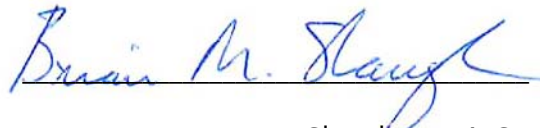


Review 1

Salvatore Moscato
Minor Site Plan
Application P-24-028
R-3 Medium Density Residential District

299 Avenue C
Block 266, Lot 26

Prepared for the City of Bayonne by:



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February 8, 2025



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Introduction

1. PROJECT SUMMARY AND SITE DESCRIPTION

1.1. Proposal. The site is known as Block 266, Lot 26 and has a street address of 299 Avenue C. The application is for conversion of an existing ground floor commercial space to a residential use in an existing mixed-use building. No site improvements or alterations are proposed. With the conversion, the building would be entirely residential since there are two existing apartments on the second floor. This application is for minor site plan approval and bulk variances. The site is located in the R-3 Zoning District. The additional dwelling unit on the ground floor would consist of two bedrooms, two baths and a home office in approximately 1,200 sf.. The site is 2,792.9 sf., or 0.06 acres, based on the survey. Total building area is approximately 2,400 sf., for a floor area ratio of 0.86. No off-street parking exists or is proposed. The building encroaches 1.48 feet into the right-of-way of Avenue C.



Fig. 1. Photo of Existing Building (Center) Front Façade

1.2. Existing Conditions. The site is located on the north side of Avenue C, near the intersection with W. 12th Street. The property is a narrow rectangular lot with 25.39 feet of frontage on Avenue C that is 110 feet deep. that is elevated in the rear compared to its neighbor to the east. There is a retaining wall along the property's easterly property line which holds the rear yard of the subject property above the adjoining property by approximately three feet. The property is developed with a two-story building that occupies approximately 60% of the lot, set at the street line and extending to either side lot line. There is a deck on the second floor of the building with a stair that provides access to the rear yard area, which is maintained as lawn. An existing chain link fence with slats is located along the easterly side lot line. The building adjoins 301 Avenue C but is separated from 297 Avenue A on the ground floor but cojoined on the second floor about halfway back along the subject property.

- 1.3. **Neighborhood Context.** In the immediate neighborhood on the north side of Avenue C exhibits a common Bayonne pattern of one to three-story, one and two-family dwellings.



Fig. 2. Neighborhood Context of the Proposed Development.

2. ZONING – R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT (R-3)

Use Standards

- 2.1. **Permitted Uses.** The R-3 District permits a limited range of residential uses. Under the definitions in Chapter 33, the use would be considered a multiple family building, three-to six-family dwellings. **The use complies.**
- 2.2. **Required Accessory Uses.** Per §35-5.4.b.1, off-street parking is a required accessory use in the R-3 District and should comply with §35-17. The nature of the previous commercial use of the ground floor space is not known. The existing apartments, a one-bedroom and a two-bedroom require 2.25 spaces. Off-street parking for the new two-bedroom apartment is 1.25 spaces. 3.5 spaces are required. No parking spaces are proposed. **A variance is required.**

2. DEVELOPMENT STANDARDS

- 2.1. **Permitted Principal Uses.** Per §5.4.a, multiple family dwellings including three-to six-family dwellings and low rise apartment buildings are permitted as principal uses in the redevelopment area. The proposal in this application consists of three dwellings on two floors with no parking. Since the building occupies the lot from side to side and constructed to the front property line, there is no means to provide off-street parking.
- 2.2. **Permitted Accessory Uses.** Per §5.4.c, a number of accessory uses are permitted, including private sheds and other structures customarily associated with a residential use, garages, swimming pools and other recreation facilities for multi-family developments. There are no accessory uses proposed. The plan complies.

3. BULK REQUIREMENTS IN THE R-3 DISTRICT

- 3.1. **Bulk Requirements.** Compliance with the standards of the R-3 Medium Density Multi-family District is indicated in Table 1 below.

Standard	Required/Permitted	Existing	Proposed	Complies
Minimum Lot Area – Low Rise Apartments ⁽¹⁾	1,000 sf/unit or 3,000 sf. total	2,750 sf	2,750 sf.	No⁽²⁾
Minimum Lot Frontage	75 ft.	25 ft.	25 ft.	No⁽²⁾
Minimum Front Setback	None	0 ft.	0 ft.	Yes
Minimum Rear Yard	20 ft.	38 ft.	38 ft.	Yes
Minimum Side Yard	None	0 ft.	0 ft.	Yes
Maximum Building Height	40 feet, NTE 3½ stories	22.9 ft. / 2 stories	22.9 ft. / 2 stories	Yes
Maximum Lot Coverage	70%	59±%	59±%	Yes
Floor Area Ratio (FAR)	1.5	0.86	0.86	Yes

⁽¹⁾ - §5.5.4 has only one category under multiple dwellings, which is the low rise apartment category.
⁽²⁾ - Existing condition, variance required by City policy.

4. VARIANCE COMMENTS

- 4.1. **Minimum Lot Area Variance.** The existing lot contains 2,750 sf, which is a pre-existing condition. The existing lot area is less than the minimum permitted in the district for all uses except single and double townhouse uses. All adjoining lots are also undersized for lot area and are currently developed. No opportunity exists to acquire additional land to create a conforming lot.
- 4.2. **Minimum Lot Frontage Variance.** The existing lot is 25 feet wide. This is a pre-existing condition. Although the existing lot frontage is less than the minimum permitted in the

district for all uses except double townhouse uses, all adjoining lots are also undersized for lot frontage and are currently developed. No opportunity exists to acquire vacant, developable land to meet the lot frontage requirement.

- 4.3. **Minimum Parking Variance.** The property currently does not have off-street parking spaces. The existing residential use of the property requires 2.25 parking spaces. The addition of a new two-bedroom apartment requires an additional 1.25 parking spaces for a total parking requirement of 3.5 spaces. No parking is proposed. While the rear yard abuts a parking lot for 301 Avenue C, that parking lot functions as pull off spaces from W. 12th Street. Should the applicant seek and be able to acquire an access driveway across the parking lot, it would merely add the two spaces lost at 301 at Avenue C for the driveway to 299 Avenue C with an increase in impervious cover and likely variance, not to mention a high cost. There would be no net gain of parking spaces.

5. SITE PLAN

- 5.1. **Retaining Wall.** The existing retaining wall along the easterly property line is approximately 32 inches in height. Given the children's play toys noted in the photograph by this office, we recommend a fence or railing be added along the top of the wall for safety purposes.



Fig. 3 View of Retaining Wall and Rear Yard of Subject Property

- 5.2. **Street Tree.** A street tree is proposed along the property's street frontage. §33.10.11.C requires all street trees to be not less than 3½ inch in caliper at the time of planting. The landscape schedule should be updated to indicate a minimum caliper of 3 ½". Additionally, for this size and type of tree, a minimum height of 14 feet should be specified as well as a minimum branching height of seven feet. We further recommend that the planting hole

be at least four feet by six feet, oriented parallel to the curblin and a planting detail be added to the plans.

- 5.3. **Lighting.** No exterior lighting is proposed at the new unit entrance. Examining the photograph of the front of the building, one can note that there is no front entrance lighting for either door. We recommend that lighting be provided individually for each front door.

6. CONSIDERATION OF THE “C” VARIANCES

- 6.1. **Overall Comment.** The following sections summarize the “c” variance criteria for the purposes of establishing a framework for review. The applicant bears the burden of proof, which is divided into two parts, in the justification of the “c” variances. The applicant must justify the “c” variances separately and each variance must satisfy both parts. We defer to the Board Attorney for any additional comment on the “c” variance criteria.

- 6.2. **Consideration of the Positive Criteria.** To satisfy the positive criteria for a “c” variance, the applicant has two choices. First, known as “c(1)” variance relief, the applicant may demonstrate that strict application of the regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship due to one of the following:

- By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
- By reason of exceptional topographic conditions or physical features uniquely affecting the specific piece of property; or
- By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

Alternatively, and known as “c(2)” variance relief, the applicant may demonstrate the following positive criteria in support of the request for relief:

- Where in an application or appeal relating to a specific piece of property to purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

- 6.3. **Consideration of the Negative Criteria.** Should the applicant satisfy the positive criteria, it must also be demonstrated that that the granting of the variance can be accomplished without resulting in substantial detriment to the public good and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan.

- Impact to the public health, safety and welfare. Impact to the public, typically relates to any substantial detriment to the adjoining neighbors or within the surrounding neighborhood. Substantial detriments are usually nuisance related such as noise, dust, trash, parking, traffic, visual distraction, light, runoff, vegetation removal and aesthetics that cannot be adequately mitigated.



- Impact to the zone plan. The applicant must show that the relief can be granted without substantially impairing the zone plan and zoning ordinance. In evaluating the negative criteria as it relates to the zoning ordinance and zone plan, the Board should consider the manner in which this application could impact the overall fulfillment of the R-3 District.

The applicant should provide testimony in support of the variances, and be prepared to discuss any potential negative impacts on neighboring properties and the zone plan.

7. APPLICANT / OWNER / CONSULTANTS

- 7.1. **Applicant/Owner.** Salvatore Moscato, 301 Avenue C, Bayonne, NJ 07002. Tel: (201) 240-1536. Email: salmoscato2010@gmail.com
- 7.2. **Attorney.** Joseph Nitti, Esq., Nitti and Nitti, 145 Eagle Rock Avenue, Roseland, NJ 07068. Tel: (973) 226-4141 x.1. Email: jnitti@nittilaw.com
- 7.3. **Architect/Planner/Engineer** Avelino Sambade, RA, AIA, PP, PE; 11 W. 8th St., Bayonne, NJ 07002. Tel: (201) 823-0899. Email: daldesgrp@aol.com

8. MATERIALS REVIEWED

- 8.1. *City of Bayonne Application for Development Form (P-24-028)*, with attachments, dated April 10, 2024.
- 8.2. *Statement of the Applicant*, undated.
- 8.3. *Zoning Officer Determination of Board Action*, dated May 21, 2024.
- 8.4. *Ownership Disclosure Statement*, undated.
- 8.5. *Boundary and Topographic Survey*, prepared by Herbert G. McDonald, PLS, of Herbert G. McDonald Assoc., Inc., November 7, 2022, consisting of one sheet.
- 8.6. *Change of Use (Plan Set)*, prepared by Avelino Sambade, RA, of DAL Design Group, dated October 10, 2024, consisting of 2 sheets.

9. RELIEF REQUIRED SUMMARY

- 9.1. **Variances:**
 - Minimum Lot Area
 - Minimum Lot Frontage
 - Minimum Required Parking Spaces

Note that additional variances and exceptions may be identified by the Board or the other professionals employed by the Board. The same applies to the conditions of approval.

10. CONDITIONS OF APPROVAL

- 10.1. Affordable Housing Fees for Residential Development.** As a condition of approval, any required residential affordable housing fees required by the City ordinance should be paid.
- 10.2. Compliance with the Review Comments in this Report.** As a condition of approval, the applicant shall comply with the comments in this report.

We would be pleased to answer any questions regarding this review.

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