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November 15, 2021

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Via Email

Mr. Allen J. Barkin, Esq.
Schwartz Barkin & Mitchell, Attorneys at Law
1110 Springfield Road, P.O. Box 1339
Union, NJ 07083-1339
abarkin@sbmesq.com

Re: Application No.: ZBA 2021-35
Applicant: Maritza Brackman
Use Variance and Preliminary & Final Site Plan Approval
Location: 1110-1116 Myrtle Avenue, Plainfield, NJ
Block 222, Lot 4
Zone – R-4 Moderate Density Residential Zone
Our File: HPFZ0222.01
Completeness Review Letter # 2

Status: Complete

Dear Mr. Barkin,

This completeness review letter is in reference to the above-mentioned application. The application was received by the City on July 6, 2021. The subject site consists of Block 222 Lot 4 in the City of Plainfield tax maps, with street address 1110-1116 Myrtle Avenue. The Applicant, Martiza Brackman, is the owner of the site, which is currently developed with a three-story frame dwelling (with a total square footage of 3,769 square feet) that is utilized as a multi-family dwelling with five (5) apartment units. According to the Applicant's attorney, this use has been long-established. One of the units is a studio apartment, one is a one-bedroom apartment, two are three-bedroom apartments, and the fifth is a two-bedroom unit. While the building has apparently been utilized as a multi-family dwelling for a long time, this use is not permitted in the R-4 Moderate Residential Density Zone. **As such, a use variance is required and requested by the Applicant. Site plan approval is also required pursuant to §17:8-1.C of the Plainfield Land Use Ordinance (LUO).**

We are now in receipt of the following documents in relation to this application:

- Transmittal letter prepared by Maritza Brackman dated October 21, 2021;
- Cover letter prepared by Schwartz, Barkin & Mitchell, Attorneys at Law, dated October 16, 2021;
- Response memo to Board Planner's Completeness Review Letter #1
- Application form received by the City on July 6, 2021;
- Application for Waiver Request dated October 16, 2021;



Maritza Brackman
Re: ZBA 2021-35 (1110-1116 Myrtle Avenue)
Completeness Review #1

November 15, 2021
Our File No. HPFZ0222.01
Page 2

- Applications for Variance Request, all dated October 16, 2021, with supporting exhibits;
- Copy of Deed for subject property;
- Application for 200 feet Radius List;
- Political Contribution Disclosure Statement for Applicant;
- Official tax record from the City of Plainfield Tax Department dated July 6, 2021;
- Form W-9 for Applicant;
- One (1) sheet of "Plan of Survey Tax Lot 4 Block 222" prepared by Leeper Land Group, LLC and dated April 22, 2021;
- One (1) sheet of site plan entitled "Existing Plot Plan; Key/Zoning Map/Existing Photographs; Zoning Charts" prepared by Steve J. Druga, AIA, dated September 30, 2021; and
- Three (3) sheet of floor plans and elevations prepared by Steve J. Druga, AIA, dated September 30, 2021.

1. Completeness

The Applicant has requested the following submission waivers per §17:8-2 of the Land Use Ordinance:

- a. **§17:8-2.B.9j:** General slope and natural drainage, and watercourse locations and all natural and significant features. ***Given the type of application, we take no issue with the Board granting this waiver.***
- b. **§17:8-2.B.9i:** Delineation of flood hazard areas. ***The submitted survey includes a note indicating that the subject property is located in Zone X. This item is complete.***
- c. **§17:8-2.F.6:** Existing and proposed contour lines at one (1) foot intervals inside the tract and within thirty (30) feet of the tract's boundaries with spot elevations at all changes in grade due to construction. ***We take no issue with the Board granting this waiver.***
- d. **§17:8-2.F.9:** Computation of required stormwater detention volume and specification of minimum volume to be detained subsurface as part of a complete site drainage and grading plan. ***We take no issue with the Board granting this waiver.***
- e. **§17:8-2.F.10:** Total architectural lighting plan indicating location, type, and height of lighting standards with accompanying illumination design average and one (1) foot candle trace. ***Additional details on the lighting, including type, wattage, and direction, shall be provided.***



Maritza Brackman
Re: ZBA 2021-35 (1110-1116 Myrtle Avenue)
Completeness Review #1

November 15, 2021
Our File No. HPFZ0222.01
Page 3

- f. **§17:8-2.F.15:** Appropriate construction details. ***We take no issue with the Board granting this waiver.***
- g. **§17:8-2.F.19:** Type and quantity of expected sanitary discharge. ***We defer to the Board Engineer to determine if the submitted statement (pages 21-24 of submission packet) is acceptable.***

Additionally, we note the following items as missing or incomplete per §17:8-2 of the Plainfield Land Use Ordinance (LUO):

- 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 restrictions exist. This item is complete.***
- b. **§17:8-2.B.6:** All requisite escrow deposits and fees. ***Please see calculations below. We defer to the Board Secretary to determine compliance with this item.***
- c. **§17:8-2.B.9a:** Key map indicating all streets and zone districts within six hundred feet of the subject property. ***The key map on Sheet P-1 now includes zone districts. This item is complete.***
- d. **§17:8-2.B.9b:** Name, address and phone number of applicant and property owner. ***This information has been added to Sheet P-1 of the submitted plans. This item is complete.***
- e. **§17:8-2.B.9m:** Tabulation indicating the square foot area of structures, pavement, and open space and the percent of their lot coverage and floor area ratio. ***This has been provided. This item is complete.***
- f. **§17:8-2.B.9o:** Current outbound survey of the tract or a survey no more than five (5) years old certified by a licensed land surveyor that there have been no changes. ***A survey dated April 22, 2021 prepared by Leeper Land Group, LLC has been submitted. This item is complete.***
- g. **§17:8-2.B.9s:** List of all variances and design waivers that are requested. ***Variances have been added to the plans. This item is complete.***
- h. **§17:8-2.F.14:** Location, type, and volume of refuse storage and recycling facilities. ***Additional information has been provided, and shall be testified about during the hearing. This item is complete.***

2. Application Fees Calculation

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



Maritza Brackman
 Re: ZBA 2021-35 (1110-1116 Myrtle Avenue)
 Completeness Review #1

November 15, 2021
 Our File No. HPFZ0222.01
 Page 4

1. Variances from NJSA 40:55D-70d (Use Variances) – For each unit in a multi-family use	5 @ \$75.00 each	\$375.00
2. Variances from NJSA 40:55D-70c – For all other uses	5 @ \$150.00 each	\$750.00
3. Site Plan Review – Preliminary for multi-family dwelling units		\$250.00
4. Site Plan Review – Final		\$200.00
5. Design Standard Waiver	2 @ \$25.00 each	\$50.00
6. Public hearing fee		\$100.00
Total Application Fee		\$1,725.00

We defer to the Board Secretary to ensure the required money is collected. 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

The initial deposit and escrow remains unchanged from our previous completeness review (\$5,000.00). We defer to the Board Secretary to ensure the required money is collected.

4. Variances and Waivers

- a. Use: The present use of the property (multi-family residential with five apartments) is not a permitted use in the R-4 Moderate Density Residential Zone. ***As such, a d(1) use variance is required.***
- b. The following table notes the conformance of the property and development with the regulations related to the two-family use in the R-4 Zone.

Bulk Regulations (R-4 Zone)			
	Requirement: Two-Family	Existing	Proposed
Minimum Lot Area (sq. ft.)	10,000	32,620.9	32,620.9
Maximum Density (du/acre)	8.7	5.34	5.34
Minimum Lot Width (feet)	80	98	98
Minimum Lot Frontage (feet)	80	98	98
Minimum Lot Depth (feet)	100	350.1	350.1
Minimum Front Yard Setback (feet)	25	94	94
Minimum Rear Yard Setback (feet)	30	190	190
Minimum Side Yard Setback - One/ both (feet)	10 / 25	24.9 / 49.9	24.9 / 49.9



Maritza Brackman
 Re: ZBA 2021-35 (1110-1116 Myrtle Avenue)
 Completeness Review #1

November 15, 2021
 Our File No. HPFZ0222.01
 Page 5

Bulk Regulations (R-4 Zone)			
	Requirement: Two-Family	Existing	Proposed
Maximum Number of Stories	2.5	3	3 (E)
Maximum Building Height (feet)	35	38	38 (E)
Maximum Percent Building Cover	25%	9.4%	9.4%
Maximum Percent Total Lot Cover	40%	44.7%	44.7% (E)
Minimum Improvable Area – MIA (square feet)	2,400	17,877	17,877
MIA – Diameter of Circle	34	73	73
<i>(V) Variance (E) Existing Non-conforming Condition NA- Not applicable</i>			

The table identifies three existing non-conforming conditions related to the development on the subject property, two of which are related to the height of the primary structure. One is for the maximum number of stories (3 exist where 2.5 are permitted) and the other is for maximum building height (38 feet exists where 35 is permitted). The third existing non-conforming condition is for maximum percent total lot coverage: the property has 44.7% existing impervious lot coverage and the maximum permitted is 40%.

- c. Per §17:9-19.D, accessory structures shall not have a ground area greater than 35% of the ground area of the structure to which it is accessory. The existing plot plan indicates that the garage has ground area of 1,200 square feet, while the primary building has about 1,875 square feet of ground area. The garage is about 64% of the ground area of the main building. **A variance is required and requested by the Applicant.**
- d. Per §17:9-24.C.1, a buffering area of ten (10) feet is required between a parking lot and adjacent residential property. Per the Existing Plot Plan, only a five (5) foot buffer is provided. **A variance is required and requested by the Applicant. Information on the type and design of the wood fence used as a screen of the parking lot should be provided.**
- e. Applicant should clarify if any HVAC is provided for the dwelling and, if present, of what kind (central, window, etc.).
- f. Per §17:9-42.A, a residential driveway shall not be located closer than two (2) feet from a property line. The Existing Plot Plan indicates the driveway on both side lines of the property is located along the property boundaries (0 foot setback). **A variance is required and requested by the Applicant.**
- g. Per §17:9-42.I, driveways must be constructed of a durable and dustless asphalt or cement surface. The Existing Plot Plan indicates the driveway is stone. **A variance is required and requested by the Applicant.**
- h. Per §17:9-42.J.2 and by reference to the New Jersey RSIS the total number of parking spaces required for the existing development is:



Maritza Brackman
 Re: ZBA 2021-35 (1110-1116 Myrtle Avenue)
 Completeness Review #1

November 15, 2021
 Our File No. HPFZ0222.01
 Page 6

Use	Standard (Minimum)	Required	Proposed
Residential (Garden Apartment)			
Studio	1.8 spaces / unit**	1.8 x 1 = 1.8	
One-Bedroom	1.8 spaces / unit	1.8 x 1 = 1.8	
Two-Bedroom	2.0 spaces / unit	2.0 x 1 = 2.0	
Three-Bedroom	2.1 spaces / unit	2.1 x 2 = 4.2	
Residential Total		9.8 spaces	10
<i>(V) Variance (e) Existing Non-Conformity **no separate standard for "studio" apartment is provided; one-bedroom standard is applied as maximum need</i>			

Per the plans, 9.8 spaces are required and ten (10) spaces are provided on the site (seven in the parking area and three in the garage). **This complies.**

- i. The Board will need to determine if there is adequate landscaping surrounding the parking lot. **If not, §17:9-43.B will apply and require a variance if conditions are to remain as they are.**
- j. Of the five apartments in the building, four do not comply with the size requirements under §17:9-48.A of the LUO. The studio apartment is only 415 square feet, where 500 square feet is required. The one-bedroom apartment is 735 square feet where 750 square feet is required; the two-bedroom apartment provides just 923 square feet where 1,000 square feet is required; and one of the two three-bedroom apartments provides 1,045 square feet where 1,100 square feet is required. **A variance is therefore required for apartment size.**
- k. Per §17:11-8.B.8, each dwelling unit shall be provided with 350 cubic feet of enclosed and covered storage space in addition to the usual closet storage space. No such storage space is provided. **A design waiver is required.**
- l. Per §17:11-8.B.9b, each dwelling unit shall be provided with at least 64 square feet of private open space. Such private open space is not provided. **A design waiver is required.**

We reserve the right to amend the list of variances/waivers pending the identification of additional variances during our full technical planning review.



Maritza Brackman
Re: ZBA 2021-35 (1110-1116 Myrtle Avenue)
Completeness Review #1

November 15, 2021
Our File No. HPFZ0222.01
Page 7

5. Recommendation

Pursuant to §17:8-2 of the Land Use Ordinance, the applicant's submission is capable of being deemed complete at this time. Please review the items noted in the Completeness section and provide any additional requested documents and revisions.

6. Submission of Plans

Applicant should submit to the Planning Division pdf or electronic copies, as well as eighteen (18) folded paper copies sets of the plans (site engineering and architectural plans) to the Board Secretary (Daniel.white@plainfieldnj.gov), as well as five (5) copies of all supporting written plans, within seven days of the determination of completeness. Electronic copies should also be provided to the Consulting Board Planner (mapte@cmeusa1.com). Only two (2) of the paper plan copies are required to be original signed and sealed; the other sixteen (16) may be copies of size 11" x 17". **Please be advised delayed submittal of the noted items may affect the tentative scheduled hearing noted below.**

7. Scheduled Tentative Hearing Date: Wednesday, January 19, 2022

To confirm, this application is capable of **being deemed complete** and is **tentatively** placed on the Planning Board Agenda for Wednesday, January 19, 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 will 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) regarding the procedure and language.

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 Zoning Board of Adjustment 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 January 19, 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



Maritza Brackman
Re: ZBA 2021-35 (1110-1116 Myrtle Avenue)
Completeness Review #1

November 15, 2021
Our File No. HPFZ0222.01
Page 8

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

Per §17:13-10 of the Plainfield LUO, an applicant requiring any use variance (or 'd' variance) is required to obtain and pay for the services of a court reporter for each hearing. ***As this application requires a d(1) use variance, the Applicant must obtain the services of a court reporter.*** Please contract for these services as soon as possible.

Please do not hesitate to contact me for any planning related questions at mapte@cmeusa1.com.

Sincerely,
CME Associates

Malvika Apte, PP, AICP
Consulting Board Planner

MA:nf

cc: Daniel White, Zoning Board Secretary
Peter Vignuolo, Esquire, Zoning Board Attorney
Carlos Fuentes, PE, CME, Board Engineer
Valerie Jackson, Director, Department of Economic Development
Maritza Brackman, Applicant
Steven J. Druga, AIA, Applicant's Architect