

July 28, 2022

Borough of Deal Planning Board
190 Norwood Avenue
Deal, NJ 07723-1234

**Re: Minor Subdivision and Variance Application
Nakash Residence
2 Stratford Place
Block 41, Lot 1.01
Our File DPB 22-10**

Dear Board Members:

Our office has received an application submitted for Planning Board review in connection with the above referenced project. Submitted with the application are the following:

- A minor subdivision and plot plan consisting of eight (8) sheets prepared by Keith B. Smith, P.E., P.P., and Thomas J. Ertle, P.L.S., of French & Parrello Associates dated July 14, 2022, with no revisions.
- A boundary and topographic survey consisting of one (1) sheet prepared by Thomas J. Ertle, P.L.S. of French & Parrello Associates, dated July 18, 2022, with no revisions.
- An architectural plan consisting of ten (10) sheets prepared by Jose L. Ramirez, R.A. of J.L. Ramirez Architect, P.C., dated July 18, 2022, with no revisions.

The application is deemed complete, and we offer the following comments regarding compliance with provisions of the Borough Ordinance and General Engineering Standards.

1. Description of Property

- A. The property is located at house number 2 Stratford Place (Lot 1.01, Block 41) with a total lot area of 49,193 square feet. The property is a corner lot and is located on the southwest corner of the intersection of Roseld Avenue and Stratford Place.
- B. The lot measures approximately 150 feet in width and 325 feet in depth with a two-story dwelling and detached garage on the lot.

- C. The current Lot 1.01 was formally Lots 1 and 2 in Block 41. Both former lots were conforming in lot area, lot width, and lot depth.
- D. The Applicant is proposing a minor subdivision, creating two (2) lots. The proposed Lot 1.02 will measure approximately 150 feet in width along Stratford Place and 200 feet in depth, which will be a conforming lot. The other proposed Lot 1.03 will measure 125 feet in width and approximately 151 feet in depth, which will be a non-conforming lot. The Applicant has indicated single-family dwellings will be proposed on each lot.
- E. The Applicant is proposing a single-family dwelling with swimming pool, pool patio, cabana, and driveway on proposed Lot 1.02. On proposed Lot 1.03 nothing is shown to be constructed.

2. Zoning and Land Use

- A. The properties are located in the R-2 Residential District and single-family dwellings are a permitted use in this district.
- B. The proposed inground swimming pool and cabana are permitted accessory structures in this district.
- C. The Applicant is requesting approval from the Planning Board for minor subdivision approval and variances for lot width , lot frontage, front yard setback, side yard setback, and others as described in the report.

3. Variances and Waivers

- A. Good planning practice dictates against the creation of non-conforming lots, as to do so would be to deviate from the Borough's intended land development pattern, legislatively enacted for purposes of providing adequate safety, light, air and space in support of the general welfare.

The Applicant must provide evidence that granting a variance would meet the proofs as required by the Municipal Land Use Law (MLUL). There are two (2) types of "c" variances with different required proofs.

- 1) Boards may grant a c (1) variance upon proof that a particular property faces hardship due to the shape, topography, or extraordinary and exceptional situation uniquely affecting the specific property.

- 2) Board may grant a c (2) variance based upon findings that the purposes of zoning enumerated in the MLUL are advanced by the deviation from the ordinance, with the benefits of departing from the standards in the ordinance substantially outweighing any detriment to the public good. The Supreme Court’s ruling in Kaufmann v. Planning Board for Warren Township provides additional guidance on c (2) variances, stating that “the grant of approval must actually benefit the community in that it represents a better zoning alternative for the property. The focus of the c (2) case, then, will be...the characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community.”
- 3) “C” variances must also show consistency with the negative criteria as well.

B. Bulk Requirements for Yard Area and Principal Dwelling

- 1) An analysis of the bulk requirements of the R-2 District for Yard Area and Principal Dwellings are as follows:

Bulk Requirements	Permitted	Existing	Proposed Lot 1.02	Proposed Lot 1.03
Minimum Lot Area	18,750 sf.	43,670 sf.	30,326 sf.	18,897 sf.
Minimum Lot Frontage	150 ft.	>150 ft.	150.86 ft.	125 ft. (V)
Minimum Lot Width	150 ft.	>150 ft.	150.89 ft.	125 ft. (V)
Minimum Lot Depth	125 ft.	325 ft.	200.00 ft.	151.17 ft.
Minimum Front Yard Setback to Dwelling (Along Stratford Place)	50 ft. or average within 200 feet (Avg= 27.3 ft.)	N/A	24.9 ft. (V)	N/A
Minimum Front Yard Setback (Along Roseld Avenue)	50 ft. or average within 200 feet (Avg= 49.7 ft.)	N/A	50.0 ft.	>49.7 ft.
Minimum Side Yard Setback (20 % Lot Width)	30.2 ft. (Lot 1.02)	N/A	10.4 ft. (V)	N/A
	25 ft. (Lot 1.03)	N/A	N/A	> 25 ft.
Minimum Rear Yard Setback (20% Lot Depth or 50 ft., whichever is less)	40 ft. (Lot 1.02)	N/A	41.1 ft.	N/A
	30.2 ft. (Lot 1.03)	N/A	N/A	> 30.2 ft.
Maximum Building Height at 50 ft. from Right-of-Way	28 ft.	N/A	See comment below	< 28 ft.
Maximum Building Height at 64 ft. from Right-of-Way	42 ft.	N/A	40.5 ft.	<42 ft.
Maximum Building Coverage	20%	N/A	19.82%	< 20%
Maximum Impervious Coverage	40%	N/A	39.4%	<40%

(V) indicates a variance is required

(NC) indicates an existing non-conformity

2) Principal Dwelling: Bulk variances are required, or existing non-conformities are indicated for the following items as noted:

- a) The minimum lot frontage permitted per the R-2 Zoned District is 150 feet. The Applicant is proposing a lot frontage of 150.86 feet for proposed Lot 1.02, which conforms. The lot frontage for proposed Lot 1.03 is 125 feet. **A variance is required.**
- b) The minimum lot width permitted per the R-2 Zoned District is 150 feet. The Applicant is proposing a lot width of 150.89 feet for proposed Lot 1.02, which conforms. The lot width for proposed Lot 1.03 is 125 feet. **A variance is required.**
- c) The minimum front yard setback permitted per the R-2 Zoned District is 50 feet or the average alignment of the existing buildings within 200 feet of the lot. The Applicant has provided the average alignment of the existing buildings along Stratford Place and Roseld Avenue. The average alignment is 27.3 feet along Stratford Place and 49.7 feet along Roseld Avenue. For proposed Lot 1.02, the Applicant is proposing a front yard setback of 50 feet along Roseld Avenue, which conforms. The proposed front yard setback along Stratford Place is 24.9 feet. **A variance is required.**

Nothing is being proposed for the future Lot 1.03.

- d) The minimum side yard setback permitted per the R-2 Zoned District is 20% of the width. For proposed Lot 1.02 the side yard setback permitted is 30.2 feet. The Applicant is proposing a south side yard setback of 10.4 feet. **A variance is required.**

For proposed Lot 103, the side yard setback permitted is 25 feet. Nothing is being proposed at this time.

- e) The maximum building height permitted per the R-2 Zoned District is 28 feet measured from the top of the street curb at a distance of no closer than 50 feet from the front property line. For each additional foot beyond 50 feet from the front property line, the maximum building height may be increased by one foot above 28 feet, not to exceed a maximum height of 42 feet from the top of the street curb.

The Applicant is proposing a building height of less than 28 feet from top of curb, at a setback of 50 feet from Roseld Avenue Right-of-Way. This building height conforms. The proposed building height at 64 feet from the Right-of-Way is 40.5 feet, which conforms. These building heights are shown on the architectural plans.

The Applicant is proposing a building height of less than 28 feet from the top of curb at the proposed setback of 24.9 feet from Stratford Place. The building height is to be measured from a distance no closer than 50 feet from the front property line. By our office's calculations, it appears to exceed 28 feet (30 feet). **A variance is required.**

The proposed building height at 64 feet from the right-of-way is 40.5 feet, which conforms.

- f) The maximum building coverage permitted per the R-2 Zoned District is 20% of the lot area. The Applicant is proposing a building coverage of 19.82% for proposed Lot 1.02. The building coverage conforms.
- g) The maximum impervious coverage permitted per the R-2 Zoned District is 40% of the lot area. The Applicant is proposing an impervious coverage of 39.4% for proposed Lot 1.02. The impervious coverage conforms.

C. **Swimming Pool**

- 1) The swimming pool shall comply with the requirement of the Boroughs Swimming Pools and Tennis Courts and Recreational Areas and Facilities Ordinance.
- 2) An analysis of the bulk requirements for a swimming pool is as follows:

Swimming Pool	Permitted	Proposed
Min. Front Yard Setback	Not Permitted	No
Min. Side Yard Setback	30 ft.	31.2 ft.
Min. Rear Yard Setback	30 ft.	51.2 ft.

(V) Indicates a variance is required (NC) Indicates an existing non-conformity

- 3) The proposed swimming pool does not require any variances.
- 4) The fence gates shall be equipped with a self-locking device in compliance with the Swimming Pool Code of New Jersey.
- 5) Compliance with all other provisions shall be provided by the Applicant, inclusive of the following:
 - Pool discharge-filter backwash location. (Ord. Section 15-2.4)
 - No sound amplification system
 - Compliance with current Swimming Pool Code of New Jersey
 - Evergreen planting screening (Ord. Section 15-2.7(b))
- 6) The Applicant has not indicated if the pool area will be illuminated. If the Applicant is proposing some illumination, then the Applicant must follow Ordinance 892 Chapter XV Section 15-25.
- 7) The permitted side yard setback for a patio is 10 feet. The Applicant is proposing a south side yard setback of 25 feet, which conforms.
- 8) The permitted rear yard setback for a patio is 10 feet. The Applicant is proposing a rear yard setback of 41.1 feet, which conforms.
- 9) The pool equipment is permitted in the rear yard only. The Applicant is proposing the pool equipment in the rear yard. The proposed side yard setback is 17.6 feet, and the rear yard setback is 19 feet. Both of the setbacks conform.

D. Fencing

The maximum permitted height of a fence in the side and rear yard is 5 feet measured from the ground level. The Applicant is proposing a fence height of 4 feet, which conforms.

E. Proposed Cabana

- 1) Cabanas are not listed as accessory structures but are noted in the swimming pool ordinance.

2) An analysis of the bulk requirements for cabanas are as follows:

Cabana	Permitted	Proposed
Minimum Front Yard Setback	Not Permitted	No
Minimum Side Yard Setback	10 ft.*	22.6 ft.
Minimum Rear Yard Setback	10 ft.*	18 ft.
Maximum Building Height (Accessory Use)	18 ft.*	18 ft.

(V) Indicates a variance is required

(NC) Indicates an existing non-conformity

(* See comment 3) a) below

3) Bulk variance or existing non-conformities are indicated for the following items as noted:

- The minimum side yard setback permitted is 10 feet for an accessory structure and the building height may be 10 feet from grade to the highest point on the structure. For every one-foot increase in height, the structure will require a one-foot increase in setback. The maximum building height allowed is 18 feet.

The Applicant is proposing a cabana building height of 18 feet, which conforms. The permitted side and rear yard setbacks are 18 feet. The Applicant is proposing a side yard setback of 22.6 feet, which conforms.

The Applicant is proposing a rear yard setback of 18 feet, which complies.

4. Drainage

Since the project will disturb more than one acre of land and proposes more than 0.25 acre of regulated impervious surface is considered a major development and will require compliance with N.J.A.C.7:8, New Jersey Stormwater Management Rules and the Borough's Stormwater Management Ordinance.

5. Subdivision Plan Comments

- A. The Applicant should submit a plot plan for each of the proposed lots. These will be reviewed by the Zoning Officer and Board Engineer to evaluate proposed site grading, drainage, and design prior to construction.
- B. The lot numbers used on this subdivision drawing should be assigned or confirmed by the Municipal Tax Assessor.

6. Conditions of Approval

- A. If the Applicant is proposing to perfect the subdivision by deed, the deed should be reviewed and approved by the board Attorney and Engineer, prior to filing.
- B. Payment of any outstanding real estate taxes.

7. General Comments

- A. A General Note is on the plan indicating the existing curb and sidewalk along the frontage will be replaced, if found in poor condition.
- B. The Applicant should provide information that taxes are currently paid.
- C. Granting of any required construction permits.

Our office reserves the right to provide additional comments upon receipt of the revised development plans.

If you have any questions, or require additional information on this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Peter R. Avakian, P.E.
Planning Board Engineer

DMH:mfl

cc: Michael Egan, Board Secretary
Erik Anderson, Esq. Board Attorney
Stephen R. Carasia, Borough Administrator
Jennifer S. Krimko, Esq., Applicant's Attorney
Keith B. Smith, Applicant's Engineer
Thomas J. Ertle, P.L.S., Applicant's Surveyor
Jose L. Ramirez, R.A., Applicant's Architect

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