



MEMORANDUM

Clarke Caton Hintz

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To: Bayonne Zoning Board of Adjustment  
From: Brian Slaugh, PP, AICP  
Isabel Rodriguez, AICP  
Re: **Lou Chiorazzi**  
**ZBA Application Z-24-010**  
Bulk Variances  
Block 449, Lot 12  
129 Avenue F  
Transit Development Overlay (TDO) District  
R-2 Detached/Attached Residential District  
Date: January 22, 2025

1. APPLICATION DESCRIPTION

1.1. **Applicant’s Proposal.** The applicant proposes to “convert” the existing 2-story, one-family detached residential dwelling into a two-family residential dwelling by converting a portion of the ground floor into a studio apartment. One street tree is proposed. While it does not appear that structural changes are proposed, the change of use triggers the need for approval for several pre-existing bulk requirements under City policy.

1.2. **Existing Site Conditions.** The property consists of a detached, two-story dwelling on an interior lot with frontage on Avenue F. The lot is rectangular and consists of 1,875 square feet of land. Existing development on the site consists of a contemporary style residential building that covers the majority of the site. A single car garage also fronts on Avenue F. Other site improvements include concrete walks located on either side of the dwelling, block pavers and a concrete area along the rear, and fencing along the perimeter of the site.



Image of Building Facade from Google Street View.

The architectural plan that accompanies the application indicates that the building has already

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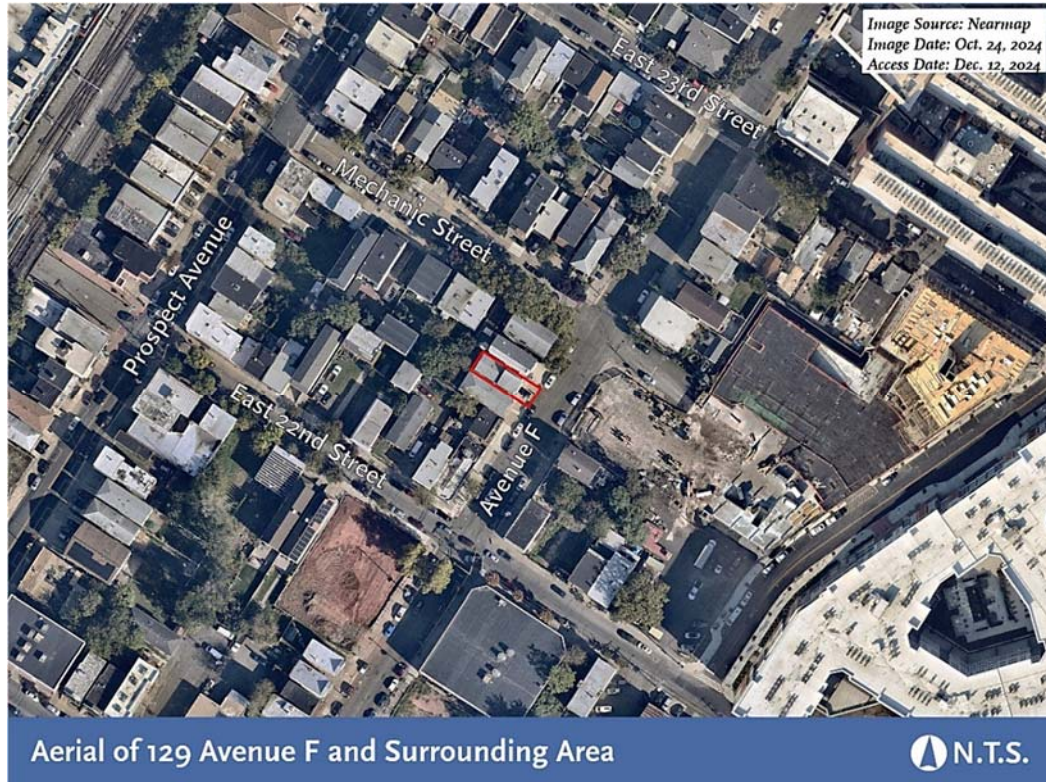


been converted into a two-family dwelling. In addition to the garage on the first floor, the first floor has a studio apartment behind the garage and staircase to the second floor. On the second floor, there is a living room above the garage, kitchen, three bedrooms and two baths. No physical changes appear to be proposed.

- 1.3. **Flood Hazard Area.** The site is located near one known contaminated site (95-99 E. 22<sup>nd</sup> Street) that is approximately 135 feet southeast of the subject property. The Preliminary FEMA Flood Map<sup>1</sup> indicates the property is located within Flood Zone AE, also known as the 100-year floodplain, which is known to affect southern properties on Avenue F. Consequently, this places the lot in a Special Flood Hazard Area with a base flood elevation of 11 feet above sea level. The applicant's survey did not assess topography on the site, though it appears that elevation 10 runs through the middle of the block behind the property. Potentially, floodproofing measures may be needed for the structure. We defer to the City's Floodplain Manager to further advise the Board as to the implications of the flood hazard designation on the property.
- 1.4. **Effects of Other Potential Easements.** Additionally, we note that the survey of the property indicates, "...no record of ingress and egress easement for the benefit of lot 11. Surveyor highly recommends further investigation." The applicant should provide testimony regarding access easements associated with the property.
- 1.5. **Neighborhood Context.** The site is within the Transit Development Overlay (TDO), overlaying the Detached/Attached Residential (R-2) District. The site is well served by public transportation, located along Avenue F between Mechanic Street and East 22<sup>nd</sup> Street, approximately 600 feet from the 22<sup>nd</sup> Street Hudson-Bergen Light Rail Station. The surrounding area is primarily residential with mostly multi-family homes located to the north, west, and south, and a commercial use to the east across Avenue F (Bayonne Lineboat Services). A bagel shop is also located south of the property at the corner of East 22<sup>nd</sup> Street and Avenue F, as well as a church and school (the First Assembly of God and Little Lamb Preschool, respectively) are located across the street on the southeastern corner of the intersection of Avenue F and East 22<sup>nd</sup> Street. See aerial image on the following page.

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<sup>1</sup> - Preliminary Map #34017COIII.E.



## 2.0 ZONING

- 2.1. **Permitted Use.** The application is in compliance. Pursuant to §35-5.3.a.2, the proposed detached two-family dwelling is permitted in the R-2 district.
- 2.2. **Accessory Use.** Pursuant to §35-5.3.b, off-street parking is a required accessory use in the R-2 district. One space is required for the efficiency (studio) apartment, and 1.5 spaces are required for the 3-bedroom unit. A total of three spaces are required, whereas one space is existing and no additional spaces are proposed. **Variance relief is required.**
- 2.3. **Area, Yard and Coverage Standards.** Compliance with the bulk and lot standards of the R-2 is summarized below in Table 1. **Variances are required.**



Table 1: R-2 Area, Yard and Structure Requirements for 2-Family Dwelling~ §35-5.3e				
Standard	Required	Existing	Proposed	Complies?
Minimum lot area	3,000 sf.	1,875 sf.	No change	No <sup>(V)</sup>
Minimum lot frontage	30 ft.	25 ft.	No change	No <sup>(V)</sup>
Minimum front yard	20 ft.	4.66 ft.	No change	No <sup>(V)</sup>
Minimum rear yard	20 ft.	19.5 ft.	No change	No <sup>(V)</sup>
Minimum side yard (east)	3 ft.	1.83 ft.	No change	No <sup>(V)</sup>
Minimum side yard (west)	3 ft.	3.89 ft.	No change	Yes
Minimum side yard (aggregate)	6 ft.	5.72 ft.	No change	No <sup>(V)</sup>
Max. building height (feet)	35	22 ft.	No change	Yes
Max. building height (stories)	2 1/2	2	No change	Yes
Maximum lot coverage	70%	98%	No change	No <sup>(V)</sup>
V = Variance				

**Preexisting Nonconformities.** Per Table 1, the applicant does not meet several bulk requirements. According to tax property records, the building was built in 1989. Given that the dwelling was constructed after the institution of a zoning ordinance, the change of use from a one-family to a two-family dwelling triggers the need for variance relief for several pre-existing bulk requirements. These are outlined below.

- 2.4. **Minimum Lot Area.** Pursuant to §35-5.3.e, the R-2 Zone requires a minimum lot area of 3,000 sf., whereas the existing site is 1,875 sf. **Variance relief is required.**
- 2.5. **Minimum Lot Frontage.** Pursuant to §35-5.3.e, the R-2 Zone requires a minimum lot frontage of 30 feet is required, whereas the existing lot frontage is 25 feet. **Variance relief is required.**
- 2.6. **Minimum Front Yard Setback.** Pursuant to §35-5.3.e, the R-2 Zone requires a minimum front yard setback of 20 feet, whereas the existing front yard setback is 4.66 feet measured from the overhang. **Variance relief is required.**
- 2.7. **Minimum Rear Yard Setback.** Pursuant to §35-5.3.e, the R-2 Zone requires a minimum rear yard setback of 20 feet, whereas the existing rear yard setback is 19.5 feet. **Variance relief is required.**



- 2.8. **Minimum Side Yard.** Pursuant to §35-5.3.e, the R-2 Zone requires a minimum side yard setback of 3 feet, whereas a setback of 1.83 feet is existing from the eastern property line. **Variance relief is required.**
- 2.9. **Minimum Side Yard (aggregate).** Pursuant to §35-5.3.e, the R-2 Zone requires a minimum aggregate side yard setback of 6 feet, whereas the existing aggregate side yard setback is 5.72 feet. **Variance relief is required.**
- 2.10. **Maximum Lot Coverage.** Pursuant to §35-5.3.e, the R-2 Zone permits a maximum lot coverage of 70%, whereas the applicant is proposing to keep the same lot coverage of 98%. **Variance relief is required. The applicant should propose a means to reduce the existing impervious coverage to the extent feasible to be more in line with the bulk requirements.**
- 2.11. **Parking Stall Size.** Pursuant to §35-17.5a, parking spaces for two-family dwellings shall be 10 feet wide and 20 feet deep, though, there is a provision which allows for a depth of 16.5 feet for existing one- and two-family dwellings where a lack of space precludes a depth of 20 feet. The existing garage space is approximately 15 feet deep and 9 feet wide. **A variance is required for the depth and width.**

### 3.0 SKETCH PLAN

- 3.1. **Proposed Interior Modifications.** While the application indicates a proposed conversion to a two-family dwelling, it actually appears to be an *ex post facto* application for approval of work that has already be completed. Testimony should be provided as to any modifications proposed for the conversion of the existing one-family dwelling into a two-family dwelling.
- 3.2. **Curb cut width.** Pursuant to §35-17.5a, curb cuts shall not exceed 10 feet in width in residential zones. The R-2 Zone is a residential district. The existing curb cut is 10 feet wide. The plan complies.
- 3.3. **Lighting.** Per §33-10.10b, lighting at property lines shall not exceed one footcandle and lighting shall be installed with shielding to direct light away from adjoining properties. No lighting appears to be proposed. The applicant should testify as to whether any outdoor lighting is planned. If so, the applicant should testify as to the effect on neighboring properties and whether the fixtures will contain shielding. We note that the front entrance contains an exterior fixture, but it is unclear if the exterior entrance to the studio apartment is illuminated.
- 3.4. **Landscaping.** The applicant is proposing one street tree, a Red Maple (*Acer rubrum*), and planting at a size of 4 inches per caliper. The plan complies.





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**4.0 CONSIDERATION OF THE “C” VARIANCES**

**4.1. 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.

**4.2. 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.

**4.3. 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. Since the property already appears to be functioning as a two-family property on an undersized lot without creating substantial impacts to neighboring property and is only one of a few such lots in this block, there would appear to be grounds for a finding of negligible negative impact.



**5.0 GENERAL PLAN COMMENTS**

- 5.1. **Plan Corrections.** The zoning schedule on the plans should be revised to correctly indicate the front yard setback to be measured from the existing overhang. The schedule should be corrected as a condition of any approval.

**6.0 APPLICANT AND THEIR PROFESSIONALS**

- Applicant/Owner. Lou Chiorazzi, 129 Avenue F, Bayonne, NJ 07002. Tel: 201.339.0924. Email: [firm@RMWlawfirm.com](mailto:firm@RMWlawfirm.com).
- Attorney. Paul N. Weeks, Esq., Raff, Masone & Weeks, P.A., 1083 Avenue C, Bayonne, NJ 07002. Tel: 201.339.0924. Email: [firm@RMWlawfirm.com](mailto:firm@RMWlawfirm.com).
- Architect. Stephen M. Kawalek, RA, PP, Kawalek + Kawalek Architects, LLC, 772 ½ Broadway, Bayonne, NJ 07002. Tel: 201.437.0648.

**7.0 MATERIALS REVIEWED**

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

- Application and Checklist, dated October 8, 2024.
- *Narrative Statement of Applicant*, undated.
- Zoning Officer Letter, dated September 13, 2024.
- Certificate of Completeness Review, dated November 14, 2024.
- Copy of Tax Map Sheet with property highlighted, undated.
- Copy of Property Deed, dated June 28, 2023.
- *Existing Conditions Survey for Tax Lot 12 Block 449*, 1 sheet, prepared by Robert L. Cigol, PLS, DMC Associates, Inc., dated March 8, 2024.
- *Plans, Map, Images, Details and Zoning Data*, 1 sheet, prepared by Stephen M. Kawalek, RA, PP, Kawalek + Kawalek Architects, LLC, dated June 28, 2024.

**8.0 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.



8.1. Variances:

- §35-5.3e Minimum lot area
- §35-5.3e Minimum lot frontage
- §35-5.3e Minimum front yard
- §35-5.3e Minimum side yard (east)
- §35-5.3e Minimum side yard (aggregate)
- §35-5.3e Minimum rear yard
- §35-5.3e Maximum lot coverage
- §35-17.5a Parking stall size

8.2. Recommended Conditions of Approval:

- Payment of any required affordable housing development fees as required by the City's affordable housing regulations.
- Correction of the Zoning Table.

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

Cc. Alicia Losonczy, Land use Administrator  
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

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