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ZONING REVIEW MEMORANDUM



Date: November 19, 2020

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Kathy Jordan Quern, Applicant
Peter Harrington, Attorney
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to amend Variance #4-13 to increase lot coverage and decrease open space, and a special permit to exceed FAR

Applicant: Kathy Jordan Quern	
Site: 13 Prospect Street	SBL: 33003 0009
Zoning: MR2	Lot Area: 6,611 square feet
Current use: Two-family dwelling with an accessory apartment and family day care	Proposed use: No change

BACKGROUND:

The property at 13 Prospect Street consists of a 6,611 square foot lot improved with a two-family dwelling with an accessory apartment constructed circa 1920 in the MR2 zoning district. The property received Variance #4-13 in 2013 allowing for the conversion of the existing single-family dwelling into a two-family dwelling, as the property lacked sufficient lot area per unit and a proposed addition that would reduce the minimum open space below the requirement. A legal accessory apartment was created on the property in 2018. The petitioner now seeks a special permit and to amend the existing variance to construct a rear addition.

The following review is based on plans and materials submitted to date as noted below.

- As-Built, signed and stamped by George C. Collins, surveyor, dated 1/14/2013, revised 4/12/2019
- Certified Plot Plan, signed and stamped by George C. Collins, surveyor, dated 10/4/2018, revised 4/12/2019
- FAR worksheet, submitted 10/15/2018, revised 8/13/2020
- Variance #4-13

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to enclose space below an existing deck at the rear of the dwelling to create additional first level living space used in a family day care operated on the property.
2. The petitioner received a variance in 2013 to allow for an existing single-family dwelling to be converted into a two-family dwelling with an addition. The variance was required for lot area per unit and insufficient open space. The open space allowed by the 2013 variance was 44.7%, where 50% is required per section 3.2.3. The survey on file with the as-built plans in ISD from 2013 indicates that the as-built open space was as permitted at 44.7%. However, the current survey indicates an existing open space of 43.4%, which is below that which was permitted by the variance. The as-built plan appears largely the same as the current plan found in the petitioner's application, so it is unclear where the discrepancy between the two open space figures lies. The proposed addition would further reduce to the open space to 42.9%. A variance amendment is required to allow for a further reduction of open space from the approved 44.7% to the proposed 42.9%.

Should the petitioner not receive the permissions required for the proposed addition, an amendment to legitimize the current conditions shown on the submitted plans of 43.4% open space, where 44.7% had been approved in 2013, should be made.

3. Lot coverage is a measurement of the percentage of the lot covered by structures with roofs. The existing lot coverage is 30%, where the maximum allowed is 30% per section 3.2.3. The proposed addition is under an existing deck. As it is not currently under a roof, the space intended for the addition does not count against lot coverage. However, once constructed the space would be under a roof and would therefore increase the lot coverage figure. To allow an increase of the lot coverage to 32.3%, which exceeds the maximum allowed, requires a variance.
4. The FAR for the addition was likely miscalculated in 2013, with the as-built plans showing a figure of .40, whereas the FAR calculation included in the current submission shows an existing FAR of .66. This discrepancy between the two figures is possibly due to a 2013 miscalculation of the basement level of the dwelling. Due to the average grade of the property, the entire basement counts toward FAR, and it is likely that it was not included in the initial calculation.

The proposed addition adds 398.7 square feet to the first story, creating a total of 4,189 square feet counting toward FAR. The existing FAR is .66, where .54 is the maximum allowed per sections 3.2.3 and 3.2.11. The proposed additions further increase the nonconforming FAR to .72, requiring a special permit per sections 3.2.3, 3.2.11.

Should the petitioner not receive the permissions necessary for the proposed addition, a special permit to legitimize the current FAR of .66 is required.

MR2 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	6,611 square feet	No change
Frontage	70 feet	56.5 feet	No change
Setbacks			
• Front	25 feet	4.6 feet	No change
• Side (right)	7.5 feet	2.8 feet	No change
• Side (left)	7.5 feet	11.5 feet	No change
• Rear	15 feet	58.6 feet	52.7 feet
FAR	.54	.66	.72
Maximum Lot Coverage	30%	30%	32.3%
Minimum Open Space	44.7%*	43.4%	42.9%

*Allowed by Variance #4-13

See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend Variance #4-13	
§3.2.3	Request to further reduce minimum open space	Variance per §7.6
§3.2.3	Request to exceed maximum lot coverage	Variance per §7.6
§3.2.3 §3.2.11 §7.8.2.C.2	Request to further extend nonconforming FAR	S.P. per §7.3.3