



MEMORANDUM

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To: Bayonne Zoning Board of Adjustment

From: Brian Slaugh, PP, AICP
Donna Miller, AICP, PP, CFM
David Robbins, AICP, ASLA

Re: 177 3rd Street, LLC
ZBA Application Z-25-007
Bulk Variance
Block 371, Lot 2
33 E. Second Street / CR 704
R-2 Detached/Attached Residential District

Date: August 17, 2026

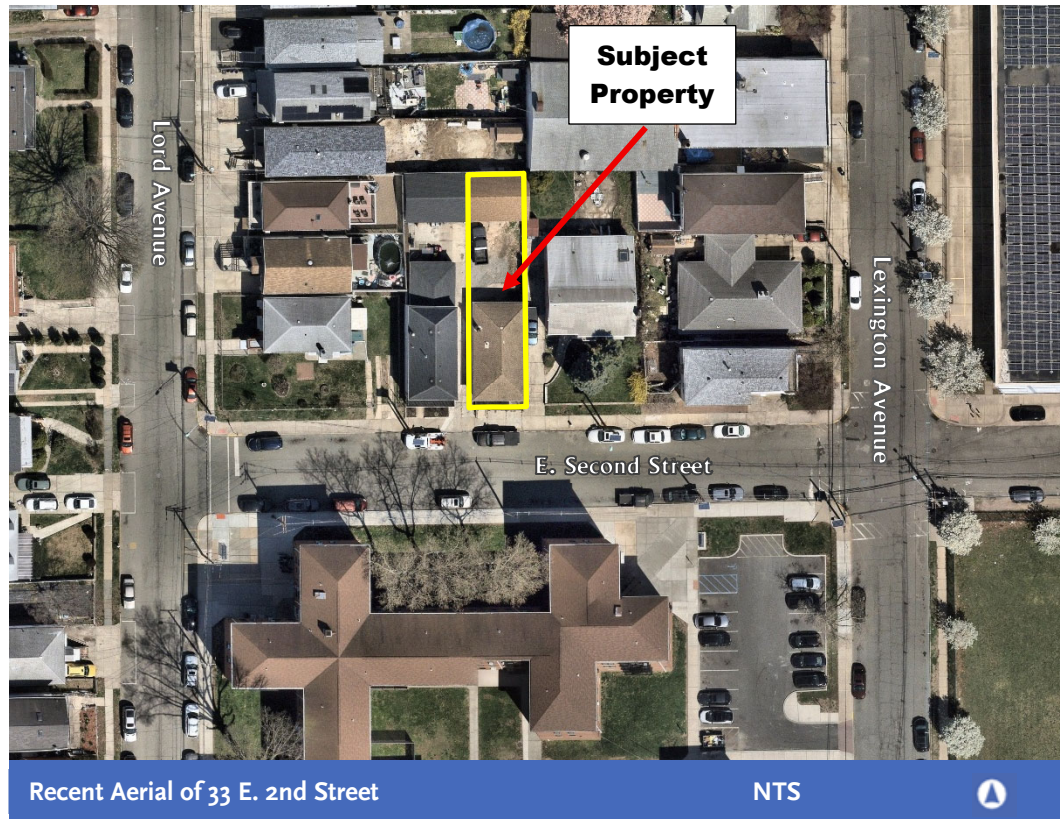
1. APPLICATION DESCRIPTION

1.1. Applicant's Proposal. The applicant proposes to convert the existing one-family dwelling to a two-family dwelling by constructing a two-story addition over the existing building footprint as well as a new two-story addition at the rear. Each dwelling unit will contain approximately 1,270 sf. and have three bedrooms, two bathrooms, kitchen, living and dining room. Both dwelling units will have an entrance on the front terrace. An entrance to the basement is proposed on the west side of the building. An existing driveway on the west side of the lot is proposed to have an easement allowing access to the rear of the subject property and adjoining Lot 1.

1.2. Existing Conditions. The subject property is an existing 3,179 sf. lot located on the north side of E. 2nd Street, between Lord and Lexington Avenues. It contains a one-story, single-family dwelling and a one-story accessory garage. The front terrace extends into the right-of-way approximately 2.5 feet and the steps up to the terrace about another 4 feet. There are existing driveways on either side of the lot that extend to the rear of the property on adjoining Lots 1 and 3. The pavement for both driveways extends up to the building's foundation. A small area of the rear yard is not paved, but will be covered by the proposed addition.

1.3. Neighborhood Context. The property is located in R-2 Detached/Attached Residential District. Adjoining properties and those in the general vicinity are single- and two-family detached dwellings, although across E. 2nd Street is a

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garden apartment complex in the R-M District and on Lexington Avenue are large commercial-industrial uses in the IL-A District.

2.0 ZONING

2.1. Permitted Use. Pursuant to §35-5.3.a.2, detached single- and two-family dwellings are permitted in the R-2 District. The proposed two-family dwelling is permitted. **Complies.**

2.2. Required Accessory Use. Pursuant to §35-5.3.b, off-street parking is a required accessory use in the R-2 District. Each three-bedroom dwelling is required to have 1.5 off-street parking spaces. The proposed two-family dwelling requires three spaces. The applicant notes that two spaces will be provided within the garage in the rear of the lot, but does not indicate where the third space will be located. The plans do not depict a third parking space on the lot. As there is less than 20 feet between the principal building and the garage, there may not be sufficient room to provide turning movement for cars entering or exiting the garage if a car is parked outside the garage. An easement with Lot 1 to ensure access on the existing driveway between the properties is also proposed. **Additional**



information is required to ensure compliance. A variance pursuant to *N.J.S.A. 40:55D-70.c* may be required.



Recent StreetView Image of 33 E. 2nd Street

- 2.3. **Existing Non-conformities.** The existing lot is non-conforming for minimum frontage and the building is non-conforming for minimum front yard setback, minimum side yard setback, combined side yard setback and lot coverage. As noted, the existing front porch/terrace extends into the right-of-way of E. 2nd Street. The existing garage is also non-conforming for rear and side yard setbacks. **The proposed front, side and combined side yard setbacks and lot coverage will be affected by the proposed improvements and will require variances pursuant to *N.J.S.A. 40:55D-70.c*. City Council approval is also required to permit the encroachment in the right-of-way.**
- 2.4. **Bulk Requirements.** Compliance with the bulk and lot standards of the R-2 District are summarized below. **Variances are required for minimum front yard setback, minimum side yard setback, combined side yard setback and lot coverage.**



Lot and Bulk Requirements §35-5.3.e				
Standard	Required	Existing	Proposed	Conforms?
Minimum Lot Area	3,000 sf.	3,179 sf.	3,179 sf.	Yes
Minimum Lot Frontage	30 ft.	29.08 ft.	29.08 ft.	No
Minimum Front Yard Setback	20 ft.	0 ft.	0 ft.	No
Minimum Rear Yard	20 ft.	0 ft.	0 ft.	No
Minimum Side Yard (one yard/both yards)	3 ft / 6 ft	2.46 ft. / 5.4 ft.	2.46 ft. / 5.4 ft.	No
Maximum Height (feet / stories)	35ft / 2 ½ stories	16± ft. / 1 story	24±ft. / 2 stories	Yes
Maximum Lot Coverage	70%	87.6%	95.2%	No
Accessory Structure - Garage				
Minimum Side Yard Setback	3 ft.	0 ft.	0 ft.	No
Minimum Rear Yard Setback	3 ft.	0 ft.	0 ft.	No
Maximum Height	15 ft / 1.5 Stories	10± ft. / 1 Story	10± ft. / 1 Story	Yes

- 2.5. **Minimum Front Yard Setback Variance.** The minimum front yard setback is 20 feet. The existing front building line is setback approximately 3.5 feet with the attached, uncovered terrace extending into the right-of-way. The proposed second floor addition is in-line with the existing front building wall, exacerbating the front yard setback deficiency. **We note the Variance Plan incorrectly depicts the second floor addition starting approximately 15 feet behind the front building wall. The architectural plans indicate the second floor is 60 feet long, while the Variance Plan only shows a 47 foot long second floor. A variance pursuant to N.J.S.A. 40:55D-70.c is required.**
- 2.6. **Minimum Side Yard Setback Variances.** The minimum side yard setback is three feet. The existing minimum side yard setback is 2.46 feet. The proposed second floor addition is in-line with the existing building's side walls. The proposed second floor addition over the existing building's footprint exacerbates the minimum side yard setback deficiency. **A variance pursuant to N.J.S.A. 40:55D-70.c is required.**



- 2.7. **Minimum Combined Side Yard Setback Variance.** The minimum combined side yard setback is six feet. The existing minimum combined side yard setback is 5.4 feet. The proposed second floor addition is in-line with the existing building's side walls. The proposed second floor addition over the existing building's footprint exacerbates the minimum combined side yard setback deficiency. **A variance pursuant to N.J.S.A. 40:55D-70.c is required.**
- 2.8. **Maximum Lot Coverage Variance.** The maximum permitted lot coverage is 70%, which is approximately 2,275 sf. of impervious area (including buildings) for this size lot. The existing lot coverage is 87.6%. The proposed addition and paved area will increase coverage to 95.2%; an increase of approximately 241 sf. of impervious area. **As noted previously, a variance pursuant to N.J.S.A. 40:55D-70.c is required.**
- 2.9. **Street Trees.** Street trees are required on all development applications per §33-10.17.C.1. There are no existing street trees and none are proposed. **A design exception is required.**
- 3.0 **BUILDING AND SITE DESIGN**
- 3.1. **Juliet Balcony.** A Juliet balcony is proposed on the front of the second floor addition. **As the Variance Plan does not correctly depict the location of the second floor addition's front wall, the applicant should verify the extent that the balcony extends into the required front yard setback.**
- 3.2. **Building Materials.** The architectural plans depict substantial changes to the building façade and roof, but do not specify the types of new materials. It is unclear if the existing one-story façade will be retained. **The applicant should provide additional information on the color, material and finish of the siding, windows and railings.**
- 3.3. **Mechanical Equipment.** The plans do not indicate the location of HVAC equipment. **The applicant should advise the location of HVAC equipment to ensure that any ground level equipment does not compromise the function of the driveway and parking area.**
- 4.0 **CONSIDERATION OF THE 'C' VARIANCES**
- 4.1. **Context for Review.** While this office defers to the Board Attorney in advising the Board on the application of relevant variance criteria, this report identifies the bulk variance criteria for purposes of establishing a framework for review. The "c" designation is related to its codification in the Municipal Land Use Law (MLUL)



at N.J.S.A. 40:55D-70.c. The applicant bears the burden of proof in the justification of the variance.

- 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 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.

- 4.4. **Consistency with the Master Plan and Zoning Ordinance.** As noted above, the applicants must also prove not only "that the variance can be granted 'without substantial detriment to the public good, and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan. The land use plan element of the Master Plan adopted in 2017 made specific land use recommendations pertaining to existing residential neighborhoods:

- 1.c. Protect and preserve the size, scale and character of existing residential neighborhoods by eliminating the encroachment of commercial and multi-family uses in these areas.*



- i. *Recommendation to maintain lower density development regulations in existing residential neighborhoods that do not abut against commercial properties;*
- ii. *Recommendation to consider zoning revisions that strengthen the bulk standards for single family residential in existing neighborhoods.*

5.0 GENERAL PLAN COMMENTS

5.1. Plan Corrections: The correction of the following inconsistencies and errors should be required as a condition of any approval.

- The scale on Sheet D-1 of the architectural plans should be corrected to $\frac{1}{4}" = 1$ foot.
- The zoning schedule on Sheet 2 of the Variance Plan should be revised to correctly indicate the existing building height in feet to reflect the height of the front of the building to the midpoint between the roof peak and eave and update all required variances as identified in this report.
- The Variance Plan incorrectly depicts the location and length of the second floor addition. The Variance Plan and architectural plans should be coordinated.

6.0 MATERIALS REVIEWED

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

- Application and Checklist, dated August 18, 2025.
- Narrative Statement of Applicant, undated.
- Zoning Officer Letter, dated July 29, 2025.
- Certificate of Completeness Review, dated November 7, 2025.
- Copy of Property Deed, dated June 23, 2025.
- *Variance Plan*, prepared by Philip A. Daniele, PE, EKA Associates, PA, dated June 5, 2025 and last revised February 26, 2026, consisting of three sheets.
- *Conversion of 1-Family to 2-Family House*, prepared by Jorge Fernandes, RA, CREARC, LLC, dated June 15, 2025, consisting of four sheets.

7.0 APPLICANT AND PROFESSIONALS

- **Applicant/Owner.** 177 3rd St., LLC, c/o Sills Cummis and Gross, PC, The Legal Center, One Riverfront Plaza, Newark, NJ 07102. Tel: 973-463-2409. Email: mposada@sillscummis.com



- **Attorney.** Matt Posada, Esq., Sills Cummis and Gross, PC, The Legal Center, One Riverfront Plaza, Newark, NJ 07102. Tel: 973-463-2409. Email: mposada@sillscummis.com, jkoodray@sillscummis.com
- **Engineer.** Joseph N. Bachi, PE, CME, EKA Associates, PA, 328 Park Avenue, Scotch Plains, NJ 07076. Tel: 908-322-2030. Email: jbachi@ekaassociates.com
- **Architect.** Jorge Fernandes, RA, CREARC, LLC, 75 Parkhurst Street, Newark, NJ 07114. Tel: 201-628-6495. Email: Crearcllc@gmail.com

8.0 LIST OF NECESSARY RELIEF

Based on our initial review, the following variances 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 additional information provided by the applicant or analysis performed by other Board professionals.

8.1. Variances:

- §35-5.3e - Minimum front yard setback
- §35-5.3e - Minimum side yard setback
- §35-5.3e - Minimum combined side yard setback
- §35-5.3e – Maximum lot coverage
- *Potential* §35-17.6.b –Number of parking stalls

8.2. Design Exceptions:

- §33-10.17.C.1 – Street Tree

8.3. Recommended Conditions of Approval:

- Payment of any required affordable housing development fees as required by the City's affordable housing regulations.
- Plan corrections identified at Comment 5.1.

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

Cc. Alicia Losonczy, Land Use Administrator
Scott Salmon, Esq., Board Attorney
Greg Valesi, PE, PP, Artheon, Board Engineer
Tracey Tuohy, Zoning Officer