



KNPB-R4060

March 31, 2025

Via Email

MacKenzie Bittle, Planning Board Secretary
Borough of Keansburg
29 Church Street
Keansburg, NJ 07734

**Re: Proposed 4' and 6' High Vinyl Fences
Jason M. Corley
23 Park Avenue
Block 115, Lot 11
Single-Family Residential (R-5) Zone
First Engineering Review**

Dear Ms. Bittle:

As requested, we have reviewed the following plans and documents submitted in support of this application:

1. Site Plan Application - Planning Board of Adjustment, dated January 9, 2025.
2. Borough of Keansburg Zoning Officer Denial Letter dated January 9, 2025.
3. Certification of Taxes and 200' Property Owner's List dated January 8, 2025.
4. Survey of Property, prepared by Charles Surmonte, P.E., P.L.S., dated September 16, 2024, with Sketch of Proposed Fences consisting of one (1) sheet.

A. Project Description

The subject property is a corner lot located within the Single-Family Residential (R-5) Zoning District with road frontage along Park Avenue to the south and Beechwood Avenue to the north. The existing lot currently contains a one-story, single-family residential dwelling with associated detached garage, concrete driveway, wood deck and paver patio. The property is located in the "AE" Flood Zone, with a flood elevation of 11 feet.

The applicant is seeking approval to replace the existing wire fence along both frontages of the property with a 4' and 6' high vinyl fence. We note the Borough Zoning Officer has issued a denial letter on January 9, 2025, because the proposed fence does not comply with Section 22-7.25. Therefore, variance relief is required.

B. Bulk Variance Required

The applicant has provided a Survey of the Property depicting the locations of the proposed 4' and 6' high vinyl fences. We note a portion of the 4' fence is to be reconstructed within



the sight triangle easement at the intersection of Park Avenue and Beechwood Avenue and exceeds the maximum 30 inches above curb level required in accordance with Section 22-7.5 as an existing non-conformity. In addition, the proposed 6' high fence is in the front yard or within 25 feet of Beechwood Avenue and exceeds the maximum 48 inches of height required in accordance with Section 22-7.25a.1. Therefore, variance relief is required.

C. **Dimensional “c” Variance Considerations**

Upon hearing testimony and input from the public (if any), the Board should evaluate the positive and negative criteria set forth below to determine whether the Applicant has met its burden of proof for a “c(1)” or “c(2)” variance for the pre-existing non-conformities listed above, as well as variances per the below Sections of the Ordinance regarding construction of non-compliant structures, as listed below:

- a. Section 22-7.25a.5.(a) of the Ordinance states that no fence or wall shall be erected in the sight triangle affecting the property. **The existing fence on the property is proposed to be replaced and is within the sight triangle easement at the intersection of Park Avenue and Beechwood Avenue.**
- b. Section 22-7.25a.5.(c) of the Ordinance states that a fence or wall permitted under this subsection shall comply with a minimum setback of 15 feet. **The proposed fences do not comply with a minimum setback of 15 feet.**

1. **Positive Criteria for “c(1)” Hardship Variance**

The finding of a “c(1)” hardship would address the following:

- 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 the structure lawfully existing thereon, or the strict application of any regulations...would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property.*

It should be noted that the finding of the hardship must be for the specific property in question (i.e., it must be unique to the area). Note also that a hardship variance cannot be granted by a self-created hardship or personal hardship of the applicant.

2. **Positive Criteria for “c(2)” flexible variance**

The finding of a “c(2)” flexible variance to permit relief from zoning regulations where an alternative proposal results in improved planning would address the following:



- a. *The purposes of the MLUL would be advanced by the deviation, and*
- b. *The benefits of the deviation from the zoning ordinance requirements would substantially outweigh any detriment.*

The finding of the benefits must be for the specific property in question—it must be unique to the area. The zoning benefits resulting from permitting the deviation(s) must be for the community and not merely for the private purposes of the owner. It has been held that the zoning benefits resulting from permitting the deviation(s) are not restricted to those directly obtained from permitting the deviation(s) at issue; the benefits of permitting the deviation can be considered in light of benefits resulting from the entire development proposed. Notwithstanding the above, the Board should consider only those purposes of zoning that are actually implicated by the variance relief sought.

3. The Municipal Land Use Law (NJSA 40:55D-70) requires the applicant to satisfy *both* components of the negative criteria:
 - a. *The proposal will not create a “substantial detriment to the public good”;* and
 - b. *The proposal will not create a “substantial detriment to the zone plan and zoning ordinance.”*

D. Technical Engineering Review

1. The 4' fence is proposed within the sight triangle easement at the intersection of Park Avenue and Beechwood Avenue and exceeds the maximum 30 inches above curb level required in accordance with Section 22-7.5. Testimony shall be provided to demonstrate that there will be no negative impacts allowing the 4' fence to be constructed within the sight triangle easement.
2. The proposed 6' high fence is in the front yard or within 25 feet of Beechwood Avenue and exceeds the maximum 48 inches of height required in accordance with Section 22-7.25a.1. Testimony shall be provided to demonstrate that there will be no negative impacts allowing the 6' fence to be constructed in the front yard or within 25 feet of Beechwood Avenue.
3. The plan shall be revised to clearly indicate where the proposed 4-foot and 6-foot fences start and end.
4. The applicant shall indicate whether any gates associated with the fences are contemplated. If so, the plan shall be revised to depict their locations and details of same shall also be included on the plan for review and approval.



5. Provide details for the proposed 4-foot and 6-foot fences.

We reserve the opportunity to further review and comment on this application and all pertinent documentation, pursuant to testimony presented at the public hearing. If you have any questions or require additional information, please call.

Very truly yours,

T & M ASSOCIATES

ROBERT F. YURO, P.E., C.M.E.
BOROUGH OF KEANSBURG
PLANNING BOARD OF ADJUSTMENT ENGINEER

RFY:STF:LZ

cc: Kevin Kennedy, Esq., Board Attorney, email: kennedylaw@verizon.net
Kathy Burgess, Zoning Officer, Kathy.burgess@keansburg-nj.us

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