

TOWNSHIP OF BERKELEY  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING AGENDA  
DECEMBER 8, 2010  
7:00 PM PUBLIC HEARING

- A. SALUTE TO THE FLAG
- B. ROLL CALL, DECLARATION OF QUORUM
- C. SUNSHINE ACT STATEMENT: This meeting was advertised in the Asbury Park Press, and posted on the Township's bulletin board as required by the "Open Public Meeting Act".
- D. Please be advised that there is to be **NO SMOKING** in this building in accordance with New Jersey Legislation.
- E. OLD/NEW BUSINESS:
- F. AGENDA:

1. **JERMAN** **BOA#09-5272 (Carried from 10/13/10)**  
**(RENOTICE REQUIRED)**

Variance(s) requested: Bulk Variances  
Project: Single-family dwelling on an Undersized Lot  
Block(s): 509 Lot(s): 11  
Address: Roosevelt Ave. Zone: R-125  
Denial Reads: Applicant proposes to construct a single-family dwelling on this 5,500 s.f. lot where 12,500 s.f. is required with a 50 foot lot frontage where 100 feet is required, 20 foot combined side yard setback where 25 feet is required, and a 24 foot rear yard setback where 30 feet is required.

2. **BARTON** **BOA#08-5258 (Carried from 10/13/10)**

Variance(s) requested: Use and Bulk Variances  
Project: Remove and Replace Single-Family Dwelling  
Block(s): 1694 Lot(s): 66  
Address: 12 Second Lane Zone: BR (Beachfront Residential)  
Denial Reads: The Applicant proposes to replace a non-conforming single-family dwelling with a non-conforming single-family dwelling (which is only allowed in the event of a partial destruction by fire or other natural disaster) that will increase the width of the building which is not allowed in the BR-Zone.

3. **T-MOBILE NORTHEAST, LLC** **BOA#09-5269 (Carried from 9/22/10)**  
**(RECEIVED REQUEST TO CARRY TO UNDETERMINED DATE – WILL RE-NOTICE)**

Variance(s) requested: Use Variance

Project: Cellular Antennae Tower

Block(s): 4.293 Lot(s): 64

Address: Davenport Road Zone: R-400 PRRC

Denial Reads: The Applicant proposes to install transmitting/receiving wireless communications antenna and equipment shelters which is not permitted in a PRRC Zone.

**G. RESOLUTIONS TO BE ADOPTED.**

**H. APPROVAL OF MEETING MINUTES.**

**I. ADJOURNMENT:** Next meeting of the Board of Adjustment will be on January 12, 2011 at 7:00 PM.



JOHN H. ALLGAIR, 1983-01  
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MEMO TO: Berkeley Township Zoning Board of Adjustment

FROM: Robert J. Russo, P.E., P.P., C.M.E.  
Office of the Zoning Board of Adjustment Engineer and Planner

DATE: August 3, 2010

RE: **Jerman Variance – Review #2**  
**Application: Single Family Dwelling on an undersized lot**  
**Block 509, Lot 11**  
**Zoning District: R-125**  
**Fronting on: Roosevelt Avenue**  
**Plan: Property Development Plan, prepared by**  
**Nelke, Constantine & Assoc., Inc.**  
**dated March 16, 2009, Revised July 30, 2010**

BOA#: 09-5272  
Our File No.: PBAZ0509.02/ 600.01

In accordance with your request, our office has reviewed the following variance application submitted for the above referenced property. The following comments are offered with regard to the same:

**A. PROJECT OVERVIEW**

1. The denial states that the "applicant proposes to construct a single-family dwelling on this 5,500 s.f. lot where 12,500 s.f. is required with 50 foot lot frontage where 100 feet is required, 20' combined sideyard setback where 25' is required and a 24' rear yard setback where 30' is required". The lot in question is located on the east side of Roosevelt Avenue, approximately 100' to the south of its intersection with Virginia Avenue, within the R-125 zone. The lot is currently vacant and wooded. The applicant is proposing to construct a three bedroom single family dwelling and associated site improvements on the lot. Roosevelt Avenue is currently paved with a 28' wide pavement width.
2. R-125 Zone Requirements and Variances Requested (as per Schedule I, Section 35-95)

<u>Primary Use</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Requested</u>
Min. Lot Area	12,500 sf	5,500 sf	5,500 sf	<input checked="" type="checkbox"/>
Min. Lot Frontage	100 ft	50 ft	50 ft	<input checked="" type="checkbox"/>
Front Yard Setback	35 ft	N/A	58 ft	<input type="checkbox"/>
Rear Yard Setback	30 ft	N/A	24 ft	<input checked="" type="checkbox"/>
Side Yard Setback	10 ft	N/A	10 ft	<input type="checkbox"/>
Combined Side Yard	25 ft	N/A	20 ft	<input checked="" type="checkbox"/>
Max. Lot Coverage by Building	25%	N/A	15%	<input type="checkbox"/>
Max. Building Height	35 ft	N/A	< 35 ft	<input type="checkbox"/>
Min. Floor Area	1,250 sf	N/A	1,650 sf	<input type="checkbox"/>

\*In accordance with Note #3 with regard to Schedule I, the following minimum floor areas apply:  
1-bedroom 950 sf, 2-bedroom 1,100 sf, 3-bedroom + 1,250 sf.

**B. GENERAL REVIEW COMMENTS**

1. The applicant should provide documentation of a good faith effort to acquire sufficient adjoining lands to achieve a conforming lot, or by offering to sell the non-conforming property to adjacent owners.
2. The applicant is proposing to serve the proposed dwelling by utilizing a septic system and public water





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3. The applicant should address the following grading deficiencies:
  - We recommend that the applicant eliminate the low point created at the northwestern property corner.
  - The applicant should provide a minimum 2% grade in all lawn areas, where possible. The swale along the northern property line directed to the rear yard inlet is graded at less than 0.50%. In addition, the grades indicated along the swale appear incorrect.
  - It appears that the proposed retaining wall located along the southern property line will block the run-off from the north side of existing Lot 7 and 9. This should be addressed.
  - The high point spot elevations on the northern property line in the front yard appear to be incorrect.
4. The applicant should provide sizing calculations to verify that the proposed drywells and recharge pipe will have adequate capacity. The pipe size and stone trench size should be noted on the plans.
5. The applicant is proposing to install a 2' to 3'+/- high retaining wall along the southern property line which will run parallel to the proposed driveway. For safety concerns, this type of drop-off adjacent to a driveway is not recommended.
6. It appears that the proposed driveway will not be aligned with the proposed garage, making the garage unusable by vehicles. This should be addressed.
7. As indicated above, the entire lot is wooded. The applicant is proposing to clear the entire lot and is therefore requesting a waiver from section 03-25-OAB of the Township ordinance which requires the applicant to submit to the Zoning Officer a plan to clear no more than 50% of the side and rear yard setbacks for the zone. The applicant should provide testimony to the Board regarding the need for this waiver request.
8. The applicant should indicate on the plans the existing water main location, size and type.
9. Pursuant to the MLUL Section 40:55D-70, the Board of Adjustment may grant a bulk variance request if:
  - c.(1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property.
  - c.(2) where in an application or appeal relating to a specific piece of property the 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

It has to be determined whether the property in question meets any or all of the reasons established in the MLUL to permit the granting of the variance and whether the enforcement of the Berkeley Township General Ordinances will cause undue hardship to the property owner.
10. The applicant should provide testimony to satisfy both the positive and negative criteria of the Municipal Land Use Law, such that:
  - a. The proposed use is particularly suited to the particular property.
  - b. There are special reasons that allow a departure from the zoning regulations in this particular case. The granting of a variance must be shown to implement one or more of the purposes of the MLUL 40:55D-2.
  - c. The variance can be granted without substantial detriment to the public good.





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- d. The variance will not substantially impair the intent and purpose of the zoning plan and ordinance.

**C. MISCELLANEOUS**

1. Should the Zoning Board of Adjustment grant the relief requested by the applicant, approval of this application should be conditioned upon the following:
  - a. The Applicant resubmitting the following for review by the Zoning Board of Adjustment Engineer:
    - i. A plan which includes those items covered above and discussed at the Board meeting.
    - ii. Proof of submission to the following agencies indicating service can be provided to the location:
      - a. US Postal Service
      - b. Police Traffic Safety
      - c. Berkeley Township Public Works Department
      - d. Bureau of Fire Prevention
  - b. The Applicant certifying to the following:
    - i. The proposed structure should not encroach into existing easements (i.e. shade tree, utility, drainage, etc) without proper consent from the Township.
    - ii. The proposed grading will not impact adjacent property and that the plan as submitted is a true and accurate representation of the existing and proposed improvements on the site
    - iii. Payment all outstanding professional review fees of the Board and the Township
  - c. The Applicant providing the following to the Building Department at time of application for a building permit:
    - i. The applicant submitting for a grading permit in accordance with Section 11-1.5.
    - ii. The applicant submitting architectural plans of the proposed dwelling, to show compliance with building codes.
    - iii. The applicant submitting a Tree Removal/Replacement Plan in accordance with Ordinance 03-25-0AB, unless waiver request is granted by the Board.
    - iv. Proof of approval and/or waivers from all agencies having jurisdiction including:

- |  |  |
|--|--|
| <input type="checkbox"/> NJDEP Wetlands                          | <input type="checkbox"/> NJDEP Tidelands                                     |
| <input type="checkbox"/> Waterfront development                  | <input type="checkbox"/> Flood Plain Management                              |
| <input type="checkbox"/> CAFRA                                   | <input checked="" type="checkbox"/> Ocean County Soil Conservation           |
| <input checked="" type="checkbox"/> Ocean County Board of Health | <input checked="" type="checkbox"/> Ocean County Planning Board              |
| <input type="checkbox"/> Berkeley Twp Sewerage Authority         | <input checked="" type="checkbox"/> Berkeley Twp Municipal Utility Authority |
| <input type="checkbox"/> Aqua Water Company                      | <input type="checkbox"/> Pinelands Area                                      |

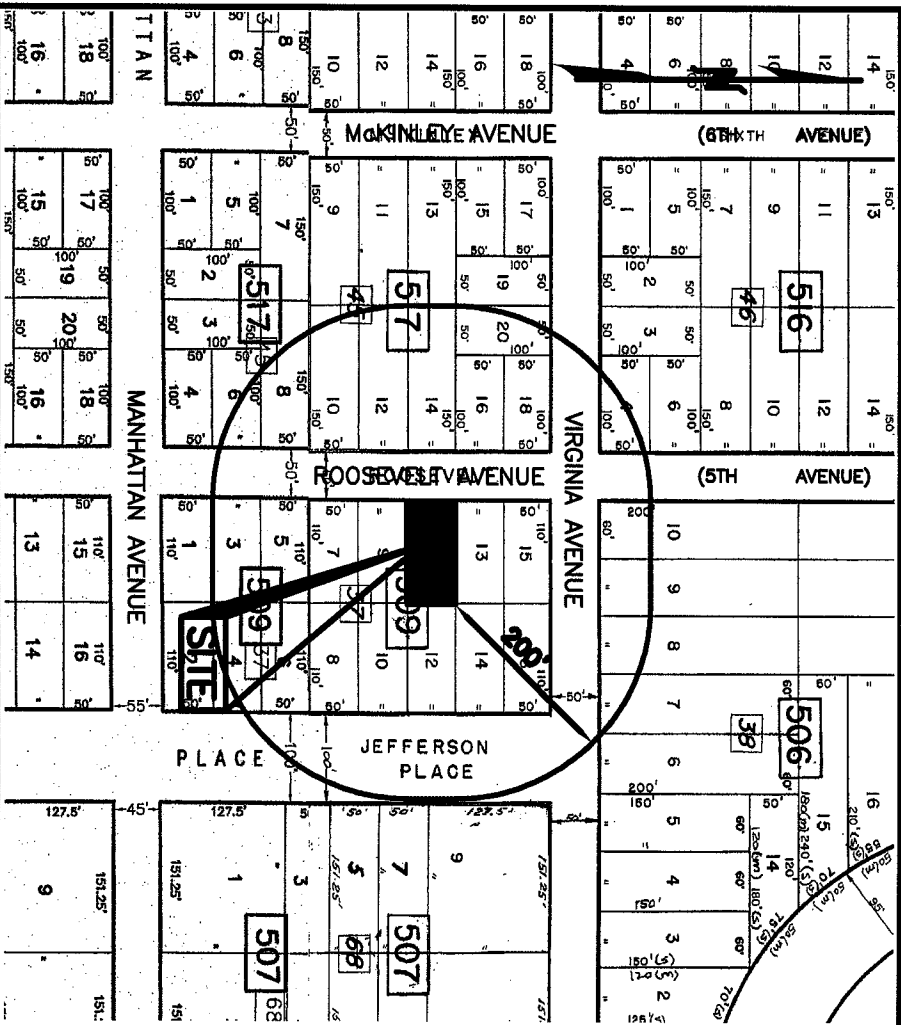
The right is reserved to present additional comments pending the receipt of revised plans and/or the testimony of the Applicant before the Board

Should you have any questions regarding this matter, please do not hesitate to contact this office.

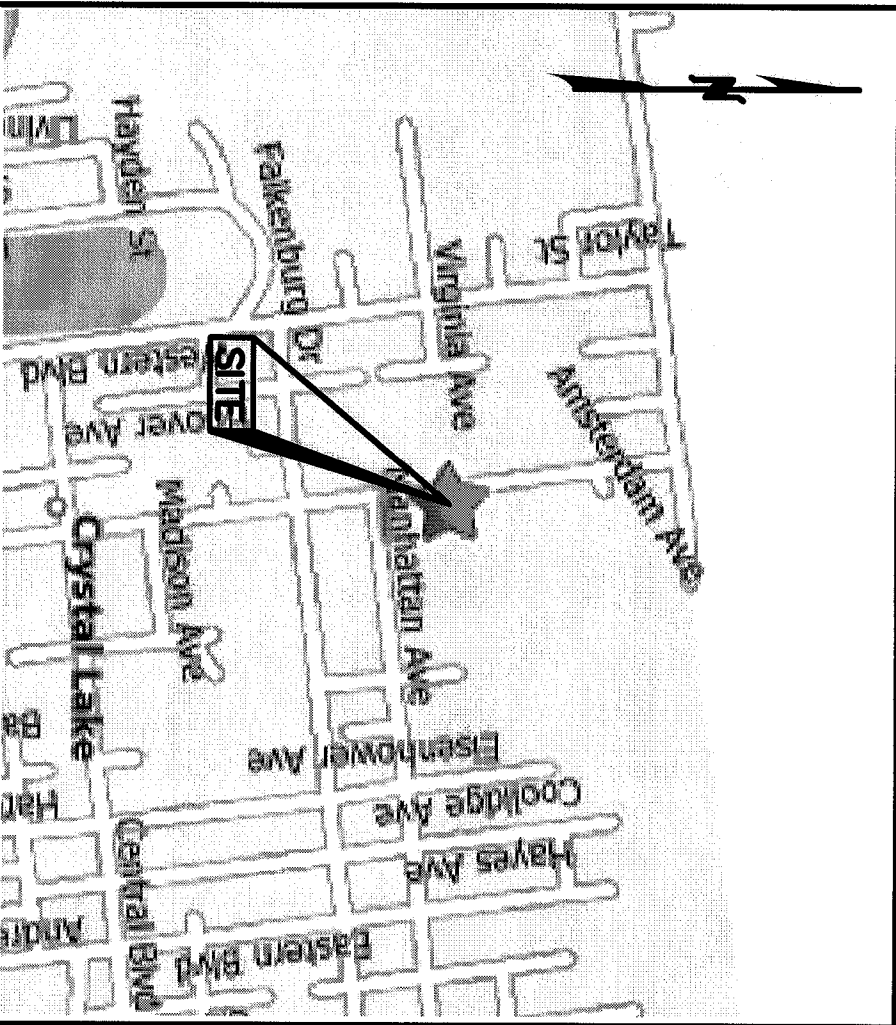
RJR/rr

cc: Board Attorney  
Jeffrey Jerman  
Nelke, Constantine & Associates, Inc.





**200 FT RADIUS MAP**  
SCALE: 1"=200'



**LOCATION MAP**  
SCALE: 1"=1000'











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MEMO TO: Berkeley Township Zoning Board of Adjustment

FROM: Robert J. Russo, P.E., P.P., C.M.E.,  
Office of the Zoning Board of Adjustment Engineer and Planner

DATE: September 20, 2010

RE: **Barton - Amended – Review #1**  
**Application: Remove and Replace SFD – Use and Bulk Variances**  
**Block: 1694, Lot 66**  
**Fronting on: 12 Second Lane**  
**Zoning District: BR – Beachfront Residential**  
**Plan: Architectural Plans, prepared by Tekton Enterprises Inc., Dated 11.10.08,**  
**Revised 06.15.10**  
**Plot Plan w/Grading, prepare by Schlatmann Engineering Assoc, LLC**  
**Dated 01.08.09, Revised 07.09.10**  
**BOA#: 08-5258**  
**Our File No.: PBAZ1694.08/ 600.02**

In accordance with your request, our office has reviewed the following variance application submitted for the above referenced property. The following comments are offered with regard to the same:

**A. PROJECT OVERVIEW**

1. The denial states that the "applicant proposes to replace a non-conforming SFD with a non-conforming SFD (which is only allowed in the event of a partial destruction by fire or other natural disaster), that will increase the width of the building which is not allowed in the BR-Zone".
2. BR-Beach Residential Zone Requirements per Section 35-96.9b.2: All dwellings which front on a lane and do not maintain any frontage on the Ocean shall be in accordance with the following standards:
  - a. The enclosed floor area of a dwelling may be extended from the rear wall of the structure a distance of not more than twelve (12) feet from the present rear wall and the width not greater than the dimension of the present sidewall. The combination of the addition and deck shall not violate the minimum distance in the rear yard as set forth in section (h) below. **The applicant is proposing to expand the width of the present structure from 15.2' to 18' which will require a variance.**
  - b. An outside shower area of four feet by four feet shall be permitted off the rear of an existing dwelling. Said shower area may be constructed off the side of a dwelling provided the rear wall of the proposed shower area is aligned with the rear of the dwelling.
  - c. No extension, expansion or deck shall be permitted in the side yards except as per subsection 35-96.9b, 2(b). **As noted in (a) above, the applicant is proposing to expand the width of the present structure from 15.2' to 18' into the side yard which will require a variance.**
  - d. A ground level platform or sitting area may be added to the front of a dwelling. Said area shall not exceed three feet by the width of the dwelling and shall not be enclosed.
  - e. In no instance shall the height of any structure be increased above fourteen (14) feet (except to accommodate required base flood elevations and in that situation, the height of the dwelling space shall not be increased above fourteen (14) feet) nor shall any second story enclosed living space or storage space be permitted. **The applicant is proposing a mean**





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height for the proposed structure of 12.96' based on the architectural drawings. However, there appears to be a discrepancy between the architectural drawings and the plot plan with regard to the first floor elevation and the actual building height. It appears that the architectural drawings indicate the building height and elevation of the first floor to be 13.92' and 10', respectively while the plot plan appears to indicate 13.14' and 10.5', respectively. The applicant should clarify same. In either case, it appears that the mean height is less than the maximum allowed 14'.

- f. A shed may be permitted, however shall not exceed 32 SF (4'x4'x8'). In no instance shall a shed exceed the height of any residential structure.
- g. No fence shall exceed four (4) feet in height.
- h. A minimum distance of six (6) feet shall be maintained in the rear yard area between any expansion or deck and the rear wall or deck or another dwelling. In no instance shall a rear expansion, rear deck, outdoor shower area or shed be permitted to encroach in to the minimum six (6) feet wide rear yard separation area, the alleyway. **It appears that the applicant is proposing to construct the rear wall of the dwelling to with in approximately 5.75' of the adjacent dwellings rear deck. The applicant should verify and dimension this distance on the plan. If same is less than 6', a variance will be require. It should be noted that the existing deck is less than one (1) foot from the adjacent dwellings rear deck.**

#### **B. GENERAL REVIEW COMMENTS**

1. The applicant should provide a description of the proposed dwelling.
2. Testimony is required to demonstrate that the applicant satisfies the positive and negative criteria of the Municipal Land Use Law for the granting of the Variance for the construction of a non-conforming use. Consequently, the applicant must demonstrate the following:
  - a. Positive Criteria
    - i. That the site is particularly suited to the use.
    - ii. There are special reasons that allow a departure from the zoning regulations in this particular case. In general, to show special reasons, the grant of a variance must be shown to implement one or more of the purposes of the Municipal Land Use Law (NJSA 40:55D-2).
  - b. Negative Criteria
    - i. That the variance can be granted without substantial detriment to the public good. This requires an evaluation of the impact of the proposed use on surrounding properties and a determination as to whether or not it causes such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.
    - ii. That the variance will not substantially impair the intent and purpose of the zoning plan and ordinance
3. Pursuant to the MLUL Section 40:55D-70, the Board of Adjustment may grant a bulk variance request if:
  - c.(1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to



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article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property.

- c.(2) where in an application or appeal relating to a specific piece of property the 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...

It has to be determined whether the property in question meets any or all of the reasons established in the MLUL to permit the granting of the variance and whether the enforcement of the Berkeley Township General Ordinances will cause undue hardship to the property owner.

#### C. MISCELLANEOUS

1. Should the Zoning Board of Adjustment grant the relief requested by the applicant, approval of this application should be conditioned upon the following:
  - a. The Applicant certifying to the following:
    - i. The proposed structure should not encroach into existing easements (i.e. shade tree, utility, drainage, etc) without proper consent from the Township.
    - ii. The proposed grading if any, will not impact adjacent property and that the plan as submitted is a true and accurate representation of the existing and proposed improvements on the site.
    - iii. Payment of all outstanding professional review fees of the Board and the Township.
  - b. The Applicant providing the following to the Building Department at time of application for a building permit:
    - i. The applicant submitting for a grading permit in accordance with Section 11-1.5.
    - ii. The applicant submitting architectural plans of the proposed dwelling, to show compliance with building codes.
    - iii. Proof of approval and/or waivers from all agencies having jurisdiction.

The right is reserved to present additional comments pending the receipt of revised plans and/or the testimony of the Applicant before the Board

Should you have any questions regarding this matter, please do not hesitate to contact this office.

RJR/rr

cc: Edward Liston, Esq. - Board Attorney  
Richard Barton - Applicant  
Michael R. Pichowicz, Esq. - Applicant's Attorney  
Kenneth F.X Schlattmann, P.E., P.P.  
Joseph M. Tinley Jr., Architect



SITE

