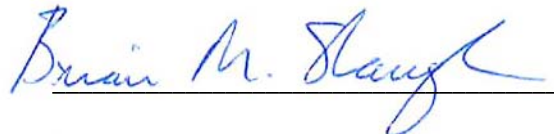


Review 1
Preliminary and Final Major Site Plan
w/Variances
Remo Ferro

Block 72, Lot 8
755 Avenue E
Transit Development District (TDD)

Prepared for the City of Bayonne by:



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Project Summary and Site Description

- I.1. **Proposal.** The Applicant is seeking preliminary and final major site plan approval and bulk variance relief to develop a three-story, multi-family dwelling, or “apartment house” with a balcony on the corner of 755 East Avenue E and East Grand Street. The building will consist of a one-bedroom apartment on the ground floor (455 sf.), and two (2) three-bedroom apartments, one on the second floor (1,251 sf.) and the other on the third floor (1,251 sf.). Two attached garages are proposed, one containing space for a single vehicle and the other containing space for two vehicles. Additional improvements include two concrete driveways with corresponding curb cuts, concrete walkways in the front and rear of the building, front steps along Avenue E, lighting, landscaping and a wooden fence. A new sidewalk is proposed along East Grand Street and the existing sidewalk on Avenue E is to remain. Portions of an existing stone wall are proposed to be removed, as is a tree.



Recent Google Aerial Image of the Site (Property Outlined in Red)

- I.2. **Rental or Condominium Units.** The applicant should indicate whether the units are proposed to be for rent or for sale condominium units.
- I.3. **Existing Site Conditions.** The site is located at the corner of Avenue E and East Grand Street and is a corner lot. The site is vacant and, according to historic aerials, has been vacant since at least 1985. The lot is irregularly shaped and contains an area of 2,144.30 sf. An ashlar stone wall and chain link fence with a gate encircles the existing lot, which is the only development present on the site. The lot is slightly elevated above the sidewalk on

either side. Trees are located in the northern corner of the site. There is space available for parking along East Grand Street and Avenue E along both sides of the property frontage.



View of Site from Avenue E

- 1.4. **Corner Lot.** Per §33-2.2, corner lots, the front property line is the one with the shorter lot frontage. Rear lot lines are defined as being the opposite and most distant from the front lot line. The side lot lines are any property line other than the front and rear lot lines. Consequently, the lot line along Avenue E is the front lot line. The diagonal lot line along East Grand Street is a side lot line, the lot line abutting the neighboring rear yard to the west is the rear lot line and the lot line abutting the duplex to the north is the other side lot line. The property lines determine what yard areas apply and it confirms that the proposed garage is conforming.
- 1.5. **Neighborhood Context.** The site is the southern most portion of a triangular shaped block located between East Grand Street, East 48th Street and Avenue E. If developed, the dwelling would be the only one to front on Avenue E in this block. Dwellings face Avenue E on the other side of the street. Of the existing six buildings in the block, all of them front on East 48th Street with the rear of each building facing East Grand Street, which, notwithstanding its name, functions more like an alley for the E. 48th St. houses. The dwellings around the site are all residential and consist of a mixture of single-family, two-family and multifamily dwellings. The site is located two blocks away from the 45th Street Light Rail Station and has nearby access to the entrances to the Holland Tunnel spur of the NJ Turnpike and NJ Rt. 440.
- 1.6. **Environmental Factors.** The property is located about a block away from a contaminated site¹ at the intersection of Avenue E and East 48th Street. The site is not located within a flood zone. No wetlands are found on or around the property.

1. <https://gisdata-njdep.opendata.arcgis.com/datasets/njdep::known-contaminated-site-list-for-new-jersey> accessed April 6, 2023.

1.7. **Relief Required.** A list of required variances and exceptions can be found in Section 9 of this report.

2. Zoning

2.1. **Permitted Principal Use.** Per §35-5.13.a.4, multifamily² dwellings, or apartment houses, are permitted at a density not exceeding 150 DU/acre. The plan complies.

2.2. **Required Accessory Uses.** Per §35-5.13.b, three accessory uses are required for uses in the TDD zone.

2.2.1. **Parking Spaces.** Four parking spaces are required. The one-bedroom unit requires one space, and the three-bedroom apartments require 1.5 spaces each, totaling four required spaces. Three are proposed. **A variance is required.**

2.2.2. **Loading Spaces.** This is not applicable as loading spaces are not required for residential uses.

2.2.3. **Buffers and Screening.** More information is required. It is indicated on the plans that a fence is proposed. Fences are required to conform to §35-4.14.A, however, the fence details are not sufficient. The plan should be updated to indicate the fence height (existing or proposed) and to indicate where the proposed wooden board on board fence it to be located.

2.3. **Proposed Garage.** Per §35-5.13.c.2, private garage space is permitted for the limited storage of motor vehicles, provided that, garages accessory to any use other than detached single and double family dwellings shall be arranged to open to the side or rear of the lot. As indicated in 1.4 of this report, the proposed garage is arranged to open to East Grand Street, which is the side lot line. The plan complies.

2.4. **Principal Building Bulk Standards.** The plan is subject to the bulk regulations found in §35-5.14.e.1-7 of the Bayonne Zoning Ordinance that are specific to “Apartment Houses”. Variance are required for the minimum lot area, minimum lot frontage, minimum front and rear yard setbacks, and minimum gross habitable floor space on the ground floor.

Table 1: §35-5.14.e.1-7– TDD Bulk Regulations for Apartment Houses				
	Standard	Existing	Proposed	Complies?
Minimum lot area (sf.)	30,000	2,144	No change	No ⁽¹⁾
Min. lot frontage (ft.)	150	±111'	No change	No ⁽¹⁾
Min. front yard setback (ft.)	30	NA	1	No

2. While the State defines multifamily dwellings as consisting of four or more units, §33-2.2 of the Planning & Development Regulations of the City of Bayonne defines multifamily as three units or more.

Table 1: §35-5.14.e.1-7– TDD Bulk Regulations for Apartment Houses				
	Standard	Existing	Proposed	Complies?
Min. rear yard setback (ft)	20	NA	4	No
Max. building height (ft. and stories)	55 / 5	NA	33 / 3	Yes
Min. gross habitable space – ground floor (sf)	600	NA	455	No
Min. gross habitable space – first floor (sf)	1,000	NA	1,246	Yes
Min. gross habitable space – second floor (sf)	1,000	NA	1,246	Yes
Max. lot coverage	75%	NA	68%	Yes
Min. unoccupied open space	15%	NA	16.7% ⁽³⁾	Yes
Max. floor area ratio (FAR)	NA ⁽²⁾	NA	NA	NA
<p>(1) This is a preexisting nonconformity. (2) No FAR for residential uses per §35-5.14.e.7. (3) This calculation was prepared by this office. The plan should be updated to indicate unoccupied open space as being the mulch and planted areas and should not include the concrete driveway or concrete walkway.</p>				

- 2.5. **Minimum Lot Area.** Per §35-5.14.e.1(e), the minimum required lot area of “apartment houses” is 30,000 sf. The lot contains 2,144 sf. This is a preexisting condition. **A variance is required.**
- 2.6. **Minimum Lot Frontage.** Per §35-5.14.e.2(e), the minimum required lot frontage of “apartment houses” is 150 ft. The lot contains a total frontage of 111± ft. when both frontages are combined. This is a preexisting condition. **A variance is required.**
- 2.7. **Minimum Front Yard Setback.** Per §35-5.14.e.3(e), the minimum required front yard setback is 20 feet. One (1) foot is proposed. **A variance is required.**
- 2.8. **Minimum Rear Yard Setback.** Per §35-5.14.e.4(a), the minimum required rear yard setback is 20 feet. Four (4) feet is proposed. **A variance is required.**
- 2.9. **Minimum Gross Habitable Floor Area on the Ground Floor.** Per §35-5.14.e.4(e), the ground floor of “Apartment Houses” is required to contain a minimum of 600 sf. of habitable area. The ground floor contains 455 sf. of habitable area (with the remainder being for the proposed garages). **A variance is required.**
- 2.10 **Roof Eave and Handrail Encroachments.** While the building wall and foundation have a zero setback from E. Grand Avenue, the roof eave and gutter line encroach into the right-of-way of the street (see Sheet 5 of 6 of the architectural plans). We estimate the encroachment is about 14 inches. Further, the gutter of the Avenue E frontage encroaches into the right-of-way of that street, as well as the handrail for the exterior stairs. Typically,

this instance, especially because the street tree on Avenue E is proposed about 30 feet back from the intersection. **Our suggestion may require a technical variance.** We also suggest that there be a physical separation of the driveway from the front sidewalk. For one, it will aid in keeping pedestrians from cutting across the property and visually would hide the concrete of the long, wide open driveways. Though there are a number of ways to design it, one means would be a low masonry wing wall coming off of the front wall.

- 3.2.3. **Curb Cut Width.** Per §35-17.5, In residential and commercial zones, no driveway curb cut shall exceed 10 feet in width. Both proposed curb cuts exceed 10-feet (12.10 feet and 19.95 feet, per the image above). **A variance is required.**
- 3.2.4. **Number of Curb Cuts.** Per §35-17.5, there shall be no more than one driveway curb cut per lot. Two curb cuts are proposed, as indicated in the preceding image. **A variance is required.**
- 3.3. **Fences.** Per §35-4.14.a.4, fences and walls on corner lots may be a maximum of six feet for 1/2 the lot depth constituting the side property line relating to the principal entrance to the building and further provided that the remainder of fencing along such lot line or front lot line shall not exceed 36 inches in height. Information regarding the height and run of the proposed board on board fence has not been provided. The plans should be updated to include this information. **If the fence does not comply a variance is required.**
 - 3.3.1. **Additional Fence details** Per §33-10.16.a, fences are only permitted in side and rear yards, shall be between four and six feet in height and setback at least three inches from the property line. The plan does not contain enough information to determine if the fence is conforming. As indicated earlier in this report, only a fence detail is provided, while the fence is not indicated on the site plan. **This information should be provided.**
- 3.4. **Lighting.** Seven external lights are proposed: Four wall mounted lights, two side mounted security lights and an additional side light located above the front entrance.
 - 3.4.1. **Minimum Light Level at Driveway Entrances.** Per §33-10.10.a.3, the minimum required average illumination at driveway entrances is three footcandles. The plan does not contain an illumination summary, however, looking at the light levels provided indicates a light level of less than three footcandles. It may be appropriate in this area to have a lighting level of less than three footcandles, given the residential nature of the street. This level of illumination is more suited to a commercial use. **A design exception is required.**
 - 3.4.2. **Maximum Illumination at Property Lines.** Per §33-10.10.b.1, the maximum permitted illumination level at the property line is one footcandle. Most of the site complies, however, the lighting plan indicates levels as high as 1.6 footcandles at the western



property boundary. A different, more focused fixture is warranted in this location to reduce the spillover effect from the lighting. **A design exception is required.**

3.4.3. Light Shielding. Per §33-10.10.b.2, lighting is required to be shielded from adjacent properties. The lighting details do not indicate whether the lights are shielded. The plan should be updated to indicate whether the lights are shielded from neighboring properties. If they are not shielded, replacement lights with shielding should be proposed. **A design exception may be required.**

3.5. Landscaping. Three Green Mountain Silver Linden (*Tilia tomentosa* 'Green Mountain') trees are proposed, two along Avenue E and one along East Grand Street. Per §33-10.11.b-c Such trees are required to be 3½ caliper and 8 feet in height at time of planting. The conforming caliper is provided; however, the planting height is not indicated. The height should be included on the plan and should be at least 8 feet at time of planting. We note that 3½ inch caliper deciduous tree will typically be 14 feet tall at installation.

3.5.1. Alternative Tree Recommendation. While the Green Mountain Silver Linden trees will thrive in an urban environment and are attractive, their eventual height may make them problematic under the utility wires along Avenue E. It is recommended that the plan be updated and a smaller tree be utilized along Avenue E. The proposed tree on West Grand Street does not need to be changed. *Acer buergeranum* (Trident Maple) or *Crataegus phaenopyrum* 'Princeton Sentry' (Princeton Sentry Hawthorn) are potential substitutes. These are rarely available in a caliper greater than 2½ inches so a technical design waiver would be necessary to plant them.

4. Affordable Housing Development Fees

4.1. Affordable Housing Fees for Nonresidential Development. The applicant should, as a condition of approval, be required to pay any residential affordable housing development fees required by the City ordinance.

5. Variance Comments

5.1. 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.

5.2. 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.
- 5.3. **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. These factors are referred to as the negative criteria.

6. Design Exceptions

The proposal includes design exceptions. The Municipal Land Use Law at N.J.S.A. 40:55D-51.b discusses the criteria for the granting of exceptions. While the burden of proof is lower than that of variances, the statute does provide a framework for decisions:

The planning board when acting upon applications for preliminary site plan approval shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions for site plan review and approval of an ordinance adopted pursuant to this article, if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

7. Materials Reviewed

The following materials were reviewed in the preparation of this report:

- Application No. P-22-030, dated October, 2022, with attachments.
- Zoning Officer Referral Letter, dated November 14, 2022.
- Statement of Applicant.
- *Boundary & Topographic Survey of 755 Avenue E*, 1 sheet, Michael Pronesti, PLS, Ponesti Surveying, Inc., dated May 21, 2019, revised to July 30, 2020.
- *755 Avenue E Proposed New Three Family Dwelling Site Plan*, 6 sheets, Daniel A. Roma, R.A., Artek Studio, LLC., dated May 9, 2022, revised to October 14, 2022.



- Site Development Plan (Engineering Drawings) for 755 Avenue E, 4 sheets, Adnan A. Khan, PE, CME, AWZ Engineering, dated August 25, 2021.

8. Applicant and Its Professionals

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- **Engineer:** Adnan A. Khan, PE, CME, AWZ Engineering, 150 River Road, Suite B3, Montville, NJ 07045. Tel: 973.588.7080. Email: info@awzengineering.com.
- **Architect:** Daniel A. Roma, RA, Artek Studio, LLC, 877 Broad Street, Newark, NJ 07102. Tel: 973.824.0022.
- **Planner:** John McDonough, John McDonough Associates, LLC, 101 Gibraltar Drive, Suite 1A, Morris Plains, NJ 07950. Telephone: 973-222-6011. Email: jmcdonoughpp@gmail.com.

9. List of Necessary Relief

Based on our initial review, the following variances and exceptions are required or may be required, depending on the additional information submitted by the applicant. This list is not exhaustive and may be augmented by analysis performed by other Board professionals.

9.1. Variances:

- §35-5.13.b Parking Requirement
- §35-17.5 Number of curb cuts
- §35-17.5 Curb cut width
- *Potentially* §35-4.12 Visibility at Intersection
- *Potentially* §35-4.14.a.4 Fence height

9.2. Design Exceptions:

- §33-10.10.a.3 Minimum light level at driveway entrance.
- §33-10.10.b.1 Maximum illumination at property line.
- §33-10.10.b.2 Light shielding
- §33-10.11.b Deciduous tree height at planting

9.3 Miscellaneous:

- Determine whether the right-of-way encroachments are permissible and what conditions, if any, to attach to them.

10. Potential Conditions of Approval:

- Correcting the “Project Data” box on sheet 1 of the site plan to indicate that 4 parking spaces are required.
- Correcting the lot size on sheet 1 of the site plan to state 2,144 sf.
- The plan should be updated to indicate unoccupied open space as being the mulch and planted areas and should not include the concrete driveway or concrete walkway.



- Utilize a small tree beneath the utility lines on Avenue E.
- Add a physical separation between the street sidewalk on Avenue E and the driveway on E. Grand Avenue.
- Lower the footcandle level on the west side of the building to the ordinance standard.

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

Cc. Alicia Losonczy, Land use Administrator, for distribution
Richard N. Campisano, Esq., Board Attorney
Robert J. Russo, PE, PP, CME, Board Engineer
Suzanne T. Mack, PP, AICP, CTP, FITE, AHP, City Planner
Tracey Tuohy, Zoning Officer

