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MEMORANDUM

TO: Township of Irvington Zoning Board of Adjustment
FROM: Gerard Haizel, PP, AICP
RE: 175-177 22nd Street (Block 149, Lot 30)
DATE: March 6, 2020

The following is prepared on behalf of the Township of Irvington, Zoning Board of Adjustment. The information provided herein is for advisory purposes only and is intended to assist the Board's decision-making process. Below are descriptions of the project based on the supplied plans and documentation as well as commentary on issues evident from them.

Items Reviewed

In preparation of this report, I have reviewed the following documents:

- ✓ Township of Irvington – Application for Development, dated June 20, 2019.
- ✓ Township of Irvington Zoning Determination dated June 24, 2019.
- ✓ Signed and sealed Plans consisting of seven (7) sheets, titled, Proposed 5-Story 24 Unit Multifamily Dwelling, 175-177 22nd Street, Irvington, NJ, dated 10-24-2019, with revision dated 1-22-2020 and 2-25-2020, prepared by Demetrios Kaltsis, AIA. of Kaltsis Architecture, LLC

Project Summary

On property located in the Township's ***R-2 (Two-Family Residential) District***, the applicant/owner, ***175-177 22nd Street, LLC***, proposes to construct a new 5-story, 24-unit multifamily dwelling with on-site parking, on a vacant lot. The proposed multifamily dwelling **is not a permitted use** in the R-2 zone. Additionally, the proposed development does not meet all the design and bulk standards for the zone. The applicant is also seeking preliminary and final site plan approval.

- Pursuant to the Township of Irvington's Code §650 - Attachment 1 - Schedule of Use Regulations, multifamily dwellings are not a permitted use in the R-2 zone. **A D(1) variance is required to permit this use in the R-2 Zone.**
- Pursuant to the Township of Irvington's Code §650 - Attachment 2 - Schedule of Area, Yard and Height Requirements, a maximum density of 20 dwelling units per acre (du/acre) is permitted and the applicant proposes a density of 105.48 du/acre. **A D(5) variance is required to allow a higher density than permitted in the R-2 Zone.**
- Pursuant to the Township of Irvington's Code §650 - Attachment 2 - Schedule of Area, Yard and Height Requirements, a maximum building height of 35-feet is permitted, and the applicant proposes a building height of 47.58-feet. The proposed height exceeds the maximum permitted height by more than 10-feet. **A D(6) variance is required to allow a greater building height than permitted in the R-2 Zone.**
- Pursuant to the Township of Irvington's Code §650 - Attachment 2 - Schedule of Area, Yard and Height Requirements, the applicant proposes a lot area of 9,911-SF for the proposed multifamily dwelling, which is not permitted in the R-2 zone. **A C variance is required to allow the proposed lot area for a development that is not permitted in the R-2 Zone.**
- Pursuant to the Township of Irvington's Code §650 - Attachment 2 - Schedule of Area, Yard and Height Requirements, the applicant proposes a lot width of 50-feet for the proposed multifamily dwelling, which is not permitted in the R-2 zone. **A C-variance is required to allow the proposed lot width for a development that is not permitted in the R-2 Zone.**
- Pursuant to the Township of Irvington's Code §650 - Attachment 2 - Schedule of Area, Yard and Height Requirements, a minimum rear yard setback of 15-feet is required, and the applicant proposes a rear yard setback of 0-feet. **A C-variance is needed to allow a lesser rear yard setback than required in the R-2 Zone.**
- Pursuant to the Township of Irvington's Code §650 - Attachment 2 - Schedule of Area, Yard and Height Requirements, the applicant proposes an impervious coverage of 98.47% for the proposed multifamily dwelling, which is not permitted in the R-2 zone. **A C-variance is required to allow the proposed impervious coverage for a development that is not permitted in the R-2 Zone.**
- Pursuant to the Township of Irvington's Code §650 - Attachment 2 - Schedule of Area, Yard and Height Requirements, a maximum building height of 2½-stories is permitted in the R-2 zone, and the applicant proposes a building height of 5-stories. **A C- variance is required to allow a greater impervious coverage than permitted in the R-2 Zone.**

- Pursuant to the Residential Site Improvement Standard (RSIS) §5:21-4.14 Table 4.4, a minimum of forty-four (44) off-street parking spaces are required and the applicant proposes twenty-four (24) off-street parking spaces. **A Residential Site Improvement Standard (RSIS) De Minimis Exception is required to permit a lesser number of off-street parking spaces.**
- Pursuant to the Township of Irvington's Code §650-32(C), parking areas may be located in any yard except the front yard. The applicant proposes five (5) parking spaces in the front yard of the proposed development. **A C- variance is required to allow parking in the front yard of the proposed development.**
- Pursuant to the Township of Irvington's Code §650-32(G)(4), no required off-street parking space, including adjacent parking access lanes or maneuvering space, shall be located within an existing or proposed right-of-way of any road, nor within 10 feet of any existing or proposed right-of-way line or any public street or highway. The applicant proposes parking in the front yard within 10-feet of the right-of-way. **A C- variance is required to allow parking within 10-feet of the right-of-way.**
- Pursuant to the Township of Irvington's Code §650-32(G)(9), each parking space shall not be less than 9-feet wide and 18-feet long, except that where a parking space is bounded by a curb or the wall of a building, each space shall be a minimum of 10 feet wide. The applicant proposes spaces that are approximately 8.5-feet wide in the garage and in the front yard. **A C- variance is required to allow smaller parking spaces than required in the proposed development.**

Project Description

The subject site is a 9,911-SF vacant asphalt paved lot, with frontage on 22nd Street. The applicant proposes to construct a new 5-story multifamily dwelling with ground floor parking and twenty-four (24) apartments on the 2nd through 5th floor. The proposed building will be setback 37.83-feet from the front (eastern) property line, 0-feet from the rear property line and 0-feet each from the northern and southern side property lines.

A parking garage is proposed on the 1st floor of the new building. Entry to the garage is located on the northern side of the front façade, where there is a 14-foot wide garage door that opens to a 21.83-foot wide two-way driveway, which extends westward to the rear of the building. Parking spaces are arranged in two rows along the northern and southern sides of the garage. On the southern side are proposed twelve (12) perpendicular spaces, including one (1) ADA-compliant space. The regular spaces here will each measure 8.5-feet by 18-feet. On the northern side of the garage are proposed six (6) parallel spaces, each measuring 8.5-feet by 21-feet. There are a total of eighteen (18) spaces in the garage.

An enclosed staircase from the residential floors, is proposed on the southern side of the garage, between parking spaces. At the front northeastern corner of the building is a proposed utility area, where there are three (3) rooms proposed, with one each for gas meters, electric meters and for the building sprinkler.

In addition to the parking in the garage, there are five (5) spaces proposed in the front yard of the proposed development. Here there are four (4) spaces proposed on the southern side of the lot and a fifth space proposed on the northern side, which is reserved for use by the building supervisor and for loading/unloading. **It should be noted here that while the applicant has proposed a total of twenty-four (24) parking spaces for the development, the plans show a total of only twenty-three (23) spaces.**

The entry to the residential floors of the building is located on the front façade off of 22nd Street. Here there is an entry door that opens to the building lobby. On the southern side of the lobby are a mail and package delivery room, adjacent to a single elevator car. At the far end of the lobby is a door which accesses a second enclosed staircase that provides ingress/egress from the upper floors. On the far side of the staircase enclosure is another door, which opens to the garage, adjacent to the ADA-compliant space.

To the south of the lobby is a proposed trash/recycling room. This room is only accessible from a door on the front façade, adjacent to the lobby door. There is a proposed walkway across the front façade of the lobby. Which extends across the rear of the front yard parking spaces, out to the 22nd Street sidewalk.

While the garage will be built to the property lines on all but the front of the building, the 2nd through 5th floors of the building above will be stepped-back 3.25-feet and 3.83-feet respectively on the southern and northern side property lines and between approximately 10-feet and 24-feet from the rear property line.

There are a total of twenty-four (24) apartments proposed on the 2nd through 5th floors, with six (6) apartments proposed on each floor. All apartments will be one-bedrooms and will range in size between 661-SF and 996-SF. Each apartment will include a kitchen, living/dining room, bedroom, full bathroom and laundry facility.

On each floor, the elevator will open on the eastern side of the floor, where there is a central hallway which will extend to the western end of the floor, with apartments accessible on either side and at both the eastern and western end.

The exterior of the building will be finished with a combination of brick veneer and fiber cement board on the front façade and hardi plank siding on the remaining sides. The 1st floor façade surrounding the garage will be comprised of masonry walls on all but the front façade. The garage entry will be enclosed by a pull-down metal gate.



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175-177 22nd Street

Block 149, Lot 30

A single Oak tree is proposed in the front yard adjacent to the northern property line. A 4-foot high wrought iron fence is proposed partially along the front property line, adjacent to the proposed row of parking spaces in the front yard.

Seventeen (17) 16-inch ceiling mounted prismatic reflector light fixtures are proposed for the ceiling of the 1st floor garage. Two (2) wall-mounted 400W light fixtures are proposed on the front façade.

Site & Area Description

Street Address: 175-177 22nd Street
Block & Lot: Block 149, Lot 30
Zoning District: R-2 (Two-Family Residential) Zone
Total Site Area: 9,900 square feet

Location Map



The property in question is outlined in yellow on the Google Aerial Map above. The subject site is located on the western side of 22nd Street, north of 18th Avenue. Abutting the subject site to the north is a 3-story multifamily dwelling followed by a vacant lot and several 3-story three-family dwellings, all fronting on the western side of 22nd Street. To the east, across 22nd Street from the site are primarily two and three family dwellings. To the south, on the corner of 22nd Street and 18th Avenue, is a 3-story mixed-use multifamily building. Further to the west, fronting on 18th Avenue are several 2-story two-family dwellings.

Photo Survey



Photo 1: View of the subject site located at 175-177 22nd Street. The applicant proposes to construct a new 5-story multifamily dwelling on the site.



Photo 2: View of the subject site from the north on 22nd Street.



Photo 3: View of the existing multifamily dwelling abutting the subject site to the north.

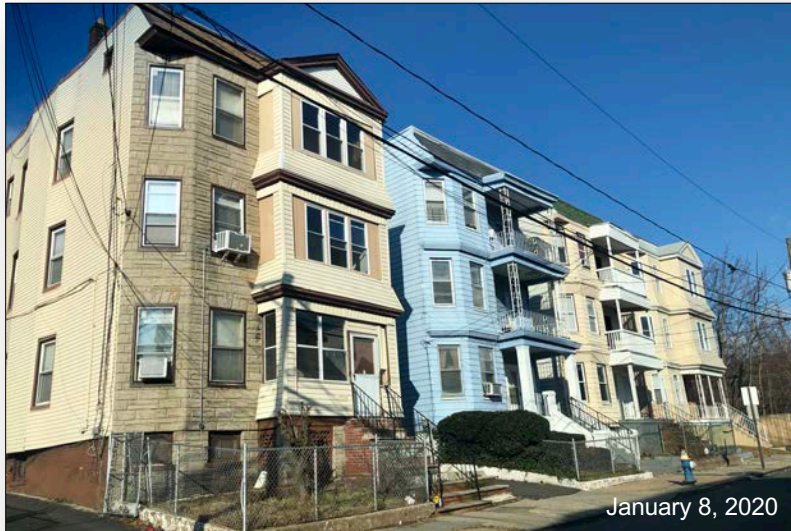


Photo 4: View of the properties located further to the north of the subject site, fronting on the western side of 22nd Street.



Photo 5: View of the properties located to the east, across 22nd Street from the subject site.



Photo 6: View of the properties located to the east, across 22nd Street from the subject site.

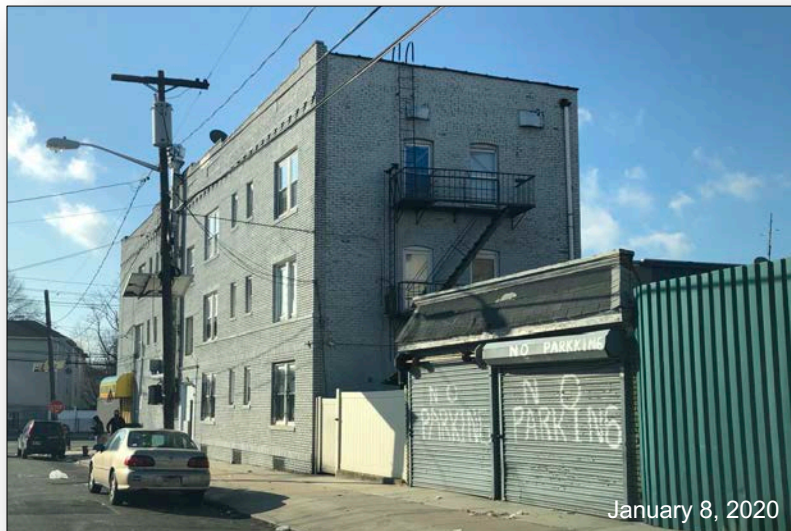


Photo 7: View of the mixed-use multifamily dwelling located to the south of the subject site, on the corner of 22nd Street and 18th Avenue.

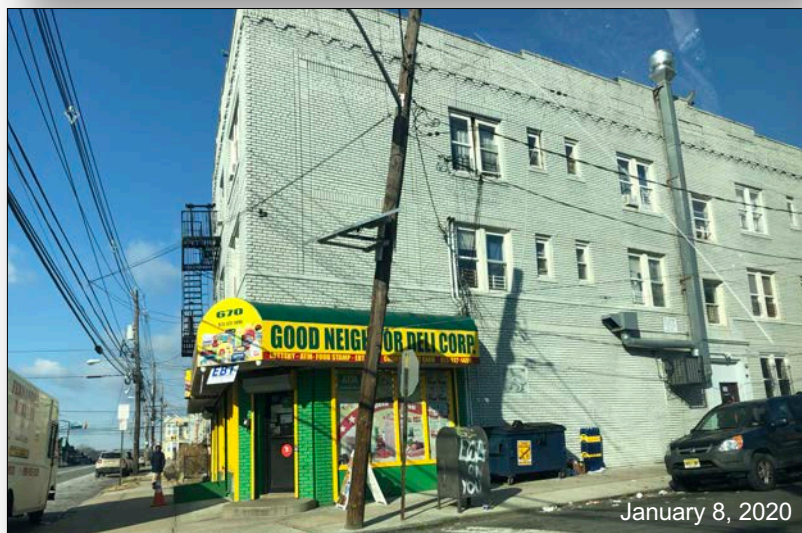


Photo 8: View of the mixed-use multifamily dwelling located on the corner of 22nd Street and 18th Avenue from the southeast.

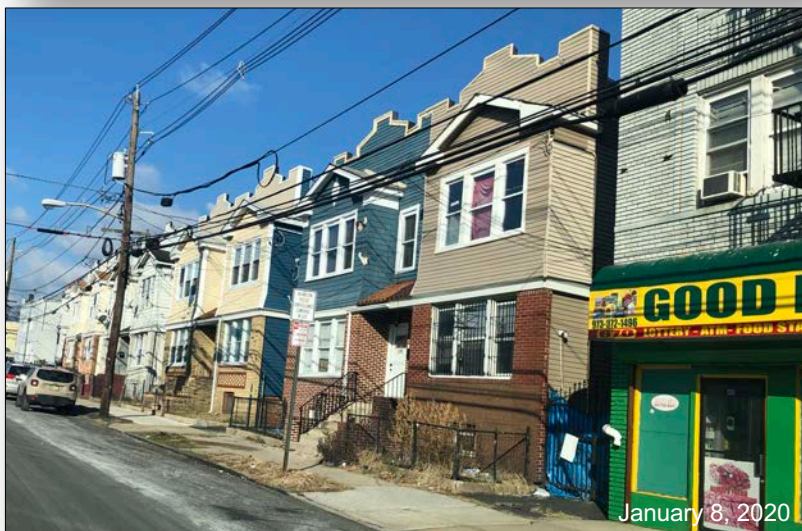


Photo 9: View of the properties located to the south of the subject site, fronting on 18th Avenue.

Planning Considerations

The subject site is located within the Township's **R-2 (Two-Family Residential) zone**, a district intended for both one and two-family dwellings along with supportive uses for the residential properties located there. Uses in the R-2 district consist of one- and two-family dwellings, group homes, parks and playgrounds, municipal buildings and other governmental uses as deemed necessary and approved by the Planning Board and the Municipal Council.

Pursuant to the Township of Irvington's Code **\$650-15(A)**, the proposed 5-story multifamily dwelling **is not a permitted use** in the R-2 zone. The table below has been created to identify bulk deficiencies.

Schedule of Bulk Regulations

<u>Standard</u>	<u>Permitted/Required</u>	<u>Proposed</u>	<u>Variance</u>
Minimum Lot Area	Use Not Permitted	9,911 SF	Yes*
Minimum Lot Width	Use Not Permitted	50 Feet	Yes*
Maximum Height (Stories / Feet)	2½ Stories / 35 Feet	5 Stories / 47.58 Feet	Yes / Yes
Minimum Front Yard Setback	15 Feet	37.83 Feet	No
Minimum Side Yard Setback (one / both)	0 Feet / 0 Feet	0 Feet / 0 Feet	Yes / Yes
Minimum Rear Yard Setback	15 Feet	0 Feet	Yes
Maximum Residential Density	20 du/acre	105.48 du/acre	Yes
Max Impervious Coverage	Use Not Permitted	98.4%	Yes
Minimum Parking	24 Spaces (Irvington Code) 43.2 Spaces (RSIS)	24 Spaces	Yes

Note - * Existing Nonconforming Condition

Standards for Granting Variance Relief

D – (Use) Variances

The MLUL (Municipal Land Use Law) at **N.J.S.A. §40:55D-70d** sets forth the standards for variances from the regulations pursuant to Article 8 of this act. A D-Variance is warranted to permit:

- 1) a use or principal structure in a district restricted against such use or principle structure,
- 2) the expansion of a nonconforming use,
- 3) deviation from a specification or standard pertaining solely to a conditional use,
- 4) an increase in the permitted floor area ratio,
- 5) an increase in the permitted density (*except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings, which lot or lots either isolated undersized lot or lots resulting from minor subdivision*) or
- 6) a height of a principal structure which exceeds by 10 feet or 10%, the maximum height in the district for a principal structure.

A D-variance may be granted where the applicant shows to the satisfaction of the Board, that “*special reasons*” exist to warrant the granting of the variance. *Special reasons* may include that the use is inherently beneficial, that the property owner would suffer undue hardship if required to use the property in accordance with the permitted uses and standards for the zone, or that the site is particularly suited for the proposed use **and** thereby promotes the general welfare.

The applicant must **also** demonstrate that the requested relief will not result in any substantial detriment to the public good, nor substantial impairment to the zoning ordinance or zone plan. A variance under this subsection is granted only by **affirmative votes of at least five members**.

C - (Bulk) Variances

The Municipal Land Use Law (MLUL) at **N.J.S.A. 40:55D-70c** sets forth the standards for variances from the bulk regulations of a zoning ordinance.

C(1) Variance - The Board must find that there is either undue hardship or practical hardship with the strict application of the zoning requirements as stipulated in the Zoning & Land Use Regulations, as a result of:

- a) exceptional narrowness, shallowness or shape of a specific 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.

C(2) Variance – The Board must find that the proposed deviation from the Zoning & Land Use Regulations will advance the purposes of the MLUL and that the variance can be granted without substantial detriment to the public good, that the benefits of the deviation would substantially outweigh any detriment and that the variance will not substantially impair the intent an purpose of the zone plan and zoning ordinance. The benefits identified in granting a C(2) variance must include benefits to the community as a whole, not only the applicant of the property owner. Here too, the Board must be satisfied that the variance can be granted “*without substantial detriment to the public good*” and “*without substantial impairment to the intent and purpose of the zone plan and zoning ordinance*” of the City.

Planning Comments

The applicant proposes to construct a new 5-story, 24-unit multifamily dwelling with on-site parking, on a vacant lot. The proposed dwelling **is not a permitted use** in the R-2 zone. Additionally, the proposed development does not meet all the design and bulk standards for the zone.

The proposed development is located within the R-2 Zone, which permits one and two-family dwellings. The proposed multifamily includes twenty-four (24) apartments, which is substantially more than is permitted in the R-2 Zone. The applicant requires a D(1) use variance to permit the proposed multifamily in the R-2 zone.

Notwithstanding the above, **in my opinion, the proposed development is appropriate for the subject site.** There are other multifamily dwellings in the area surrounding the subject site, including on the properties immediately abutting the subject site to the north and south. While these adjoining properties do not appear to contain as many units as the proposed development will, they are nonetheless larger than the one and two-family dwellings that are permitted in the zone. The subject lot is also of a substantial size (9,911-SF), and well suited to accommodate a development of the proposed size without creating any substantial adverse impact on the surrounding properties.

The applicant also requires a D(5) variance for exceeding the maximum permitted density for the zone. **In my opinion, the proposed density is appropriate for the site.** The proposed apartments are of a substantial size, ranging from 660-SF to as large as 996-SF, allowing for healthy living. The proposed development is comprised exclusively of one-bedroom apartments, resulting in a total of 24-bedrooms in the entire development. This factor indicates a lower level of occupancy than would have been likely, had the proposed unit mix in the building included two and three-bedroom units.

The proposed development at 5-stories, exceeds the maximum permitted height of 2½-stories for the R-2 zone. The applicant requires a D(6) variance to permit a building height that exceeds the maximum permitted height for the zone by more than 10%. Here again, there are numerous properties in the surrounding areas which surpass this height. However, the majority of these range between 3 and 4-stories. Many of these structures front on 22nd Street to the north of the subject site. It should be noted here that the proposed building does include a parking garage on the 1st floor, with 4-stories of residential units. **In my opinion, the provision of the proposed off-street parking in the 1st floor garage is an equitable tradeoff for the increased building height.** This parking will substantially lessen the impact of the proposed development on the surrounding area.

In addition to above enumerated D-variances, the applicant is also requesting several C-variances related to the proposed building on the site. These include variances for lots size, lot width and impervious coverage, the standards for which, as a nonpermitted use in the zone, are not provided.

Additionally, a variance is being requested for an insufficient rear yard setback. Whereas a rear yard setback of 15-feet is required, the applicant proposes a setback of 0-feet. In this instance, while the 1st floor parking garage will extend to the property line on all sides, **the residential floors (2nd through 5th floors) will be stepped back between approximately 10-feet and 24-feet from the rear property line.**

The applicant has requested a *de minimis exception* from the RSIS parking standard, which would require forty-four (44) off-street parking spaces for the development. The applicant instead proposes to comply with the parking standard in the Township's Code, which requires one parking space per dwelling unit, for a total of twenty-four (24) parking spaces. **However, the applicant's plans show only twenty-three (23) spaces. The applicant should address this discrepancy. If there are in fact only twenty-three (23) spaces, the applicant will require a parking variance.**

Related to parking on the site, the applicant will require variances for parking in the front yard of the proposed building, which is not permitted. Additionally, the applicant requires a variance for parking spaces that are smaller than the required dimensions. In the case of the former, the proposed front yard parking is dissimilar to the development pattern on the remainder of the street, where there is generally no parking in the front yard. The exceptions are the three to four newer dwellings, which include garages on the ground floor with driveways leading to them. While the proposed decorative metal fence proposed along the front property line will help in separating the parking area from the sidewalk, it will not obscure the parked car from view from the street.

Recommended Conditions of Approval

Should the Board be inclined to grant the requested variance relief in full or in part, or to approve the accompanying site plan, the following are recommended conditions that should be placed on the approvals.

1. The applicant shall address all comments from the Board Engineer.