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March 21, 2022

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**Via Email**

Mr. Darren Brown  
1340 Highland Avenue  
Plainfield, NJ 07060  
[dmcars@aol.com](mailto:dmcars@aol.com)

**Re:    Application No.: ZBA 2021-29**  
**Applicant: Darren Brown**  
**Bulk Variances**  
**Location: 1340-1348 Highland Avenue**  
**Block 812, Lot 4**  
**Zone – R-2 Low Density Residential Zone**  
**Our File: HPFZ0812.01**  
**Completeness Review Letter # 2 / Planning Review #1**

**Status: Complete**

Dear Mr. Brown,

This completeness review letter is in reference to the above-mentioned application. Based on the submitted materials, the Applicant has filed this application seeking variances from supplementary zone requirements to construct a sunroom and carport addition to an existing single-family residence. The proposed sunroom includes an enclosed space of 351.9 square feet and a 144 square foot deck. A 244 square foot patio is also proposed to the rear of the sunroom and deck. The carport will consist of a providing a sloping roof over a 240.1 square foot extension of the existing paved driveway.

Additionally, we note that there was a previously approved application related to this property and Applicant, ZBA 2015-34. The previous application was filed for bulk variance relief for side yard setbacks, confirmation of existing conditions related to the undersized nature of the lot, and possible supplemental variances that could not be confirmed due to lack of submitted materials. Per a Resolution memorialized July 13, 2016, the Applicant received approval from the Board for application ZBA 2015-34. According to City records, this previous application is still open because the Applicant did not receive final compliance from the Plainfield Division of Planning. ***The status of ZBA 2015-34 should be clarified. We recommend compliance with ZBA 2015-34 as a condition of any approval for the present application.***

The subject site is Block 812 Lot 4 in the City of Plainfield tax maps, with street address 1340-1348 Highland Avenue. The Applicant, Darren Brown, is the owner of the site, which is developed with a two-and-a-half story single-family residence.

We originally received the following items related to this application:



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- Application form received by the City on June 2, 2021;
- Application for Waiver Request, not dated;
- Political Contribution Disclosure Statements for the Applicant;
- Application for 200 Feet Radius List;
- Form W-9 for Applicant;
- Copy of Development Permit Application Review #1 prepared by Pennoni dated May 26, 2021 (related to retaining wall project);
- Three sheets of architectural plans entitled "New Sun Room Addition/Carport 1340 Highland Avenue Plainfield, NJ" prepared by Larry C. Johnson of Architecture Planning Interiors and dated April 30, 2021.

After determining the application to be incomplete in our July 2, 2021 Completeness Review #1, the Applicant submitted the following:

- Response letter prepared by Darren Brown and dated February 24, 2022;
- Official tax record prepared by the Plainfield Tax Department dated February 22, 2022;
- One (1) sheet of "Asbuilt Survey Tax Lot 4 Block 812 City of Plainfield, Union County, New Jersey" prepared by EKA Associates, P.A., dated January 30, 2022.
- Six (6) sheets of architectural plans and drawings entitled "New Sun Room and Car Port Additions 1340 Highland Avenue Plainfield, NJ" prepared by Larry C. Johnson of Architecture Planning Interiors dated May 2, 2021 and last revised November 17, 2021.

## 1. Completeness

The following is noted per §17:8-2 of the Land Use Ordinance:

- a. **§17:8-2.B.3:** Copy of any protective covenants and deed restrictions related to the subject property. ***Applicant has confirmed that no covenants or deed restrictions exist. This item is complete.***
- b. **§17:8-2 B 5:** Copy of tax search indicating current status of all taxes, assessments, and fees due to the City of Plainfield. ***An official tax search dated February 22, 2022 has been submitted that indicates the Applicant is current with the taxes for the subject property. This item is complete.***
- c. **§17:8-2.B.6:** All requisite escrow deposits and fees. ***We defer to the Board Secretary to determine compliance with this item.***



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- d. **§17:8-2.B.8a:** Contribution Disclosure Statements. ***A Statement has been provided for the Applicant. A Statement is still required from the Applicant's architect and any other professionals that generate plans or provide testimony.***
- e. **§17:8-2.B.9a, f, g, j, l:** The Applicant has submitted a written waiver request for these items. ***We take no issue with the Board granting these requests.***
- f. **§17:8-2.B.9b, c, d, e, h, i, k, m, n, p, s:** A plot plan should still be submitted showing these items. We recommend revising the "As-Built Survey" to provide the requested information. While the survey and architectural plans provide enough information to determine required variances, the Applicant must still submit a plot plan showing the proposed improvements in relation to the existing plot layout along with the proposed bulk conditions.
- g. **§17:8-2.B.9g:** A current outbound survey, or survey less than five years old certified by a licensed professional surveyor that no changes have occurred to the property, must be submitted. ***An As-Built Survey dated January 30, 2020 has been submitted. This item is complete.***

## 2. Application Fees Calculation

Pursuant to Article XIII of the Land Use Ordinance, the revised application fee is:

1. Variances from NJSA 40:55D-70c – One or two family use	2 @ \$75.00/each	\$150.00
2. Public hearing fee		\$100.00
<b>Total Application Fee</b>		<b>\$250.00</b>

***We reserve the right to amend this fee calculation pending the identification of additional variances during our full technical planning review.***

## 3. Deposit and Escrow

Pursuant to Article XIII of the Land Use Ordinance, the revised deposit and escrow is:

1. Bulk variances	\$1,000.00
<b>Total Escrow Due</b>	<b>\$1,000.00</b>

## 4. Recommendation and Submission of Plans

Pursuant to §17:8-2 of the Land Use Ordinance, this application is **capable of being deemed complete** at this time. In addition to the plans to be submitted, noted below, please review Section



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1. Completeness and provide any requested documents or revisions. Failure to provide these documents will result in a delay of the Board's hearing of this application.

Applicant should submit to the Planning Division ([daniel.white@plainfieldnj.gov](mailto:daniel.white@plainfieldnj.gov) and [mapte@cmeusa1.com](mailto:mapte@cmeusa1.com)) **pdf or electronic copies**, as well as eighteen (18) folded paper copies sets of all plans (plot and architectural plans) to the Board Secretary within seven days of the determination of completeness. Only two (2) of the copies are to be original signed and sealed; the other sixteen (16) may be copies of 11" x 17". **Please be advised delayed submittal of the noted items may affect the tentative scheduled hearing noted below.**

**5. Scheduled Tentative Hearing Date: May 4, 2022**

To confirm, this application is capable of **being deemed complete** and is **tentatively** placed on the Zoning Board of Adjustment Agenda for **Wednesday, May 4, 2022**. The Board meets at 7:00 pm.

**Please be advised this is a tentative public hearing date due to the current global pandemic. This date is subject to change depending on the evolving circumstances and the Applicant will be notified in case of date change. Additionally, please note this may be a virtual meeting which would require a special language in the notice. Please discuss with the Board Attorney Mr. Peter Vignuolo, Esq. ([pvignuolo@verizon.net](mailto:pvignuolo@verizon.net)) prior to publishing of the notice to ensure the language and procedure.**

Under new Open Public Meetings Act regulations for virtual meetings, **any exhibit which you anticipate relying on at the time of the hearing needs to be supplied to the secretary of the Planning Board at least two days prior to the hearing. Please provide the exhibits at least five (5) days prior to the scheduled hearing to allow time for these documents to be uploaded.**

**The application is scheduled for the May 4, 2022 Zoning Board Meeting Agenda. You are required to perform all legal notice requirements.** You are responsible for publishing the legal notice in the official newspaper (the Courier-News) at least 10 days prior to the hearing date. You must provide a copy of the notice to the Board Secretary and to the Board Attorney at least 5 days prior to the hearing date. The Courier News Legal Notice Division has requested that the legal notice be emailed as a PDF or Microsoft Word document attachment to [cnlegals@gannett.com](mailto:cnlegals@gannett.com). If you should have any questions please contact the Courier News Legal Notice Division at 888-516-9220.

You shall notify the surrounding property owners within two hundred feet (200 feet) of the subject property, municipal clerks of surrounding municipality if applicable, and all utility companies within the City. Notice must be mailed via certified mail at least 10 days prior to the hearing date. You are also required to provide affidavit of service of notice and a copy of the completed affidavit along with copies of the list of property owners, the notice, and the proof of service (certified mail



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receipts) be sent to Board Attorney as well as Board Secretary at least 5 days prior to the hearing date.

**6. Planning Review**

- a. Use: The existing and proposed principal use of the property is a single-family dwelling. This is a permitted use in the R-2 Low Density Residential District. This complies. The proposed carport is a customary accessory use of the principal use.
- b. Bulk Conditions: The following table provides the existing and proposed bulk conditions on the subject property. We request the Applicant submit a plot plan with a table providing the proposed conditions.

<b>Bulk Regulations (R-2 Low Density Residential Zone)</b>			
	<b>Requirement</b>	<b>Existing</b>	<b>Proposed</b>
Minimum Lot Area (sq. ft.)	20,000	20,344	20,344
Maximum Density (du/acre)	2.0	N/A	N/A
Minimum Lot Width (feet)	125	90.59	<b>90.59 (E)</b>
Minimum Lot Frontage (feet)	125	90	<b>90 (E)</b>
Minimum Lot Depth (feet)	150	220.7	220.7
Minimum Front Yard Setback (feet)	30	36.46	36.46
Minimum Rear Yard Setback (feet)	40	107.26	89.9
Minimum Side Yard Setback One / Combined (feet)	20 / 40	10.02 / 41.02	<b>10.02 (V) / 41.02</b>
Maximum Number of Stories	3	2.5	2.5
Maximum Building Height (feet)	35	32.94	32.94
Maximum Percent Building Cover	20%	13.53%	15.26%
Maximum Percent Total Lot Cover	40%	29.60%	34.42%
Minimum Improvable Area (M.I.A) (sq.ft.)	5,300	7,848	7,848
M.I.A Diameter of Circle (feet)	51	53.04	53.04
<i>(E)- existing non-conformity (V)-Variance required</i>			

- i. There are two existing non-conformities related to the subject property: minimum lot width and minimum lot frontage. These are indicated in the table.
- ii. There is one existing non-conformity related to the building: single side yard setback, where the required is 20 feet and the existing is 10.02 feet. The proposed sunroom will have the same non-conforming setback. **Since the**



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***proposal increases the bulk of the building inside the side yard setback area, thus increasing the non-conformity, a variance is required.***

- c. ***Carport Height:*** Applicant shall testify as to the height of the proposed carport, and provide revised plan indicating this height. Per **§17:9-19.C**, an accessory structure on a residential property shall not be taller than one (1) story or fifteen (15) feet, whichever is less.
- d. ***Deck:*** Per **§17:9-44.C** decks are permitted in required side yards provided they are no closer than six (6) feet from the property line. The proposed sun room deck has a setback of 10.02 feet from the side property line. ***This complies.***
- e. ***Non-Conforming Structure:*** Per **§17:9-37.E**, a nonconforming structure may not be enlarged or increased in height unless it is a single or two-family dwelling meeting one of three exceptions. ***The proposed development meets the third of the exceptions:*** the portion of the addition which does not conform to zone requirements is located entirely to the rear of the existing non-conforming structure, has a side yard setback of no less than five (5) feet, and conforms to all other bulk requirements.
- f. ***Sunroom:*** The sunroom is essentially an enclosed porch, with its entire exterior covered in siding or windows (ie, glazing) which is prohibited per §17:9-44.D. ***A variance is required.***
- g. ***Previous Application:*** As noted in the introduction, a previous application (ZBA 2015-34) was filed and granted approval by the Board per Resolution memorialized July 13, 2016. According to City records, that application never received final compliance from the Plainfield Division of Planning, and is thus still open. ***We recommend that compliance with Resolution for ZBA 2015-34 be made a condition of any approval for the present application.***

## **7. Statutory Criteria**

The proposed development requires two (2) variances from the Plainfield Land Use Ordinance bulk and supplementary zoning regulations. These are all 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.

An applicant requesting a c(1) variance must show that (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 structure lawfully existing thereon, the strict application of any would result in particular and exceptional practical difficulties or undue hardship upon the developer of such property.



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An applicant requesting a c (2) variance must prove that granting of the variance will advance the intent and purposes of the Municipal Land Use Law and that benefits of granting of the variance will substantially outweigh the detriments.

With both, negative criteria must be addressed. No variance may be granted without showing that such a variance can be granted without substantial detriment to public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

The Board should:

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

Please do not hesitate to contact me for any planning related questions at [mapte@cmeusa1.com](mailto:mapte@cmeusa1.com).

Sincerely,  
**CME Associates**

Malvika Apte, PP, AICP  
*Consulting Board Planner*

MA:nf

cc: Daniel White, Zoning Board Secretary  
Peter Vignuolo, Esquire, Board Attorney  
Carlos Fuentes, PE, CME, Board Engineer  
Valerie Jackson, Director, Department of Economic Development