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February 21, 2024

55179 00

To: Cheryl Chrusz, Board Secretary
Montgomery Township Zoning Board
100 Community Drive
Skillman, NJ 08858

From: Rakesh R. Darji, PE, PP, CME
Zoning Board Engineer

Re: Kharrubi
8 County Route 518 (aka 8 Georgetown-Franklin Turnpike)
Montgomery Township
Somerset County
Block 24001, Lot 37
Variance Application
Application #BA-03-23

Our office has reviewed the documents submitted for a Bulk Variance Application for the above referenced parcel. The applicant is seeking a bulk variance for numerous non-conforming conditions relating to lot size.

The site contains 0.272 acres and is currently vacant and contains a small concrete pad and a seepage pit. This lot was created in 1928 per information provided by the Applicant in the Land Development Application. The applicant proposes to construct a 2-bedroom dwelling with attached garage. Other improvements include a porous pavement driveway, front sidewalk and landscaping. The site is serviced by public water and an on-site sanitary system.

The property is within the R-5 (Single Family Residential) Zoning District at the address listed above. The property is surrounded by single family dwellings, all within the same zoning district.

The following information has been submitted by the applicant in support of this application. This office has reviewed submitted documents for compliance with the submission requirements of the Montgomery Township Land Use Ordinance.

1. Montgomery Township Land Development Application with checklists.
2. Response to DRC memo, prepared by Bayer-Risse Engineering, Inc., dated December 1, 2023.
3. Variance Plan, prepared by Bayer-Risse Engineering, Inc., dated April 10, 2023, revised to December 1, 2023, consisting of the following:
 - a. Cover Sheet, 1 of 10.
 - b. Existing Conditions Plan, 2 of 10.
 - c. Proposed Conditions, 3 of 10.
 - d. Grading Plan, 4 of 10.
 - e. Utilities Plan, 5 of 10.
 - f. Landscaping Plan, 6 of 10.
 - g. Soil Erosion and Sediment Control Plan, 7 of 10.
 - h. Construction Details, 8 of 10.

- i. Vehicle Movement Plan, 9 of 10.
- j. Plan and Profile, 10 of 10.
- 4. Project Description and Miscellaneous Information, prepared by Bayer-Risse Engineering, Inc., dated April 10, 2023.
- 5. Plan of Survey, prepared by Brunswick Surveying Inc., dated January 13, 2023.
- 6. New Single-Family Home, architectural plans, prepared by Steven Considine, Architect, dated July 18, 2022.
- 7. Stormwater Operations and Maintenance Manual, prepared by Bayer-Risse Engineering, Inc., dated December 1, 2023.

General Information

Owner/: Tamer Kharrubi
Applicant 34 Jeremy Drive
Dayton, NJ 08810

Engineer: Theodore H. Bayer, PE
Bayer-Risse Engineering, Inc.
tbayer@bayer-risse.com

Architect: Steven Considine, AIA
Stevenconsidinearchitect@gmail.com

Attorney: Richard Schatzman, Esq.
Schatzman Baker, A Professional Corp.

Zoning

1. Detached unit dwellings are a permitted use within the district.

Zoning – R-5 – Single Family Residential §16-4.2d – Area and Yard Requirements

	Required	Existing	Proposed	
Min Lot Area	5 acres	0.272 acres	0.272 acres	ENC
Min Lot Frontage	300 FT	80.72 FT	80.72 FT	ENC
Min Lot Width	300 FT	80.72 FT	80.72 FT	ENC
Min Lot Depth	500 FT	176.54 FT	176.54 FT	ENC
Min Setbacks				
- Front Yard	75 FT	-	27 FT	Variance
- Rear Yard	100 FT	-	80.5 FT	Variance
- Side Yard (each)	75 FT	-	11 FT (east)	Variance
		-	11 FT (west)	Variance
Max Building Height	35 FT	-	29.92 FT	Conforms
Max Building Coverage	8%	-	15.13%	Variance
Max Lot Coverage	15%	3.48%	29.12%	Variance

Variances

1. Per §16-4.2d, the minimum setbacks are as follows.
 - a. The minimum front yard setback in this zoning district is 75 FT. The applicant is proposing to construct a dwelling with a front yard setback of 27 FT. A variance will be required.
 - b. The minimum rear yard setback in this zoning district is 100 FT. The applicant is proposing to construct a dwelling with a rear yard setback of 80.5 FT. A variance will be required.
 - c. The minimum side yard setback in this zoning district is 75 FT. The applicant is proposing to construct a dwelling with a side yard setback of 11 FT on both the west and east sides of the property. A variance will be required.

2. Per §16-4.2d, the maximum building coverage is 8% in this zoning district. The proposed dwelling has a foot print of 1,789 SF; thus the proposed building coverage is 15.13%. A variance will be required.
3. Per §16-4.2d, the maximum lot coverage is 15% in this zoning district. The existing lot coverage is 3.48%. The proposed lot coverage, which includes the dwelling, driveway, and concrete areas is 29.12%. A variance will be required.
4. Per footnote [8] of the bulk requirement table of §16-4.2, a contiguous land area of at least 43,560SF within any existing or proposed development of a residential dwelling shall meet the design criteria to reasonably ensure that an adequate carry capacity exists on the lot to locate and support a detached single-family dwelling, its related accessory buildings and structures and, as applicable, any septic system, reserve septic system area and/or potable water well. The site is non-conforming in size and does not meet the 1-acre requirement. However, the Montgomery Township Health Department has issued a septic approval for a 2-bedroom dwelling.
5. Per footnote [12] of the bulk requirements table of §16-4.2, the entirety of the provision of “Clearing and Removal of Trees” shall apply to all residential lots in R-5 zoning district. No more than 50% of the area of the lot shall be cleared of trees. The applicant shall provide a tree inventory and summary of trees to be removed and trees to be replaced.
6. It is also noted that the lot is an undersized parcel within this zoning district. Thus, the following are existing, non-conforming conditions of the parcel:
 - a. Minimum lot area of 5 acres; where 0.272 acres exists.
 - b. Minimum lot frontage of 300 FT; where 80.72 FT exists.
 - c. Minimum lot width of 300 FT; where 80.72 FT exists.
 - d. Minimum lot depth of 500 FT; where 176.54 FT exists.

The Applicant has the burden of proof to present “positive” and “negative” criteria to justify the variance and should be prepared to provide testimony as such. The applicant must provide to the satisfaction of the Board that there are exceptional conditions of the property preventing the applicant from complying with the Zoning Ordinance. Testimony should also demonstrate that the site is particularly suited to the proposed use and that the proposal will advance the purposes of the Municipal Land Use Law and the Township’s Master Plan and Zoning ordinances. Additionally, the applicant must show that the variance can be granted without substantial detriment to the public good and that the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinances. Testimony should be provided.

Waivers

1. The applicant is proposing a 6 FT high fence along the sides and rear of the property. Per §16-5.3b, no wall or fence shall be erected so that it is over 4 FT in height. A waiver will be required for the proposed fence.
2. §16-5.2 discusses Montgomery Township stormwater requirements. The applicant is proposing a porous pavement system. The following minimum separation distances are required per Table 7 of §16-5.2i.
 - a. Right of Way line (property line), 10 FT required; 0 FT proposed; A waiver is required.
 - b. Garage, slab on grade, 10 FT required, 0 FT proposed. A waiver is required.
 - c. Building w/Basement, 25 FT required, 13.60 proposed. A waiver is required.
 - d. Neighboring Well, 50 FT required; 20.96 proposed. A waiver is required.
3. Per §16-5.2, this application meets the definition of a minor development as it requires a “c” variance for exceeding lot coverage. A minor development project must meet stormwater quantity requirements. The applicant is requesting a waiver as the site improvements cannot meet the requirements for a 20%, 25% and 50% reduction from the pre-construction to post-construction runoff. The applicant has demonstrated, to

the satisfaction of the Somerset County Planning Board, that the proposed design reduces stormwater runoff to at least the pre-construction levels.

- a. 2-year storm: pre construction runoff: 0.451 cfs; required, 0.226 cfs; post-construction 0.347 cfs.
 - b. 10-year storm: pre construction runoff: 0.727 cfs; required, 0.727 cfs; post construction 0.720 cfs.
 - c. 100-year storm: pre-construction runoff: 2.451 cfs; required 1.961 cfs; post-construction 2.316 cfs.
 - d. Provide a copy of the Somerset County Planning Board letter of June 13, 2023.
4. Per §16-5.14c1(d), sidewalks shall be provided along all existing streets upon which all residential and non-residential developments abut. No sidewalks are proposed along the property's frontage. A waiver will be required. It is noted there are no existing sidewalks along this section of Georgetown Franklin Turnpike.

General Comments

1. There is no revision date on the architectural plans provided with the December 2023 submission to the Township. It is noted that this plan set, with the same date as the initial submission from April 2023 shows a reduction in the number of bedrooms from 3 to 2. An architectural plan set is referenced on Sheet 1, reference materials note #8, with a revised date of October 23, 2023. This plan set should be provided to the Board.
2. The applicant should discuss if there is to be a dedication of a portion of the parcel (1,183 SF) within the County Right-of-Way to the County.
3. The proposed fence should be labeled.
4. Provide a dimension for the distance between the dwelling and the septic tank.
5. A note should be added to the plan stating that any damage to existing improvements (sidewalk, curbing, etc.) will be repaired at the applicant's expense at the direction of the Township Engineer.
6. The applicant is proposing an estimated net export of 340 CY of soil. Per §16-5.6c, no soil shall be removed from or imported to the site in excess of 20 CY per year without the prior approval of the Planning Board.
7. Clarify the size of the proposed driveway and driveway apron. The proposed porous asphalt scales to approximately 1,250 SF where the project description states the driveway outside the County ROW is 821 SF. And that the driveway apron scales to approximately 275 SF and the report states this is 358 SF. This should be reviewed as it may affect the proposed lot coverage and the requested variance.

Grading/Drainage/Stormwater

1. The applicant should discuss the existing drainage patterns and if the proposed improvements will cause adverse impacts to the neighboring properties.
2. The project description states that the proposed septic system has been approved by the Montgomery Township Health Department based upon a design prepared by Van Cleef Engineering. The approval letter, for a 2-bedroom dwelling, is based upon a design by Bayer-Risse Engineering. This should be clarified.
3. The test pits and soil logs should be labeled on the grading plan. It is noted that all logs have not been carried over to the grading plan from what is shown on the existing conditions plan.
4. Provide the setback distances on the plan as described in Table 7 of §16-5.2i.
5. The following is noted for the proposed porous asphalt, Chapter 9.6 of the NJ BMP manual:
 - a. The detail for the porous pavement should be revised to include the depth/thickness of the asphalt course, choker course, stone, etc. Include that stone should provide a minimum of 3" below and 3" above the perforated pipe.

- b. Porous pavement systems with an underdrain should be designed with an outlet structure. No OCS is proposed, however, a 6" outlet pipe will act as a conduit for discharge to an off site inlet.
 - c. Systems with an underdrain are required to provide filter fabric along the sides and bottoms of the system.
 - d. A minimum of 1 FT should be provided between the bottom of the storage bed and the seasonal high-water table.
 - e. Notes should be added to the detail to reflect the asphalt materials suitable for a porous pavement as described in the BMP manual.
 - f. Post construction testing is required.
6. The elevation of the existing grate and inlet should be provided to demonstrate that the proposed roof drain can make the connection as expected.
7. Per the Township definitions contained in §16-5.2, this application meets the definition of a minor development as it requires a "c" variance for exceeding the maximum permitted lot coverage and thus must provide stormwater quantity standards as described in the Township ordinance.
 - a. As previously noted, the applicant cannot achieve the quantity requirements of the Township ordinance. However, as a response to the County Planning Board's letter, the plans show that post-construction runoff rates have been reduced below the preconstruction rates.
8. Operations and Maintenance Manual should be updated as follows:
 - a. The summary references a 3-bedroom single family residence. The BOH approval is for a 2-bedroom dwelling. The summary should be revised.
 - b. Provide the construction details for the proposed basin as part of the O&M Manual. This will provide the inspector with further information such as elevations, locations of inspection ports, etc.
 - c. A cost estimate should be provided.
 - d. It is recommended that the maintenance requirements from Chapter 9.6 be provided in the manual.
 - e. Cold weather maintenance is critical to the functioning of the porous pavement. This information should be added to the O&M Manual.
9. The lot shall be deed restricted to require the perpetual maintenance of the stormwater management system in accordance with the approved stormwater management operations and maintenance plan. The restriction shall reference the Operations and Maintenance Manual by title, preparer and most recent revision date. Further, the restriction shall allow that, in the event that the responsible party fails to maintain the system, the Township shall have the right (but not the obligation) to enter upon the property to perform the requisite maintenance at the responsible party's expense.

Landscaping

1. General Planting Notes #23 references a conservation easement. Clarify if there is a conservation easement on the site and if so, it should be depicted with easement language and metes and bounds provided to the Board professionals for review.
2. Per §16-5.6d3, a minimum of 14 trees per acre shall be planted on single-family residential lots. The parcel is 0.272 acres which would be a total of 14 trees to be planted. The applicant is proposing 4 Maple trees. We defer to the Board's Landscape Architect as to whether this requirement has been satisfied.
3. This office defers to the Board's Landscape Architect for further comment.

Permits & Approvals

The applicant shall secure any and all other approvals, licenses, and permits required by any other board, agency or entity having jurisdiction over the subject application or over the subject property, if required:

- a. Montgomery Township Health Department, Septic Approval, dated November 17, 2023.
- b. Somerset County Planning Board.

- c. Somerset-Union Soil Conservation District.
- d. Delaware and Raritan Canal Commission.
- e. New Jersey Department of Environmental Protection.
- f. Any and all others as required

Should you or the applicant have any questions, please do not hesitate to contact this office.

RRD/mbs