



City of Bayonne
DEPARTMENT OF MUNICIPAL SERVICES
DIVISION OF PLANNING & ZONING

MUNICIPAL BUILDING

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A-5

JAMES DAVIS
Mayor

November 27, 2018

Paul Weeks, Esq.
Raff & Masone, PA
1081 Avenue C
Bayonne, NJ 07002

Re: Z-18-014 -- Raafat Ikladous
Site: 53-55 Broadway; Block 369, Lot 24

Dear Mr. Weeks:

Enclosed please find resolution of approval with regard to the above-referenced application which was adopted at a regular meeting held on November 19, 2018. The Board's decision will be published in the Jersey Journal on December 4, 2018 and a copy of the Affidavit of Publication will be mailed to you upon our receipt of same.

Please note that the applicant must comply with all of the conditions of approval prior to filing for building permits.

Should you have any questions regarding this matter, please feel free to contact us.

Very truly yours,

Lillian Glazewski
Land Use Administrator

/lg

Enclosure

cc: Robert F. Sloan, Clerk
Richard N. Campisano, Esq., Board Attorney
Suzanne Mack, P.P., City Planner
James F. Clarkin, P.P., Consulting City Planner
Robert Russo, Consulting City Engineer
Richard Bielinski, Construction Official
Joseph Coughlin, Fire Sub-Code Official
Donna Ward, Zoning Officer

**RESOLUTION
ZONING BOARD OF ADJUSTMENT
CITY OF BAYONNE**

APPLICANT: RAAFAT IKLADOUS
APPLICATION NO.: Z-18-014
PREMISES: 53-55 Broadway
Block 369, Lot 24

WHEREAS, RAAFAT IKLADOUS, (applicant), has applied to the Zoning Board of Adjustment (Board) of the City of Bayonne seeking preliminary and final major site plan approval, use and bulk variance relief to allow the conversion of an attached one-family dwelling to a two-family dwelling on property located at 53-55 Broadway in City Block 369, Lot 24; and

WHEREAS, the applicant submitted proof of notification by mail and personal services, at least ten (10) days prior to the date set forth for public hearing to property owners within 200 feet of the extreme limits of the property, in accordance with the Zoning Ordinance of the City of Bayonne as amended and supplemented in accordance with N.J.S.A. 40:55D-1 et. seq. has been completed and the application has been deemed complete for review; and

WHEREAS, the applicant, through its attorney Paul Weeks, Esq., appeared before the Board at a regular meeting held on October 15, 2018; and

WHEREAS, the applicant submitted evidence that he made the application in conformity with the ordinance and that he has complied with all procedural requirements of the Ordinance, including the giving of notice and the payment of fees; and

WHEREAS, Stephen Kawalek, A.I.A., P.P., presented testimony in support of the application for variances from the Zoning Ordinance; and

WHEREAS, after carefully considered the evidence, proofs and testimony of the applicant presented at the hearing the Board has made the following findings of fact and conclusions of law:

1. The Zoning Board of Adjustment has jurisdiction to act upon the application with a majority vote required for approval of all matters with the exception of a use variance under the provisions of N.J.S.A. 40:55D-70(d) for which five affirmative votes are required; and
2. The subject application is for a site located on the western side of Broadway between 2nd Street and Marion Court. The property contains an existing attached one-family residential dwelling unit. The applicant is requesting preliminary and final major site plan approval, use and bulk variance relief to convert the existing building from a one-family to a two-family dwelling unit. The only proposed change is lowering a windowsill in one bedroom to comply with the current fire code. The existing footprint of the structure will remain the same. The site is a flag shaped through lot with two (2) frontages, one of approximately thirty-seven (37) feet along Broadway and the other approximately 9.51' on West 2nd Street. The West 2nd Street is used for vehicular entrance to the site; and
3. The subject property is located in the R-2 Detached/Attached Residential District where attached one and two-family dwellings are not permitted. Conversion of the existing attached one-family dwelling to a two-family dwelling is an expansion of the pre-existing non-conforming use. The project requires preliminary and major site plan approval, use variance and bulk variances for side yard setback and maximum height; and
4. Stephen Kawalek, A.I.A., P.P, testified on behalf of the applicant. He described the various drawings submitted as part of the application prepared by his firm. He described the driveway off Second Street and how this one-family unit has a ground floor area that can be used as an apartment by just lowering a window sill in the bedroom. He described the structure and grounds and how the site is particularly suited for this use as the subject property is attached to a virtually identical two-family residential structure to the north. He reviewed the variances required and how the neighborhood detriment is satisfied because the granting of these variances will not cause detriment to the public health, safety and welfare and the proposed use will not create a negative social, economic, physical or environmental impact. The zone test is satisfied because the granting of these variances will not impair the Zone Plan and Zoning Ordinance and the proposed use is appropriate. The applicant has satisfied the enhanced burden of proof showing that the variances sought are not inconsistent with the intent and purpose of the City Master Plan, Zoning Ordinance and Municipal Land Use Law. He testified

that the applicant's proposal satisfied the requirements by encouraging economic development, promoting a diversified economic base, promoting use of an underutilized property and developing a variety of housing options in accordance with the Master Plan of the City of Bayonne; and

5. There were no members of the general public who asked questions; and
6. The Board makes the following findings and conclusions with respect to this application:
 - a. Under the Municipal Land Use Law a Zoning Board of Adjustment, when considering a "d" variance cannot grant relief unless sufficient special reasons are shown and there is no substantial impairment to the Zone Plan and Zoning Ordinance. In addition, the burden of proof is upon the applicant to establish the above criteria. It is the responsibility of the Board to act in a quasi-judicial manner to weigh the evidence presented before it by the applicant and all objectives and reach a decision that is based upon the findings of fact and conclusions of law that is not arbitrary, unreasonable or capricious.
 - b. New Jersey Courts have been willing to accept a showing of extreme hardship as sufficient to constitute special reasons. The Courts have indicated there is no precise formula as to what constitutes special reasons unless the use is determined to be inherently beneficial and that each case must be heard on its own circumstances. Yet, for the most part hardship is usually insufficient criteria upon which the Board can grant the variance. In addition, special reasons have been found where a variance would serve any other purpose of zoning as set forth in N.J.S.A. 40:55d-2; however, in the last analysis a variance should only be granted if the Board, on the basis of the evidence presented before it, feels that the public interest promoted as distinguished from the purely private interest of the applicant would be best served by permitting the proposed use. In these instances the Board must also find that granting the variance will not create an undue burden on the owners of the surrounding properties. The Board also notes that the special reasons requirement may be satisfied if the applicant can show the proposed use is particularly suited for the particular piece of property.
 - c. With regard to the question of the public good, the Board's focus is on the affect of the surrounding properties and whether such affect will have a substantial detriment. Further, in most "d" variance cases, the applicant must satisfy the enhanced quality of proof and support it by clear and specific findings by the Board that the variance sought is not

inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance. The burden of proof is upon the applicant to establish the above criteria.

- d. Chairman Urban found that the applicant met his burden of proof. Commissioner Adams opined there is no negative impact and there are similar uses in the neighborhood. Commissions Dorans, Pelliteri, De Ros and Lombardi were also in favor of the application; and
- e. The applicant satisfies the special reasons test because the use would promote the public health, safety, morals and general welfare as set forth in the MLUL, specifically N.J.S.A.40:55d-2. It also promotes a desirable visual environment and there is an identifiable need for this use at this site making it particularly suitable.
- f. The granting of the variances will not cause detriment to the public health safety and welfare.
- g. The Zone Plan is satisfied because the granting of this variance will not impair the intent and purpose of the Zone Plan and Zoning Ordinance. It is consistent with Bayonne's economic plan to transition from an industrial based economy to a service sector economy and its overall emphasis on revitalization. It is consistent with the State plan to conserve natural resources and promote beneficial economic growth for all citizens.
- h. For the foregoing reasons the positive and negative criteria have been met by the applicant to grant use and bulk variances for this property along with site plan approval.

NOW THEREFORE BE IT RESOLVED that the Zoning Board of Adjustment of the City of Bayonne hereby **GRANTS RAAFAT IKLADOUS**, (applicant), preliminary and final major site plan approval, use and bulk variance relief to allow the conversion of an attached one-family dwelling to a two-family dwelling on property located at 53-55 Broadway in City Block 369, Lot 24, subject to the conditions listed in Schedule A attached hereto and made a part hereof; and

BE IT FURTHER RESOLVED, that the Chairman of the Zoning Board of Adjustment has hereby authorized his signature to this Resolution granting site plan approval with variances and the Land Use Administrator is authorized to advertise the action taken by way of Resolution in a local newspaper; and

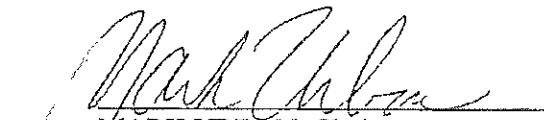
BE IT FURTHER RESOLVED, that the Land Use Administrator is authorized to send copies of this Resolution to the following City Officials: City, Clerk, Construction Official, Zoning Officer, Fire Sub-Code Official, City Planner and City Consulting Engineer.

RECORDED VOTE:

<u>Commissioner:</u>	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Not Voting</u>	<u>Not Present</u>
Urban	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Adams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Egan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
LeFante	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Lombardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pellitteri	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dorans	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pineiro	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Dilullo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
De Ros, Jr.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Simmons	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

WHEREAS, the application having received seven aye votes is hereby
APPROVED.

The above Resolution was adopted by
the Zoning Board of Adjustment of
the City of Bayonne at a regular
meeting held on November 19, 2018.


MARK URBAN, Chairman

RNC/lg

SCHEDULE "A"
Z-18-014
RAAFAT IKLADOUS

1. The applicants shall comply with the recommendations as submitted by Malvika Apte, P.P., AICP Consulting City Planner dated July 5, 2018 except as those recommendations have been specifically modified as reflected in the minutes of the proceedings before the Board on this application; and
2. The applicant shall maintain the property specifically including all landscaping in accordance with the approved plan; and
3. The applicant shall establish and maintain an Escrow Account with the City of Bayonne to pay for the professional review and inspection fees related to this application and construction required in conjunction therewith; and
4. Approval of this application is further conditioned on full compliance with all applicable Federal, State and Local Ordinances, rules and regulations as well as any and all requirements of the New Jersey Department of Environmental Protection with specific emphasis on any requirements of a stormwater management plan for same and all required permits, approvals and certificates; and
5. The applicant shall be bound to comply with the representations made before this Board by the applicant, its Counsel and experts at the public hearing; and, the same are incorporated herein and are representations upon which this Board has relied in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of approval; and
6. Approval of this application is further conditioned upon the payment of all taxes, fees and required escrow deposits to the City of Bayonne. The applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days from the date of the adoption of this resolution; and
7. All documents required to be prepared by the applicant by virtue of the terms or provisions of any condition set forth in this resolution shall, before execution, be submitted to and approved by the Board attorney and engineer; and
8. If any other governmental agency grants a waiver or variance of a regulation, then this Board shall have the right to review that issue as it relates to this approval granted by this Board and modify to amend same; and
9. The applicant shall start the construction in accordance with the plans as approved and herewith submitted within twelve (12) months from the date of publication of the legal notice of the Board's decision in this application.

JOHN H. ALLGAIR, PE, PP, LS (1983-2001)
DAVID J. SAMUEL, PE, PP, CME
JOHN J. STEFANI, PE, LS, PP, CME
JAY B. CORNELL, PE, PP, CME
MICHAEL J. McCLELLAND, PE, PP, CME
GREGORY R. VALES, PE, PP, CME



TIMOTHY W. GILLEN, PE, PP, CME
BRUCE M. KOCH, PE, PP, CME
LOUIS J. PLOSKONKA, PE, CME
TREVOR J. TAYLOR, PE, PP, CME
BEHRAM TURAN, PE, LSRP
LAURA J. NEUMANN, PE, PP
DOUGLAS ROHMEYER, PE, CFM, CME
ROBERT J. RUSSO, PE, PP, CME
JOHN J. HESS, PE, PP, CME

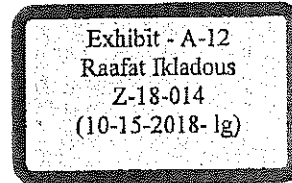
MEMO TO: City of Bayonne Zoning Board

FROM: Malvika Apte, PP/AICP
Consulting City Planner

MA

DATE: July 5, 2018

RE: Rafaat Ikladous
Use Variance and Site Plan
Planning Report # 1
Block 369 Lot 24
53-55 Broadway
Bayonne, New Jersey
Our File: PBYZ0369.01
Application # Z-18-014



As per your request, our office has reviewed the above referenced application. The following documents were reviewed for this application:

- Application form and Statement.
- Letter from Zoning Officer to Applicant dated November 27, 2018
- Property Deed
- One (1) Sheet of site plan, prepared by Kawalek and Kawalek Architects, LLC dated January 9, 2018.

We offer the following comments for the Board's consideration:

1. Summary of Application

The Applicant, Rafaat Ikladous, is seeking to convert the current attached single family residence into an attached two family unit. The property identified as Block 369 Lot 24, is located on Broadway, and is in the R-2 Detached/Attached Residential District.

The subject site is a flag shaped through lot with two frontages, one of approximately 37 feet along Broadway and one of approximately 9.51 feet on West 2nd Street. It appears that West 2nd

S:\Bayonne\PBYZ0369.01 - Rafaat Ikladous\18-05-12 Z-18-014 Rafaat Ikladous - Planning Review



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St. is used for vehicular entrance to the site. Applicant should confirm the same. The existing dwelling is identified as a single family residential unit, attached to the unit north of the site, located on Lot 25 of the City tax records. This is a pre-existing non-confirming use since attached single family dwellings are not permitted in the R-2 zone.

Further, it appears that currently the ground floor unit exists and with this proposal applicant is legitimizing the ground floor unit. The proposed use for the site is an attached two family unit. This is an expansion of a non-confirming use, thereby requiring what is commonly known as a d (2) variance.

Per the plans submitted, no changes to the site are proposed. The applicant however, is proposing to lower the window sill of the rear bedroom for the ground floor apartment to comply with the building code requirement.

The Applicant is also requesting bulk variances for pre-existing side yard setback, number of stories and lot frontage.

2. Review:

- (a) **Existing Window:** Applicant should discuss the existing window shown on the ground floor apartment. This window is shown at the entrance of the living area. It appears this is not the exterior wall, this should be confirmed.
- (b) **Parking:** Per the application, applicant has indicated parking has been met. Per section 35-17.6,

Number of bedrooms	Number of spaces required	Required
Grd Floor Apartment- 1 bedroom	1 sp/ dwelling unit	1
2 nd Apartment- number of bedrooms not provided	1.5 sp/dwelling unit	1.5
		2.5 = 3

Applicant should provide statement to discuss where the three parking spaces are provided. Per the site plan it appears that driveway exists along the stem portion of the lot through west



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2nd street. Applicant should discuss the condition of the driveway. Further, no delineated spaces are shown in the rear, applicant should discuss the general circulation of vehicles. Lastly, applicant should discuss the use of the garage and if it used for parking.

- (c) **Bulk Variance:** There are three existing non-conformities noted, please see below. Further, applicant should confirm the dimensions as measured.

Regulation	R-2 Zone	Existing/Proposed
Min. Lot Area	3,000 sq. ft.	4,684 sq. ft.
Min. Lot Frontage	30 ft.	9.51 ft. (e)
Max. Front Yard Setback	20 ft.	14 ft.
Min. Rear Yard Setback	20 ft.	34 ft.
Min. Side Yard setback (one/ both)	3 ft./ 7 ft.	0 ft. (e)/ 18 ft.
Accessory structure		
Side yard	3 ft	3 ft
Rear Yard	3 ft	4.9 ft.
Max. Building Ht (ft)		
Principal Structure (sty/ ft.)	2.5 sty/35 ft	3 sty (e) / 35 ft
Accessory Structure (sty/ft.)	1.5 st/15 ft.	Not provided
Max. Lot Coverage (%)	90%	74%

If you should have any questions with regard to the above matter, please do not hesitate to call.

cc: Land Use Administrator
Board Attorney
City Engineer
Zoning Officer
City Planner