**

#### 1. Positive Criteria for “c(1)” Hardship Variance

The finding of a “c(1)” hardship would address the following:

- a. *by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or*
- b. *by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or*
- c. *by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structure lawfully existing thereon, or the strict application of any regulations...would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property.*

It should be noted that the finding of the hardship must be for the specific property in question (i.e., it must be unique to the area). Note also that a hardship variance cannot be granted by a self-created hardship or personal hardship of the applicant.

#### 2. Positive Criteria for “c(2)” flexible variance

The finding of a “c(2)” flexible variance to permit relief from zoning regulations where an alternative proposal results in improved planning would address the following:



- a. *The purposes of the MLUL would be advanced by the deviation, and*
- b. *The benefits of the deviation from the zoning ordinance requirements would substantially outweigh any detriment.*

The finding of the benefits must be for the specific property in question—it must be unique to the area. The zoning benefits resulting from permitting the deviation(s) must be for the community and not merely for the private purposes of the owner. It has been held that the zoning benefits resulting from permitting the deviation(s) are not restricted to those directly obtained from permitting the deviation(s) at issue; the benefits of permitting the deviation can be considered in light of benefits resulting from the entire development proposed. Notwithstanding the above, the Board should consider only those purposes of zoning that are actually implicated by the variance relief sought.

3. The Municipal Land Use Law (NJSA 40:55D-70) requires the applicant to satisfy *both* components of the negative criteria:
  - a. *The proposal will not create a “substantial detriment to the public good”; and*
  - b. *The proposal will not create a “substantial detriment to the zone plan and zoning ordinance.”*

#### **D. Design Waivers**

1. The following design waivers are required:
  - a. Section 22-8.5.a.1 of the Ordinance states that landscaping shall be provided as part of a site plan and subdivision, whereas no landscaping has been provided. The applicant shall indicate whether this requirement will be met or a design waiver required.
  - b. Section 22-8.5.b of the Ordinance requires a landscape plan be prepared by a certified landscape architect and submitted with each subdivision or site plan application, whereas no landscaping has been provided. The applicant shall indicate whether this requirement will be met or a design waiver required.
  - c. Section 22-8.5.d.1 of the Ordinance requires street trees to be planted along all roadway frontages at intervals determined by the type of tree to be planted, whereas no landscaping has been provided. Street tree selection shall be made from the tree list contained in Ordinance Section 19-3. The applicant shall indicate whether this requirement will be met or a design waiver required.

#### **E. Technical Engineering Review**

1. The applicant has not provided a zoning table for review of the Bulk Zoning requirements in the R-5 Zone. In addition, the applicant has provided a survey with little proposed improvements shown on Block 112, Lot 1. The applicant shall revise the plan to show the zoning table, grading, drainage, and utility information. This information is necessary for the board and professionals to review the application and make an informed decision.
2. The applicant shall provide testimony regarding the location of the associated AC unit for the proposed dwelling. It appears that the AC unit is placed at the right side, rear corner of the building on a platform which is attached to the first floor. In accordance with Section 22-8.4.a.6, electrical and mechanical equipment shall be screened from the public view, within





- and from the outside of the development, by a fence, wall or mature landscape materials, compatible with the exterior design of building within the development.
3. The proposed development will not disturb an area exceeding 1 acre, nor will it create more than a quarter acre of new impervious surfaces. Therefore, the project is not considered a “major development” as defined by NJAC. 7:8 and is not subject to the NJDEP stormwater quantity, quality and recharge requirements of a major development.
  4. A utility plan has not been provided for the proposed dwelling. The applicant shall provide testimony regarding the utility connections or improvements necessitated by the subject application. All proposed utility improvements shall be shown on the plans including proper trench restoration.
  5. The proposed spot elevation at the southwesterly building corner is approximately one (1) foot lower than the elevations of the other building corners and will result in water ponding. The plan shall be revised to direct surface runoff along the side yards towards the right-of-way of Berry Street.
  6. It should be noted that this property is located within the "AE" flood zone with a Base Flood Elevation (BFE) of 11 feet. The first floor is proposed at elevation 16 feet which is above the Base Flood Elevation (BFE). We defer further review to the Flood Plain Administrator and Construction Official for any applicable building requirements accordingly.
  7. The project site is located in the Coastal Area Facilities Review Act (CAFRA) Zone. The applicant shall comply with any applicable NJDEP requirements. We defer further review to NJDEP.
  8. We defer to the Building Department for review of the architectural plans for ADA compliance.
  9. The applicant shall confirm that there will be any adverse drainage impacts to the adjacent properties as a result of the proposed development.
  10. The applicant shall provide testimony regarding the location of the electric meter. JCPL requires the meter to be located at or above the BFE 11'. A JCPL access point is displayed on the Architectural Plans on the First Floor Plan, which is shown to have an elevation above the BFE 11' and as such complies at this time.
  11. The applicant should be aware that construction of habitable space below the base flood elevation could subject this space to inundation by floodwaters. This construction could also have an impact on the applicant's future flood insurance premiums. The applicant should clarify any/all uses of ground floor area.
  12. The following construction details shall be provided and comply with the standards of the Borough Ordinance:
    - a. Driveway pavement
    - b. Utility connections
    - c. Utility trench repair
    - d. Proposed drainage structures



14. We note that this project has previously received a letter of exemption from the Freehold Soil Conservation District on September 7, 2022, and does not require certification of a Soil Erosion and Sediment Control plan as less than 5,000 square feet of disturbance is proposed.
15. If approved the applicant will be required to post all performance guarantees and inspection escrow as stipulated in the Development Regulations.

We reserve the opportunity to further review and comment on this application and all pertinent documentation, pursuant to testimony presented at the public hearing. If you have any questions or require additional information, please call.

Very truly yours,

T & M ASSOCIATES

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ROBERT F. YURO, P.E., C.M.E.  
BOROUGH OF KEANSBURG  
PLANNING BOARD OF ADJUSTMENT ENGINEER

RFY:LZ:STF

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