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Memorandum

DATE: June 20, 2022

TO: Members of the Plainfield Zoning Board of Adjustment

FROM: Malvika Apte, PP, AICP
Consulting Board Planner *MA*

CC: Daniel White, Zoning Board Secretary
Peter Vignuolo, Esq., Zoning Board Attorney
Drew DiSessa, PE, PP, CME, Board Engineer
Valerie Jackson, Director, Department of Economic Development
John J. Sullivan, Jr., Esq., Applicant's Attorney
Giovanni Manilio, PE, Applicant's Engineer
Paulo J.M. Dantas, RA, Applicant's Architect

RE: Planning Review #1
Application ZBA 2022-12
1526-1528 West Third Street, Plainfield, NJ 07063
Block 146, Lot 12
Zone: R-4 Moderate Density Residential Zone

FILE NO.: HPFZ0146.01

Per your request our office has reviewed the following items in relation to this application:

- Application form received by the City on April 8, 2022;
- Transmittal letter prepared by Vastola & Sullivan, Counsellors at Law dated April 5, 2022;
- Project Description;
- Application for 200 Feet Radius List;
- Political Contribution Disclosure Statement for Applicant, Applicant's architect, Applicant's engineer, Applicant's professional planner, and Applicant's attorney;
- Official tax record prepared by the Plainfield Tax Department dated February 23, 2022;
- W-9 Form for Applicant;
- Ownership Disclosure Certification for Applicant;
- Standard Flood Hazard Determination Form for subject property dated February 23, 2022;
- Deed for subject property recorded March 22, 2022;
- Owner's Policy of Title Insurance issued by WFG National Title Insurance Company;



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- Four (4) photographs of the subject property;
- Approval letter from the Somerset-Union Soil Conservation District dated March 15, 2022;
- Report entitled "Stormwater Calculations for 44-46 Wainwrigl LLC Block 146 Lot 12 City of Plainfield Union County, New Jersey" prepared by Manterra Design LLC dated February 1, 2022;
- One (1) sheet of "Location Property Survey St. No. 1526-1528 West Third Street Tax Lot 12 Block 146 City of Plainfield, Union County, New Jersey" prepared by Wm. DiMarzo & Son, Assoc., Inc. dated September 10, 2021;
- Response letter prepared by Manterra Design, LLC dated May 24, 2022;
- Four (4) sheets of engineering site plans entitled "44-46 Wainwrigl LLC Block 146, Lot 12 City of Plainfield Union County, New Jersey" prepared by Manterra Design LLC dated February 1, 2022 and last revised May 20, 2022; and
- Three (3) sheets of architectural plans entitled "New Two Family Dwelling for 44-46 Wainwrigl LLC" prepared by Dantas Carrete Architecture dated November 15, 2021 and last revised May 20, 2022.

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

1. Summary of Application/Proposal

The Applicant, 44-46 Wainwrigl LLC, is seeking bulk variance approvals to permit the construction of a two-family dwelling on the subject property, 1526-1528 West Third Street, recorded as Block 146 Lot 12 in the Plainfield Tax Maps. The Applicant proposes the building to be two stories, with one dwelling unit occupying the first floor along with an attached two-car garage, and the second unit occupying the second floor. The ground floor unit is proposed to be a two-bedroom apartment, while the second floor unit is proposed as a three-bedroom unit. The two-bedroom unit will also include an open concept kitchen, living room, and dining room along with one full bathroom. The three-bedroom unit, which will be accessible via two staircases (one from the garage and one from the front landing) will also include an open concept kitchen, living room, and dining room along with two bathrooms (one of which is a master bathroom connected to one of the bedrooms).



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View of subject property from West Third Street.
Source: Google Maps Street View (image taken in August 2019)

2. Completeness

The application was filed with the City on **April 8, 2022** and was determined to be capable of being deemed complete on **May 17, 2022**. Per our May 17, 2022 Completeness Review Letter #1, the following items were noted as missing or incomplete:

- a. **§17:8-2.B.6:** All requisite escrow deposits and fees. *We defer to the Board Secretary to determine compliance with this item.*
- b. **§17:8-2.B.9g:** Dimensions of existing and proposed street right of ways, both within and adjacent to the subject property, including street names, and distances to nearest intersection along street ROW. *Site plan has been revised to the distance to the nearest intersection in the Existing Conditions/Removal Plan. This item is complete.*
- c. **§17:8-2.B.9j:** General slope and natural drainage, and watercourse locations and all natural and significant features (wooded areas, ponds, marshes, etc.) including trees over four (4) inches caliper. *Applicant's engineer has confirmed, via response letter dated May 24, 2022, that no trees of four inch caliper or greater exist on the subject property. This item is complete.*
- d. **§17:8-2.B.9r:** Signatures block for City Engineer, board chairman and board secretary. *A signatures block has been provided. This item is complete.*



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3. Subject Site and Surrounding Land Uses

The subject property is known as Block 146, Lot 12 and is an interior lot northeast of the intersection of West Third Street with Frace Street. The property is situated in the R-4 Moderate Density Residential Zone and is approximately 4,500 square feet in size. The submitted survey of the property indicates that the subject site is currently vacant.

Review of NJDEP NJ-GeoWeb does not show any known environmental issues on the property. Review of the National Flood Hazard Layer (NFHL) indicates the site is located in Zone X: Area of Minimal Flood Hazard.

The subject site is immediately surrounded in all directions by what appear to be single-family residential uses , as all have one doorway entrance and one mailbox. Just east of the property is the Rushmore Recreational Complex. Two blocks to the north and northwest is the South 2nd Street corridor, which includes industrial uses.

4. Zoning and Bulk Review

- a. Use: The subject property is located in the R-4 Moderate Density Residential Zone in which two-family dwellings are a permitted use. The Applicant proposes a two familydwelling structure. This complies. However, we note that the subject property is undersized for a two-family dwelling, with the area of the lot being just 45% of the required minimum. Additionally, as noted above, the property is surrounded by single-family dwellings that also appear to be on undersized lots.
- b. Bulk Regulations: The following table indicates the conformance of the proposed development with the bulk standards for two-family dwellings in the R-4 Moderate Density Residential Zone. The table also provides, for reference only, the requirements for a single-family dwelling in the R-4 Zone.

Bulk Regulations (R-4 Moderate Density Residential Zone)				
	Requirement Two-Family	Requirement Single-Family (Reference Only)	Existing	Proposed
Minimum Lot Area (sq. ft.)	10,000	7,500	4,500	4,500 (V)
Maximum Density (du/acre)	8.7	5.8	N/A	N/A (19.36)
Minimum Lot Width (feet)	80	50	50	50 (V)
Minimum Lot Frontage (feet)	80	50	50	50 (V)



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Bulk Regulations (R-4 Moderate Density Residential Zone)				
	Requirement Two-Family	Requirement Single- Family (Reference Only)	Existing	Proposed
Minimum Lot Depth (feet)	100	100	90	90 (V)
Minimum Front Yard Setback (feet)	25	25	--	17.1 (V)
Minimum Rear Yard Setback (feet)	30	30	--	12.3 (V)
Minimum Side Yard Setback One/ both (feet)	10 / 25	10 / 20	-- / --	4.4 (V) / 18.5 (V)
Maximum Number of Stories	2.5	2.5	--	2
Maximum Building Height (feet)	35	35	--	31.4
Maximum Percent Building Cover	25%	25%	--	36.6% (V)
Maximum Percent Total Lot Cover	40%	40%	--	62.2% (V)
Minimum Improvable Area (M.I.A) (sq.ft.)	2,400	2,000	875	875 (V)
M.I.A Diameter of Circle (feet)	35	31	25	25 (V)
(E)- existing non-conformity (V)-Variance required				

- i. The subject property is undersized, and has six non-conforming conditions related to its size: minimum lot area, minimum lot width, minimum lot frontage, minimum lot depth, minimum improvable area (MIA), and MIA – diameter of circle. These are shown in the table above. **As the proposal includes a new use for the property, variances are required for all six non-conforming conditions.**
- ii. The subject property also requires variances for minimum front yard setback (25 feet required where 17.1 feet is proposed), minimum rear yard setback (30 feet required where 12.3 feet is proposed), minimum single side yard setback (10 feet required where 4.4 feet is proposed), and combined side yard setback (25 feet required where 18.5 feet is proposed).
- iii. The maximum permitted building coverage is 25%. The Applicant proposes building coverage of 1,648 square feet, which amounts to 36.6% of the property. **A variance is required.**



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- iv. The maximum permitted total lot coverage is 40%. The Applicant proposes a coverage of 2,800 square feet, which amounts to 62.2% lot coverage. **A variance is required.**
- v. While density cannot be considered for conformance purposes for this use on this isolated undersized lot (per the New Jersey Municipal Land Use Law, **40:55D-70.d(5)**), we note that the proposed density for the two-family dwelling on this lot is 19.36 dwelling units per acre. This is far above the stated maximum density of 8.7 du/acre for two-family dwellings in the bulk regulations and the City of Plainfield Master Plan.
- c. **Fencing:** The plot plan indicates that no fencing is proposed with this project. **This shall be confirmed by the Applicant at the Board hearing.**
- d. **Garage:** An attached two car garage with a floor area of 393 square feet is proposed with the development. Per **§17:9-34** a two-car garage of not more than 550 square feet (22 feet by 25 feet) is required for two-family dwellings. **The garage therefore complies.**
- e. **Parking:** Per **§17:9-42.J.2** of the LUO, parking for two-family dwellings must be provided as required by the New Jersey RSIS. According to the RSIS each unit in a two-family dwelling must follow the requirements for single-family dwellings. For a two-bedroom unit, the RSIS requires 1.5 spaces, while for a three-bedroom unit it requires 2.0 spaces, yielding a total of 3.5 spaces. The proposed garage provides two spaces and the driveway provides ample room for the additional required spaces. **This complies.**
- f. **Parking Distribution:** Applicant shall testify as to the distribution of the garage parking spaces. Per the architectural plans, there are doors for both first floor and second floor units connected to the garage. Does the Applicant intend to provide one garage space for each dwelling. If so, a partition should be provided between the garage spaces for security purposes. Additionally, this raises the concern of residents of one unit blocking access to/exit from the garage for residents of the other unit if there are multiple vehicles associated with residents of one of the dwellings. This is evidence that the proposed two family use, at least as currently configured, cannot be adequately placed on the subject property.
- g. **Driveway Setback:** Per **§17:9-42.A** no residential driveway shall be located closer than 2 feet from a property line. According to the site plans, the proposed driveway is setback 1.5 feet from the westerly property line. **A variance is required.**
- h. **Parking Location:** Per **§17:9-42.P** no front yard parking is permitted for one or two-family dwellings unless the parking is located in front of a usable garage. The driveway where vehicles may be parked in the front yard area is not located in front of the garage. **A variance is required.**



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- i. Dwelling Unit Sizes: The two-bedroom unit is proposed to have 1,097 square feet of floor area, while the three-bedroom unit is proposed to have 1,625 square feet. Per **17:9-48.A.1** two-bedroom apartment units are required to provide 1,000 square feet of floor area, and three-bedroom units are required to provide 1,100 square feet. The proposed floor areas therefore comply.
- j. Look-A-Like Standard: Applicant shall provide evidence and testimony that the proposed dwelling is not "like or substantially like any neighboring dwelling" as defined under **§17:9-48.D**.
- k. Shade Trees: We defer to the Shade Tree Commission to determine any shade tree requirements. We note that one (1) *Ulmus americana* 'Princeton' (Princeton elm) is proposed. We recommend Applicant discuss with an STC representative if this is satisfactory.
- l. Refuse/Recycling: There is a storage area for two refuse cans and two recycling cans. Applicant shall clarify if the tenants for each unit are responsible for placing cans at curbside for pick-up.

5. Master Plan

The 2020 City of Plainfield Master Plan report identifies this property as within the Moderate Density Residential zone district. The intent of this zone is to allow a density of 5.8 dwelling units per acre for single-family houses and 8.7 du/acre for two-family dwellings. The proposed two-family dwelling on the subject property yields a density of 19.4 du/acre.

6. Planning Comments

- a. The Applicant shall provide testimony justifying all bulk variances to the Board's satisfaction.
- b. The attic is accessed by a pull-down attic stair in the hallway of the second floor of the dwelling. Applicant shall confirm that attic will be unfinished.
- c. Testimony shall be provided regarding the exterior architectural design and its suitability for the surrounding neighborhood.
- d. The rear area of the driveway appears to provide a tight fit for cars trying to exit the garage. Applicant shall demonstrate that there is enough space for cars to back out of the garage and exit the rear portion of the driveway.



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- e. Testimony shall be provided regarding how construction would proceed with this project, including hours of construction, equipment to be utilized, and how this would impact surrounding properties.
- f. We defer to the Board Engineer regarding drainage, storm water, utilities, traffic impact, and other engineering issues related to the site.
- g. The applicant should be prepared to discuss whether any additional permits/approvals are required by outside agencies.

7. Statutory Criteria

The subject site is to be developed with a two-story two-family dwelling. The subject site is an undersized lot requiring several bulk variances. These are commonly known as c variances. The Board has the power to grant a c(1) hardship variance or a c(2) benefits vs. detriments variance.

The Courts have shown that owner of an isolated lot who wants to build on it requires a variance under subsection c(1). The applicant needs to do more than prove that the lot is an undersized, isolated lot, in order to establish a prima facie case of hardship.

In *Dallmeyer vs. Lacey Tp. Board of Adjustment*, the Courts summarized that the law requires the applicant in undersized lot cases should:

- Be required to carry the burden of proof, as in all other cases, as to both the positive and negative criteria;
- Demonstrate that efforts were made to bring the property into conformity with the zoning ordinance by attempting to acquire adjacent property or by offering to sell the non-conformity property to adjacent owners;
- Submit detailed plans of the proposed house which describe its appearance and prove its compliance with building codes;
- Attempt, where applicable, to demonstrate compliance with the use, side yard, and setback requirements, and location of the house among other homes on small tracts with similar frontages; and
- Attempt to demonstrate that the proposed use does not violate any traditional zoning purposes such as light, air and open space.

The board should:

- Evaluate the testimony to determine whether it should elicit additional information to supplement the record;



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- Make specific findings of fact based on the record to support its conclusions;
- Consider whether, in lieu of denying an application, it can approve it subject to reasonable conditions which would modify the proposal and obviate or minimize any negative impact;
- Remember to be conscientious in its review of the facts since outright denial may amount to confiscation this requiring condemnation by municipality.

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

MA:nf