

# John McDonough Associates, LLC

Land Use Planning · Landscape Architecture

## MEMORANDUM

To: East Orange Zoning Board Commissioners

From: John McDonough, LA, PP, AICP

Date: November 8, 2021

Re: **ZB-2587-21~ Minor Subdivision, 301 Shepard Avenue & 242 Eppirt Street**

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Based upon site visits, attendance at Site Plan Review Advisory Committee meetings (SPR), and review of the submitted application documents, the following planning comments are offered for consideration.

1. *Existing Conditions.* The subject site consists of 1 tax lot (Block 458.01 Lot 22) which is a “through lot” with frontage on Shepard Avenue and Eppirt Street. The site is approximately 12,375 square feet which is more than three (3) times greater than the zoning minimum of 3,500 square feet.

The site is developed with a 3½-story apartment building facing Shepard Avenue and vacant land facing Eppirt Street. The survey shows a driveway off Shepard Avenue leading to a paved area and garage behind the apartment building. Photographs of the site are attached.

2. *Proposed Conditions.* The applicant, TAW NJ LLC, is seeking minor subdivision approval to create two (2) lots: Lot 22.01 will retain the existing apartment building and Lot 22.02 will contain a new two-family dwelling. The applicant adjusted the lot line and design based on input at the SPR meetings.

The parking area behind the existing apartment building will be modified to remove the garage and create 5 parking spaces. There will also be a parking area constructed behind the two-family dwelling, to accommodate 3 parking spaces. A solid fence and landscaped buffer will separate the two lots.

3. *Zoning Considerations.* The site is in the R-2 District (Two-Family Residential, Townhouses). The zone permits two-family dwellings and new lot 22.02 is fully conforming in terms of use and all bulk parameters, except for lot coverage (52.6% vs. 50% maximum permitted).

Lot 22.01 requires d(2) relief for expansion of a nonconforming use since apartments are not permitted in the R-2 zone. Even though the use is not expanding per se, our courts have established that reduction of the lot area associated with a nonconforming use requires d(2) relief (Razberry's v. Kingwood case).

In addition to the above, Lot 22.01 requires “c” relief for lot coverage (89.05% vs 50%) and for building height (38’ vs 35’). Building height is an existing condition not changing and the height requires “c” relief, not require d(6) relief since the height is less than 10 feet and less than 10% above the threshold.

4. *Planning Considerations.*

- a. *The Existing Building.* The applicant shall provide the DCA registration card as a condition of approval, to verify the legal number of dwelling units therein. The lot is taxed as an apartment.
- b. *The Proposed Building.* The applicant should clarify the use of the basement and verify overall site conformance with ADA handicapped code, fire code, and the like.
- c. *The Relief.* The essence of the d(2) test is site betterment, not whether the use belongs in the first place. The board should weigh whether the overall project improves the site’s integration with the area. The board may give deference to the integration of the new two-family dwelling as part of the overall balancing.



Figure 1 - Street view of existing onsite apartment building fronting on Shepard Avenue.



Figure 2 ~ View of subject site, vacant land fronting on Eppirt Street.