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KNPB-R2090

June 27, 2024
Via Email and Regular Mail

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

**Re: Proposed Detached Garage & Driveway
Kristopher Kain
5 Lincoln Court
Block 93, Lot 46
Single Family Residential (R-7) Zone
First Engineering Review**

Dear Ms. Bittle:

As requested, we have reviewed the above referenced application to construct a new detached garage and a paved driveway. The applicant has submitted the following documents in support of this application:

1. Location Land Survey with Sketch of Proposed Garage and Driveway, prepared by Thomas Graig Finnegan, P.L.S., of Thomas Graig Finnegan Land Surveying, LLC, dated September 20, 2023, last revised April 16, 2024.
2. Location Land Survey prepared by Thomas Graig Finnegan, P.L.S., of Thomas Graig Finnegan Land Surveying, LLC, dated September 20, 2023.
3. Site Plan Application Packet dated February 17, 2024.
4. Certification of Taxes dated February 15, 2024.
5. Borough of Keansburg Zoning Officer Denial Letter dated February 1, 2023.

A. Project Description

The subject property is an interior through lot located within the Single Family Residential (R-7) Zoning District with road frontages along Lincoln Court to the east AND Wilson Avenue to the west. Currently, the property contains a 1.5-story frame residential dwelling with associated wooden deck, concrete patio and walks. A detached framed garage occupies the apparent rear of the property and is accessed via a stone driveway extending from Wilson Avenue. The property is located in the "AE" Flood Zone, with a flood elevation of 11 feet.

The applicant is seeking approval to remove the existing garage and stone driveway to construct a new 30' x 30' detached garage, almost 4.5 times bigger than the old one and an 18-foot-wide by 35-foot-long driveway. The proposed detached garage is a permitted accessory building subject to the bulk requirements of the Single Family Residential (R-7) Zoning District.



B. Bulk Variance Required

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

	DESCRIPTION	REQUIRED	EXISTING	PROPOSED
1	Minimum Lot Area	7,500 SF	7,197.60 SF ^(E)	7,197.60 SF ^(V)
2	Minimum Lot Frontage	75'	60' ^(E)	60' ^(V)
3	Minimum Front Yard Setback (Lincoln Court) (Wilson Avenue) - <i>Principal Bldg.</i> (Wilson Avenue) - <i>Garage</i>	25'	14.9' ^(E)	14.9' ^(V)
		25'	46.2' ^(E)	66.5'
		25'	1.9' ^(E)	5' ^(V)
4	Minimum Side Yard Setback	10'	3' ^(E)	3' ^(V)
5	Minimum Side Yard Setback - <i>Total</i>	20'	37.5'	37.5'
6	Minimum Side Yard Setback - <i>Accessory Bldg.</i>	5'	5.2'	5'
7	Minimum Rear Yard Setback	25'	N/A	N/A
8	Min. Gross Residential Ground Floor Area	600 SF	N/A	N/A
9	Maximum Lot Coverage - <i>Principal Bldg.</i>	25%	15.01%	24.44%
10	Maximum Lot Coverage - <i>All</i>	50%	40.6%	44.08%
11	Maximum Building Height - <i>Principal Bldg.</i>	2 ½ Stories	N/A	1 ½ Stories
	Maximum Building Height - <i>Accessory Bldg.</i>	12'	?	17.75' ^(V)
12	Minimum Improved Off-Street Parking*	3	N/A	3

(E) – Existing Nonconformity

(C) – Calculated

(W) – Waiver

(V) – Variance

NA – Not Applicable

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

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 listed above, as well as variances per the below Sections of the Ordinance regarding construction of non-compliant structures, as listed below:

- a. 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 detached garage which does not meet the bulk regulations of the R-7 Zoning District.**
- b. 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. **The property is an undersized lot in the R-7 Single Family Zone.**



- c. Section 22-7.3.c of the Ordinance states that no nonconforming use may be expanded. **The proposed new garage is an expansion of a nonconforming use on the property.**

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. Technical Engineering Review

1. The applicant intends to construct a new 30' x 30' detached garage, almost 4.5 times larger than the existing garage with a height greater than the 12 feet permitted in the zone for an accessory building. The applicant shall provide testimony regarding the proposed structure and discuss the reason for the excessive height.



2. The plan shall be revised to include spot elevations at all corners of the detached garage, as well as the proposed driveway to demonstrate drainage patterns on the property and no runoff impacts to adjoining properties.
3. The applicant shall revise the plan to show the following:
 - a. All proposed doors for the detached garage.
 - b. The limit of the walkway to be removed.
 - c. The surface treatment of the driveway.
4. The applicant shall provide a detail for the proposed driveway. Same shall conform to Section 15-2.4.c.
5. Provide a concrete apron and depressed curb for the proposed driveway in accordance with Section 15-2.4.c.
6. All areas within Wilson Avenue right-of-way where existing improvements are proposed to be removed shall be re-established with grass cover.
7. 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.
8. 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.
9. 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

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

RFY:LZ

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

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