



YOUR GOALS. OUR MISSION.

KNPB-R1980

June 5, 2024
Via Email

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

**Re: Existing Mixed-Use Building Interior Alteration & Variance
282 Carr Avenue
Block 92, Lot 14
Single Family Residential (R-7) Zone
Second Engineering Review**

Dear Board Members:

As requested, our office has reviewed the above referenced application for preliminary and final major site plan, minor subdivision, and amended preliminary and final major site plan approval. The applicant submitted the following documents in support of this application:

1. **Schematic Floor Plans prepared by T. New, A.I.A., of Eclipse Group, LLC, dated April 3, 2024, consisting of one (1) sheet.**
2. First Floor As-Built Plan for 282 Carr Avenue prepared by T. New, A.I.A., of Eclipse Group, LLC, dated March 9, 2023, consisting of one (1) sheet.
3. Survey of Property prepared by David J. Von Steenburg, P.L.S., of Morgan Engineering & Surveying, LLC, dated March 7, 2023.
4. Construction Office Letter of Denial, prepared by Kathy Burgess, Assistant Zoning Officer, of the Borough of Keansburg, dated March 30, 2023.
5. Planning Board of Adjustment Site Plan Application, undated.
6. Certification of Taxes, prepared by Thomas P. Cusick, C.T.C., of the Borough of Keansburg, dated October 12, 2023.
7. Owner's Affidavit of Authorization and Consent, prepared by Kimberly Newsome, Applicant, dated July 13, 2023.
8. Ownership Disclosure Statement, undated.
9. Property Owner List, prepared by Gerald Briscione, C.T.A., dated September 14, 2023.
10. **Site Plan Application prepared by Catherine Kim, Esq.,**

A. Project Description

The subject property, also known as 282 Carr Avenue, is a 5000 SF (0.115 acre) interior lot located within the R-7 (Single Family Residential) District with frontage along Carr Avenue. The existing property is currently developed with a mixed-use two-story building with a commercial retail space and a residential apartment on the first (1st) floor and an apparent residential apartment on the second (2nd) floor.



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With this application, the applicant is seeking a ‘Use Variance’ for changing the commercial use from a deli to an art/professional office as well as increasing the size of the existing first (1st) floor residential use.

The applicant has resubmitted the application to eliminate the previous request for changing the commercial use from a deli to an art/professional office space to propose conversion of the mixed-use building into two (2) residential units, the first floor being one-bedroom and the second floor being four-bedroom. A ‘Use Variance’ is required as the proposed change in use is not permitted in the R-7 Zone.

B. Bulk Requirements

1. In accordance with Section 22-5.4 of the Ordinance, existing/proposed bulk deficiencies are noted as follows:

	DESCRIPTION	REQUIRED	EXISTING
1	Minimum Lot Area	7,500 SF	5,000 SF ^[E]
2	Minimum Lot Frontage	75'	50' ^[E]
3	Minimum Front Yard Setback	25'	30' ^[E]
4	Minimum Side Yard Setback	10'	2.1 overhang into neighbor's property ^[E]
5	Minimum Side Yard Setback - <i>Total</i>	15'	Not provided
6	Minimum Rear Yard Setback	10'	Not provided
7	Minimum Lot Circle	25'	Not provided
8	Minimum Gross Residential Ground Floor Area	600 SF	Not provided
9	Maximum Lot Coverage – <i>Principal Building</i>	25%	Not provided
10	Maximum Lot Coverage - <i>All</i>	50%	Not provided
11	Maximum Building Height	2.5 Stories	2 stories
12	Minimum Improved Off-Street Parking	5*	2 ^(v)

*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.”



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The applicant is not proposing any site improvements and therefore has not provided any site plans as part of the application. Should any site improvements be found to be necessary, then a site plan shall be submitted for review. As a result of the revised proposal to change the first-floor use from the existing deli to an additional one-bedroom dwelling, the parking requirements have been adjusted to account for the increase in housing units. We note that it appears there is adequate space for inclusion of a new driveway on the south side of the building which can accommodate up to 4 parking spaces, as such a waiver will be required for the remaining space.

C. Variances Required

In order to approve this application, the Board would have to grant variances for the Use and bulk conditions 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 22-7.3e** – *“Restoration of a Nonconforming Building or Structure. If any nonconforming structure shall be more than partially destroyed, then the structure may not be rebuilt, restored, or repaired, except in conformity with the current zoning requirements.”* The applicant proposes to remove a portion of the rear area of the nonconforming first floor commercial use to expand the existing residential unit. Additionally, the existing building does not conform with R-7 Zone bulk regulations as shown in the table above.
2. **Section 22-5.2c** – *“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 on an existing building which does not conform with R-7 Zone district regulations.
3. **Section 22-7.3c** – *“No nonconforming use may be expanded.”* The applicant proposes expansion of a multi-unit residential dwelling on the first floor of the existing building, which is a nonconforming use in the R-7 Zone.
4. **Section 22-5.4e** – *“Standards and regulations shall be in accordance with the schedule referred to in Section 22-5, subsection 22-5.1a and a part of this Chapter.”* A use variance is required as a result of the existing lot size nonconformities shown in the Bulk Requirements table above.

In order for the Board to approve any "d" variances, the applicant must satisfy the following:

Positive Criteria

There are two prongs to the positive criteria that the applicant must satisfy, as follows:



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That the site is particularly suited to the use. The applicant must prove that the site is particularly suited to the use.

There are special reasons that allow a departure from the zoning regulations in this particular case. The applicant must prove that special reasons support the grant of the variance. The only acceptable special reasons for the grant of a "d" variance would be proof that the variance promotes the purpose of zoning, or proof of undue hardship. The purposes of zoning are established by the Municipal Land Use Law (N.J.S.A. 40:SSD-2) and the applicant must demonstrate that the variance promotes one or more of those purposes to establish special reasons. Alternatively, the applicant may offer as a special reason proof that that refusal to grant the variance would result in undue hardship. Proof of undue hardship for a "d" variance requires that the applicant prove that the property cannot be reasonably adapted to conform to the zone requirements.

Negative Criteria

There are two (2) prongs to the negative criteria that the applicant must satisfy, as follows:

That the variance can be granted without substantial detriment to the public good. This prong requires an evaluation of the impact of the variance on surrounding properties and a determination as to whether or not it causes such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.

That the variance will not substantially impair the intent and purpose of the zoning plan and ordinance. The Board of Adjustment is precluded by the negative criteria from granting any "d" variance relief unless an applicant demonstrates that the variance will not substantially impair the intent and purpose of the zone plan. The process for zoning decisions is through the recommendations of the municipal master plan as implemented through zoning ordinances adopted by the governing body. This establishes the zones, standards, and requirements for the development of the municipality. The Board of Adjustment is precluded by the negative criteria from granting any "d" variance relief unless an applicant demonstrates that the variance will not substantially impair the intent and purpose of the zone plan. If the grant of a variance substantially alters the municipality's zone plan, the action is impermissible because it usurps the zoning power of the governing body and undermines the municipal planning process.

D. General Comments

1. The applicant is not proposing any site improvements and therefore has not provided any site plans as part of the application. Should any site improvements be found to be necessary, then a site plan shall be submitted for review. **Continuing comment. The applicant shall provide testimony on proposed parking improvements necessitated by the change in use of the interior.**
2. It appears that there is an existing use on the second (2nd) floor of the existing building. The applicant should provide testimony regarding the existing use as well as the impacts to the property



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and the adjoining properties. **Addressed. The second floor currently serves as a three-bedroom residential unit and is proposed to gain an additional bedroom along with a new hallway leading from the first floor.**

3. The applicant should provide testimony regarding the number of required and proposed parking spaces for the proposed uses on site as this may result in the need for additional variances or waivers. **Continuing comment.**
4. The applicant shall provide testimony regarding the location of any proposed on-site parking as a site plan has not been submitted for the application. **Continuing comment. The change in proposal to include a second residential unit has resulted in an increased parking requirement for the site. The applicant shall provide testimony on any proposed on-site parking improvements due to the change in use.**
5. The 'interior alteration' plan shall be revised to properly show the changes to the first floor occupancy spaces as it is unclear on the current plan. **Addressed. The plans have been revised to indicate new and existing features involved in the interior alteration.**
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 applicant shall revise the plans to indicate the proposed finished floor elevation of the first residential floor. Additionally, it is recommended that the applicant obtain a new Elevation Certificate for the subject property. **Not addressed.**

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. **Continuing comment.**
8. The applicant shall provide testimony regarding the suitability of existing utility connections and/or additional utility connections or improvements necessitated by the subject application. All proposed utility improvements shall be shown on the plans. **Continuing comment.**
9. The applicant shall provide testimony on any proposed AC or generator units and their location. **Continuing comment.**
10. ~~Testimony shall be provided regarding the proposed commercial uses. The applicant shall be prepared to discuss the following:~~ **The proposed commercial use has been eliminated from the property, and as such testimony is no longer required.**
 - a. ~~Security and access~~
 - b. ~~Hours of operation~~



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- e. ~~Number of employees (total and maximum per shift)~~
- d. ~~Type of goods to be sold~~

11. The applicant should be aware that construction of usable 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. **Informational.**
12. If approved the applicant will be required to post all performance guarantees and inspection escrow as stipulated in the Development Regulations. **Continuing comment.**
13. This application may be subject, but not limited, to the following outside agency approvals or letters of no jurisdiction:
 - a. Bayshore Regional Sewerage Authority
 - b. Borough Fire Official
 - c. Borough Water and Sewer Department
 - d. Freehold Soil Conservation District
 - e. Monmouth County Planning Board
 - f. New Jersey Department of Environmental Protection

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 regarding this matter, please do not hesitate to contact our office.

Very truly yours,

T & M ASSOCIATES

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

RFY:STF:na

cc: Kevin Kennedy, Esq., Board Attorney (kennedylaw@verizon.net)
Ed Striedl, Zoning Officer (ed.striedl@keansburg-nj.us)
Kathy Burgess, Assistant Zoning Officer (kathy.burgess@keansburg-nj.us)