

TOWNSHIP OF BERKELEY
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
AUGUST 11, 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. **GATTO** **BOA#10-5320**

Variance(s) requested: Bulk Variance

Project: 6 Foot Fence

Block(s): 1841.01 Lot(s): 1.01

Address: 51 Pelican Drive Zone: R-90

Denial Reads: The Applicant proposes to install a 6 foot high fence between a public right-of-way and building line which is not permitted.

2. **JERMAN** **BOA#09-5291 (Carried from 6/23/10)**

Variance(s) requested: Bulk Variances

Project: Single-family dwelling on an Undersized Lot

Block(s): 527 Lot(s): 15 & 17

Address: Maryland Ave. Zone: R-125

Denial Reads: The Applicant proposes to construct a single-family dwelling on a 10,000 s.f. lot where 12,500 s.f. is required.

3. JERMAN BOA#09-5272 (Carried from 6/23/10)

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.

4. JERMAN BOA#09-5304

Variance(s) requested: Bulk Variances
Project: Single-family dwelling on an Undersized Lot fronting on an Unimproved Road
Block(s): 529 Lot(s): 9
Address: Hoover Ave. Zone: R-125
Denial Reads: The Applicant wishes to construct a single-family dwelling on a 7,500 s.f. lot where 12,500 s.f. is required, a 50 foot lot frontage where 100 feet is required, fronting on an Unimproved Road.

5. JERMAN BOA#10-5308

Variance(s) requested: Bulk Variances
Project: Single-family dwelling on an Undersized Lot
Block(s): 355 Lot(s): 5
Address: West End Ave. Zone: R-150
Denial Reads: The Applicant wishes to construct a single-family dwelling on a 6,250 s.f. lot with 50 foot long frontage where 15,000 s.f. and 100 feet are required, respectively.

G. RESOLUTIONS TO BE ADOPTED.

H. APPROVAL OF MEETING MINUTES.

I. ADJOURNMENT: Next meeting of the Board of Adjustment will be on August 25, 2010 at 7:00 PM



JOHN H. ALLGAIR, 1983-01
DAVID J. SAMUEL, P.E., P.P.
JOHN J. STEFANI, P.E., L.S., P.P.
JAY B. CORNELL, P.E., P.P.
MICHAEL J. McCLELLAND, P.E., P.P.
GREGORY R. VALES, P.E., P.P.

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LOUIS J. PLOSKONKA, P.E.
TREVOR J. TAYLOR, P.E.
BEHRAM TURAN, P.E.

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: July 15, 2010

RE: **Gatto Variance – Review #1**
Application: Construction of 6' High Fence
Block: 1841.01, Lot 1.01
Fronting on: 51 Pelican Drive
Zoning District: R-90
Plans: Survey – Prepared by Dolan-Endriss Associates; dated December 11, 2006
BOA#: 10-5320
Our File No.: PBAZ1841.15/600.01

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. General

1. The denial states that the "applicant to install a 6' high fence between a public right of way and building line which is not allowed".
2. Variance Requested

Pursuant to Section 35-89.5, all corner lots shall have two front yards. Pursuant to Section 11-5.2(1) no person shall erect any fence between a public street and a building line to a height exceeding 48 inches. The applicant is requesting variance relief from this requirement.
3. The applicant should discuss the need for a six (6) foot high fence (as opposed to a 4' fence) in the front yard, supporting the requested variance.
4. The applicant should locate the proposed fence outside of the existing sight triangle easement located at the corner of Pelican Drive and Raymond Place.

B. MISCELLANEOUS

1. Should the Zoning Board of Adjustment grant the relief requested by the applicant, approval of this application should be conditioned upon the Applicant certifying to the following:
 - a. Payment all outstanding professional review fees of the Board and the Township.
 - b. The fence to be located at least 6 inches from any property line to prevent potential property conflicts and outside of the existing sight triangle easement.
 - c. The plan as submitted is a true and accurate representation of the existing and proposed improvements on the site.

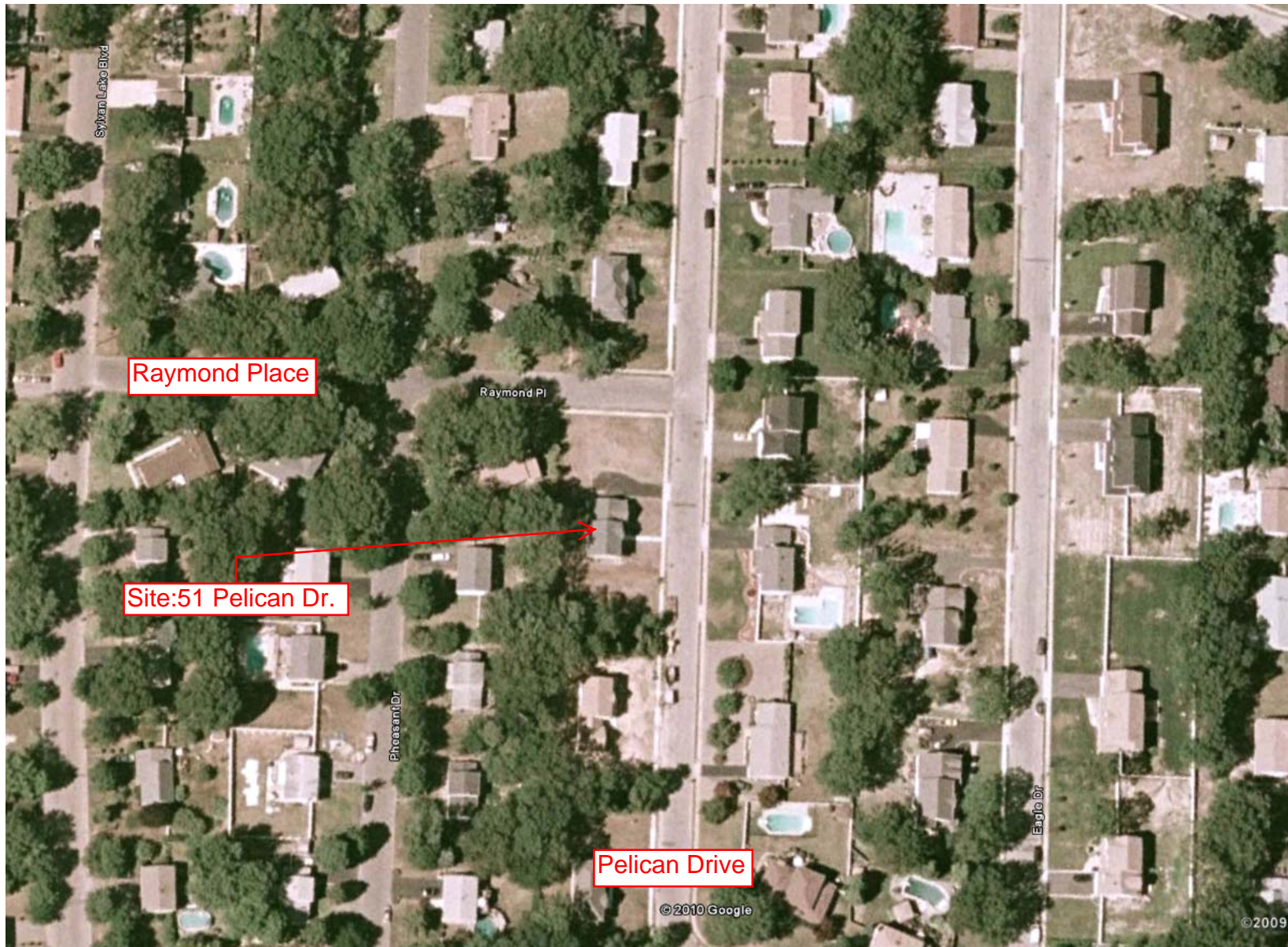
The right is reserved to present additional comments pending the receipt of revised plans and/or the testimony of the Applicant before the Board

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

RJR/rr

cc: Board Attorney
Mr. Gatto– Applicant – 51 Pelican Drive, Bayville, NJ





Raymond Place

Raymond Pl

Site:51 Pelican Dr.

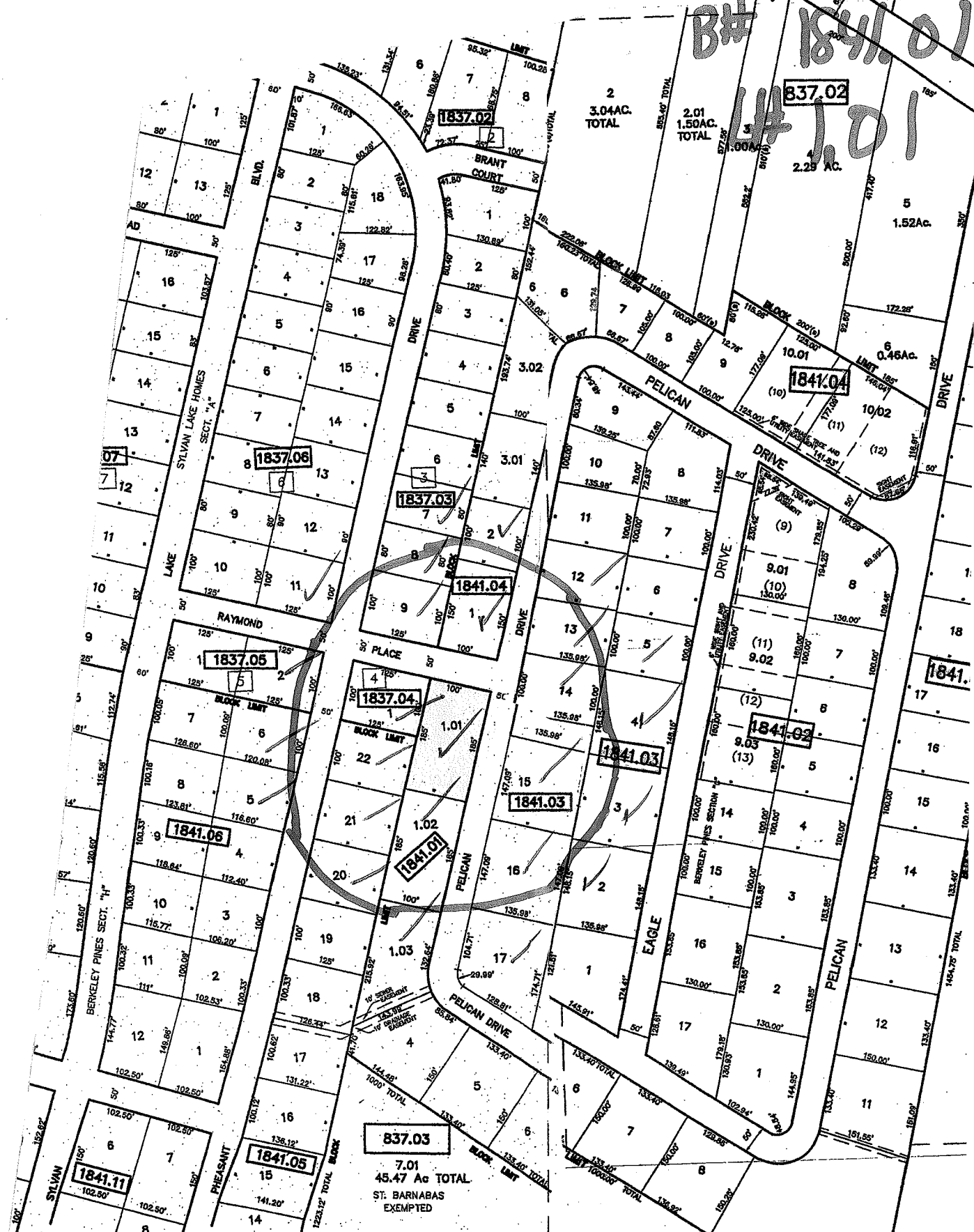
Pheasant Dr

Pelican Drive

Eagle Dr

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BERKELEY TOWNSHIP TAX MAP

OCEAN COUNTY NEW JERSEY
SCALE: 1"=100' DECEMBER 1958
JOHN C. FELLOWS & SON - CIVIL ENGINEERS
310 MAIN STREET TOMS RIVER, N.J.

COMPUTER AIDED DRAFTING (CAD)
S & SON - CIVIL ENGINEERS, ON DECEMBER 1958

JOHN H. ALLGAIR, 1983-01
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TREVOR J. TAYLOR, P.E.
BEHRAMTURAN, P.E.

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: December 10, 2009

RE: **Jerman Variance – Review #1**
Application: Single Family Dwelling on an undersized lot
Block 527, Lot 15 & 17
Zoning District: R-125
Fronting on: Maryland Avenue
Plan: Property Development Plan, prepared by
Nelke, Constantine & Assoc., Inc.
dated October 15, 2009
BOA#: 09-5291
Our File No.: PBAZ0527.01/ 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 a 10,000 s.f. lot where 12,500 s.f. is required". The lot in question is located on the southeastern corner of the intersection of Maryland Avenue and Hoover Avenue, within the R-125 zone. The lot is currently vacant and wooded. The applicant is proposing to construct a four bedroom single family dwelling and associated site improvements on the lot. Maryland Avenue, where the applicant is proposing to front the dwelling, is currently paved with a 24' +/- 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	10,000 sf	10,000 sf	<input checked="" type="checkbox"/>
Min. Lot Frontage	100 ft	100 ft	100 ft	<input type="checkbox"/>
Front Yard Setback	35 ft	N/A	58 ft	<input type="checkbox"/>
Rear Yard Setback	30 ft	N/A	30 ft	<input type="checkbox"/>
Side Yard Setback	10 ft	N/A	10 ft	<input type="checkbox"/>
Combined Side Yard	25 ft	N/A	N/A	<input type="checkbox"/>
Max. Lot Coverage by Building	25%	N/A	20%	<input type="checkbox"/>
Max. Building Height	35 ft	N/A	< 35 ft	<input type="checkbox"/>
Min. Floor Area	1,250 sf	N/A	1,872 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 or larger 1,250 sf.

B. GENERAL REVIEW COMMENTS

1. The applicant is proposing to serve the proposed dwelling by utilizing the public sanitary sewer system and public water.





Memo to Berkeley Township Zoning Board
Our File: PBAZ0527.01
December 10, 2009
Page 2 of 3

2. The applicant should consolidate lots 15 and 17.
3. The applicant should revise the zoning schedule on the survey submitted to Zone R-125. It currently indicates that the property is located in zone R-150.
4. The applicant should provide invert elevations for the proposed sanitary sewer lateral and existing sewer main. A detail should be provided for the sanitary sewer lateral and water service.
5. 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.

C. DISCUSSION ITEMS (The applicant should be prepared to discuss the following items)

1. Providing 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. Please note that the applicant has sent a letter to the Township, who is the adjoining property owner, requesting that the Township sell the lot, Lot 19, to the applicant or purchase the applicant's property. The purchase of Lot 19 would provide the required lot area for the zone and therefore, the property would be a conforming building lot. The Township responded to the applicant on November 2, 2009 and agreed to sell Lot 19 for an asking price of \$30,000.00. The applicant responded to the Township in a letter dated November 6, 2009, stating that he is willing to purchase the property but for a cost of \$15,000.00. The applicant should provide testimony regarding the status of same.
2. 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.
 - d. The variance will not substantially impair the intent and purpose of the zoning plan and ordinance.





Memo to Berkeley Township Zoning Board
Our File: PBAZ0527.01
December 10, 2009
Page 3 of 3

D. 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, if required 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 type="checkbox"/> Ocean County Board of Health | <input checked="" type="checkbox"/> Ocean County Planning Board |
| <input checked="" 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.





JOHN H. ALLGAIR, 1983-01
DAVID J. SAMUEL, P.E., P.P.
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BEHRAM TURAN, P.E.

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



JOHN H. ALLGAIR, 1983-01
DAVID J. SAMUEL, P.E., P.P.
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BEHRAM TURAN, P.E.



Memo to Berkeley Township Zoning Board
Our File: PBAZ0509.02
August 3, 2010
Page 2 of 3

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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BEHRAM TURAN, P.E.



Memo to Berkeley Township Zoning Board
Our File: PBAZ0509.02
August 3, 2010
Page 3 of 3

- 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 |

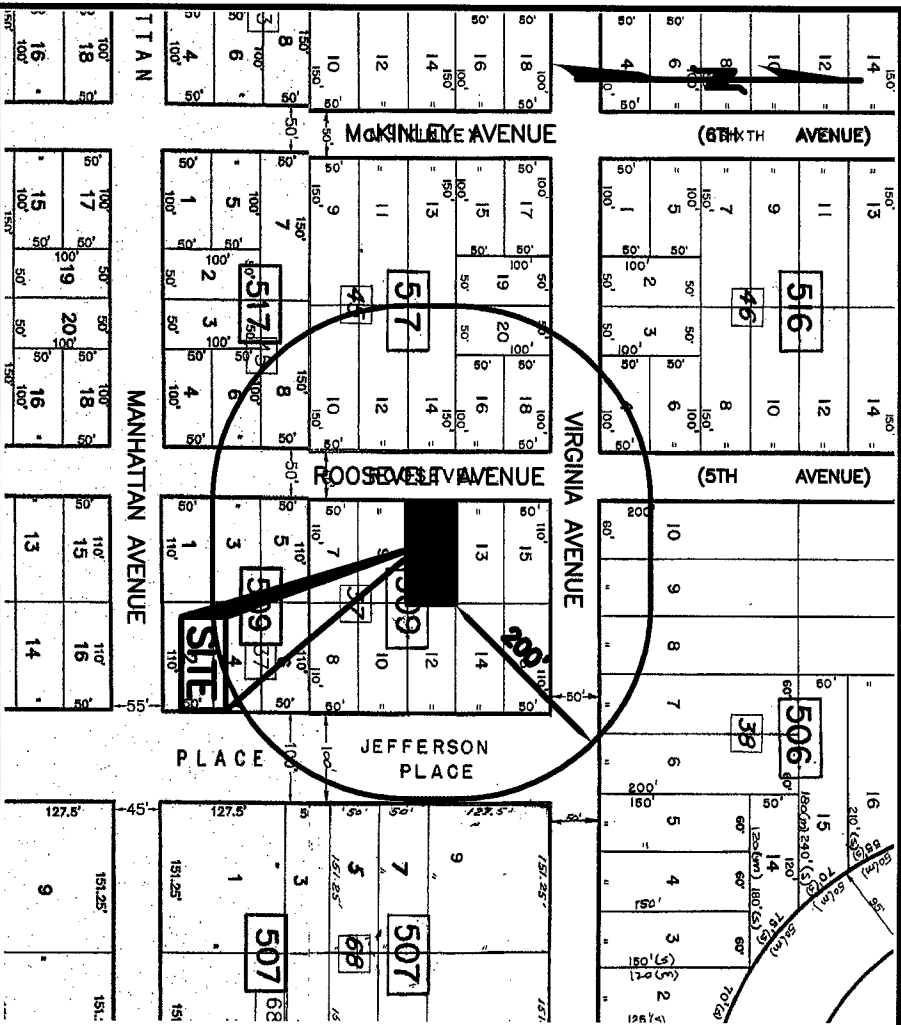
The right is reserved to present additional comments pending the receipt of revised plans and/or the testimony of the Applicant before the Board

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

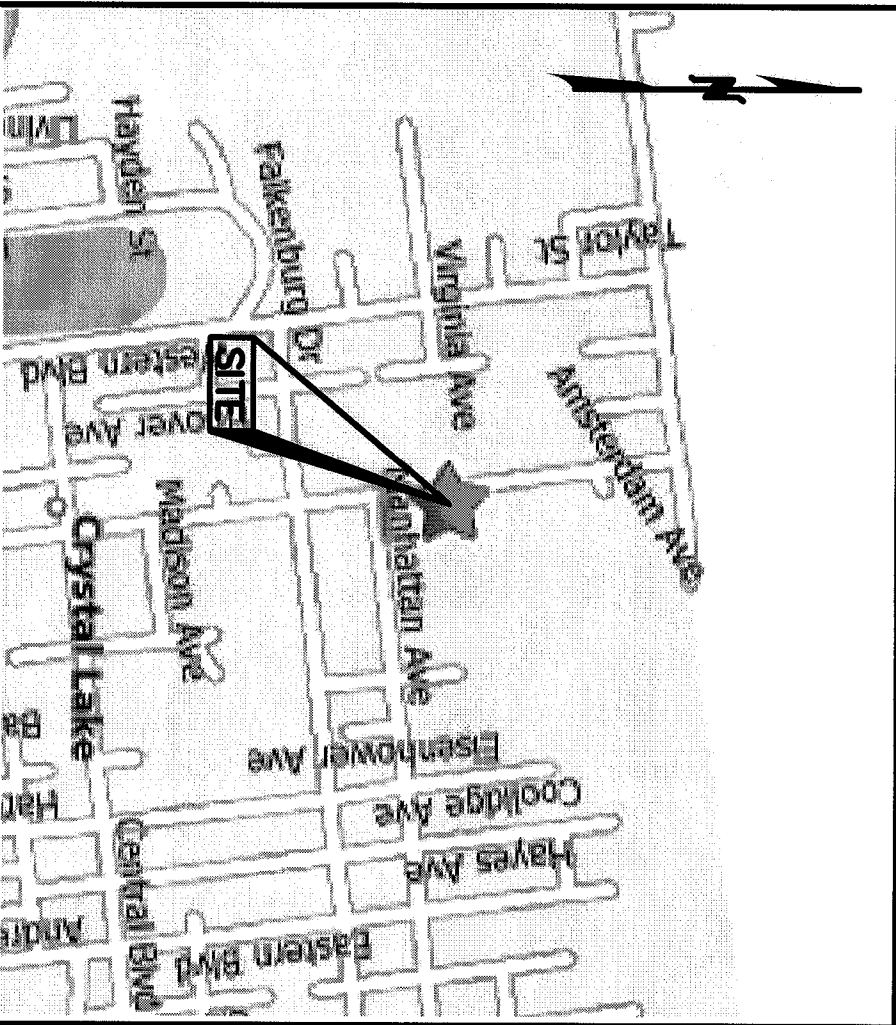
RJR/rr

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





200 FT RADIUS MAP
SCALE: 1"=200'



LOCATION MAP
SCALE: 1"=1000'





JOHN H. ALLGAIR, 1983-01
DAVID J. SAMUEL, P.E., P.P.
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BEHRAM TURAN, P.E.

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: July 1, 2010

Re: **Jerman – Hoover Avenue – Review #1**
Application: Single Family Dwelling on an Undersized
Lot Fronting on an Unimproved Road
Block, 529, Lot 9
Fronting on: Hoover Avenue
Zoning District: R-125
Plan: Variance Plan, prepared by PDS, LLC
Dated June 27, 2008, Latest Revision Date of April 24, 2010
BOA: 09-5304
Our File No.: PBAZ0529.01/600.01

In accordance with your request and the provisions of Section 35-20, 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 "the applicant to construct a single family dwelling on a 7,500 s.f. lot where 12,500 s.f. is required, a 50' lot frontage where 100' is required, on an unimproved road". The site is located on an unimproved portion of Hoover Avenue approximately 200 LF north of its intersection with Central Blvd in the R-125 zone.
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	7,500 sf	7,500 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	44 ft	<input type="checkbox"/>
Rear Yard Setback	30 ft	N/A	63 ft	<input type="checkbox"/>
Side Yard Setback	10 ft	N/A	10 ft	<input type="checkbox"/>
Combined Side Yard	25 ft	N/A	25 ft	<input type="checkbox"/>
Max. Lot Coverage by Building	25%	N/A	14.1 %	<input type="checkbox"/>
Max. Building Height	35 ft	N/A	<35 ft	<input type="checkbox"/>

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.





JOHN H. ALLGAIR, 1983-01
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Memo to: Zoning Board of Adjustment
Our File: PBAZ0529.01
July 1, 2010
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2. Pursuant to Section 35-89.12 and 35-54, every new dwelling unit shall provide no less than 2 off-street parking spaces and paved driveways are required as access to garages or other off-street parking spaces. The applicant indicates a garage is proposed. The applicant is proposing a stone driveway with a concrete apron. We recommend that the applicant conform to the Ordinance by constructing a paved driveway.
3. The proposed lot is to be served by public water and by the public sanitary sewer system.
4. Pursuant to 17-5.1, every principal building shall be built upon a lot with frontage upon a public street improved to meet the Township requirement for improved public streets or for which such improvements have been guaranteed by the posting of a performance guarantee:

For the Boards clarification, pursuant to 17-5.6 in no event shall the applicant be required to provide less than the following minimum requirements:

- a. The roadway width must be at least thirty (30) feet.
- b. The entire roadway width shall consist of six (6) inches of DGA, bituminous base course, and bituminous surface course.
- c. The newly paved street shall provide direct access to an approved, improved public street to protect the health, safety and welfare of all future residents and to ensure proper vehicular access by police, fire, first aid and other emergency and essential services.

The Board should note items a, b and c represent the minimum requirements, and could request the applicant provide additional items such as curb, sidewalk and street lighting to at a minimum to protect the health safety and welfare of residents.

It is recognized that, in rare cases, exceptional and extraordinary conditions or the uniqueness of a particular lot may require the waiver of frontage upon a fully improved street. The Board may consider and waive strict compliance with this requirement, if requested by the applicant.

5. The applicant is requesting a waiver from the requirement of providing a 25' radius gravel turn-around at the terminus of Hoover Avenue per Section 35-73 3b. We recommend that some form of turn-a-round be provided.
6. The applicant has requested a waiver from providing a proposed street lighting plan indicating lighting in conformance with the illumination Engineering Society of North America (IESNA) standards.
7. The applicant has indicated there are no wetland areas within 150 feet of the site. The applicant is requesting a waiver from providing an NJDEP Presence / Absence Letter of Interpretation (LOI).
8. The applicant is not proposing to extend the existing sanitary sewer main across the frontage of the property to the southern property line. The applicant is proposing to connect the sanitary sewer





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lateral for the dwelling into the existing sanitary sewer manhole on Hoover Avenue. The applicant has indicated that this will be the last lot serviced by the sewer main and that the existing dwellings on Central Boulevard are serviced by a sanitary sewer main in Central Boulevard. We defer further review of same to the Berkeley Township Sewage Authority. However, if the sewer main is not extended, we recommend that the sewer lateral be connected into the existing sanitary sewer main as opposed to directly to the existing manhole.

9. The applicant should correct the front yard setback dimension indicated on the plans. 48' is noted, and 44' has been provided.
10. 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.

11. 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.
 - 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 for review by the Zoning Board of Adjustment Engineer a plan which includes those items covered above and discussed at the Board meeting.





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- 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 and shall not encroach upon private wells or individual septic systems or disposal fields.
 - ii. The proposed grading, if any, will not impact adjacent property; that the plan as submitted is a true and accurate representation of the existing and proposed improvements on the site, and 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 making payment into the Roadway Trust Fund for improvements to Hoover Avenue including the applicants fair share of the costs for street lighting, curbs, sidewalks, grading, shade trees and soil stabilization.
 - ii. The applicant making payment into the Drainage Trust Fund in accordance with Sections 17-5.6 (g) and 35-72.7.
 - iii. The applicant providing a proposed street lighting plan indicating lighting in conformance with the illumination Engineering Society of North America (IESNA) standards, if not waived by the Board.
 - iv. The applicant submitting for a grading permit in accordance with Section 11-1.5.
 - v. The applicant submitting architectural plans of the proposed dwelling, to show compliance with building codes.
 - vi. The applicant submitting a Tree Removal / Replacement Plan in accordance with Ordinance 03-25-0AB.
 - vii. Proof of approval and/or waivers from all agencies having jurisdiction including:
 - 1. Berkeley Township Sewage Authority
 - 2. Ocean County Soil Conservation, if required
 - 3. Ocean County Planning Board
 - 4. Berkeley Township Municipal Utilities Authority

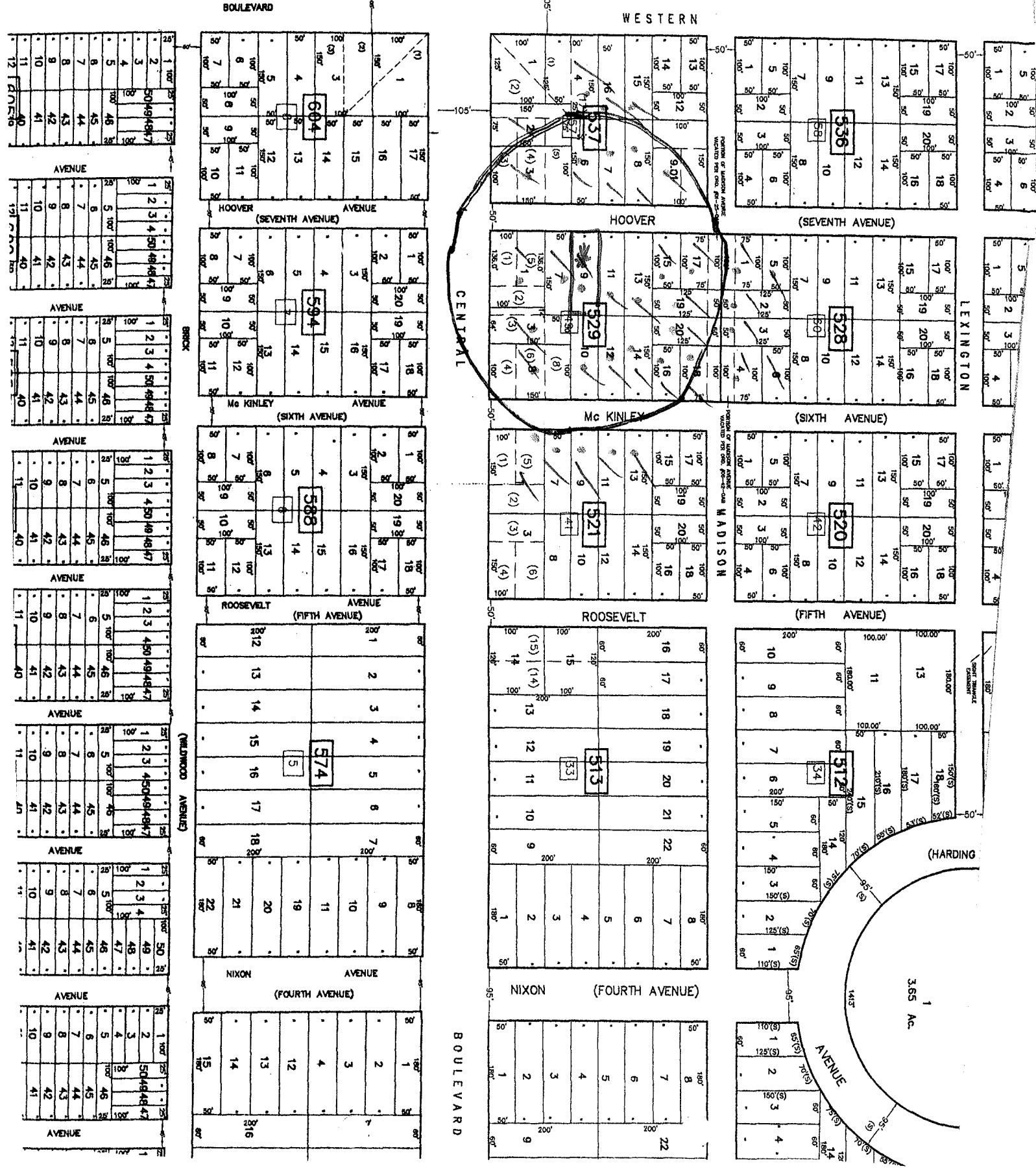
The right is reserved to present additional comments pending the receipt of revised plans and/or the testimony of the Applicant before the Board.

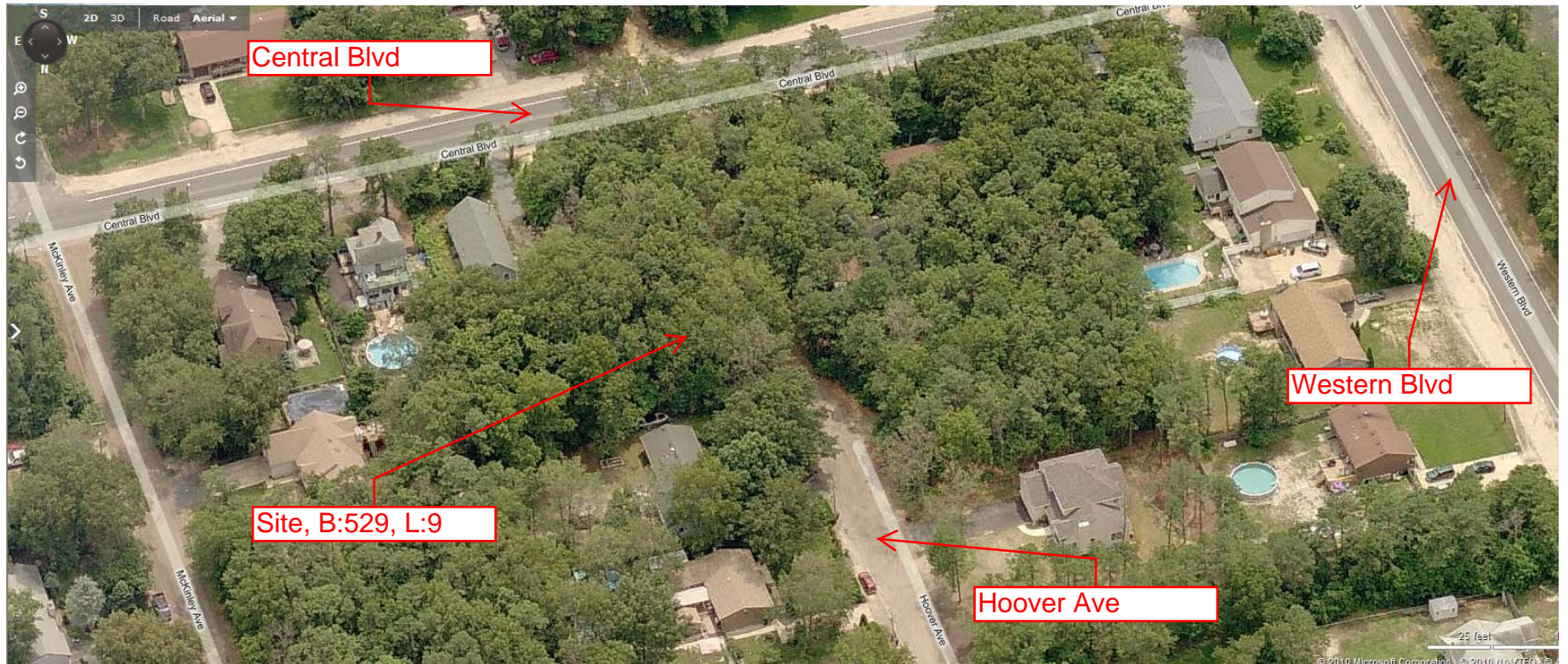
Should you have any questions regarding this matter, please contact Kristie Armour at (732) 462-7400 Extension 130.

RJR/rr

cc: Edward Liston, Esq. - Board Attorney
Jeffrey Jerman, Applicant
William A. Stevens, P.E., Applicant's Engineer/Surveyor









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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: June 28, 2010

RE: Jerman Variance – Review #1
Application: Single Family Dwelling on an undersized lot
Block 355, Lot 5
Zoning District: R-150
Fronting on: West End Avenue
Plan: Property Development Plan, prepared by
Nelke, Constantine & Assoc., Inc.
dated December 29, 2009
BOA#: 10-5308
Our File No.: PBAZ0355.01/ 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 the applicant proposes to "construct a SFD on a 6,250 SF lot with 50' frontage where 15,000 SF and 100' are required, respectively". The lot in question is located on the western side of West End Avenue, within the R-150 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. West End Avenue is a dead end street which is currently paved with a 14' +/- wide pavement width.
2. R-150 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	15,000 sf	6,250 sf	6,250 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	35.5 ft	<input type="checkbox"/>
Rear Yard Setback	30 ft	N/A	39.5 ft	<input type="checkbox"/>
Side Yard Setback	10 ft	N/A	10.5 ft	<input type="checkbox"/>
Combined Side Yard	25 ft	N/A	26 ft	<input type="checkbox"/>
Max. Lot Coverage by Building	25%	N/A	19%	<input type="checkbox"/>
Max. Building Height	35 ft	N/A	< 35 ft	<input type="checkbox"/>
Min. Floor Area	1,250 sf	N/A	1,728 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 or larger 1,250 sf.

B. GENERAL REVIEW COMMENTS

1. The applicant is proposing to serve the proposed dwelling by utilizing the public sanitary sewer system and private water.





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2. The applicant should review the proposed grading for the lot since it appears that high points are being created in the side yards which is forcing the proposed run-off to the street. It appears that this property is located at a low point in the street and the run-off from the street currently drains onto this lot and toward a drainage structure at the rear of the property.
3. The applicant has requested a waiver from the requirement of making payment into the Drainage Trust Fund in accordance with Sections 17-5.6(g) and 35-72.7. The applicant has indicated that the run-off from the site drains to an existing drainage system at the rear of the property. This appears to be the case under existing conditions; however, as indicated above, the applicant is proposing to drain the front of the lot toward a low point in the street. If the applicant amends the grading plan to indicate that the proposed run-off for the lot will drain to the existing drainage system at the rear of the lot, we would have no objection to this request.
4. The applicant should revise the zoning schedule on the plan to indicate a proposed combined sideyard setback of 26'. A variance is not required.
5. The applicant should provide invert elevations for the proposed sanitary sewer lateral and existing sewer main.
6. The Applicant has requested a waiver from providing an NJDEP Presence/Absence type of Letter of Interpretation (LOI) for the site. The applicant has submitted a report from an environmental specialist indicating that there are no freshwater wetlands located on or within 150 feet of the site.
7. 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.

C. DISCUSSION ITEMS (The applicant should be prepared to discuss the following items)

1. Providing 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. 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.





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

D. 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 for review by the Zoning Board of Adjustment Engineer a plan which includes those items covered above and discussed at the Board meeting.
 - 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.
 - iv. Proof of approval and/or waivers, if required from all agencies having jurisdiction including, the Ocean County Board of Health, the Berkeley Twp Sewerage Authority and the Ocean County Planning Board.

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
Jeffrey Jerman - Applicant
Jeff Daum, P. E. - Applicant's Engineer



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