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TO: Pequannock Township Zoning Board of Adjustment
FROM: Jill A. Hartmann, PP, AICP
RE: SITE PLAN AND EXPANSION OF A NON-CONFORMING USE VARIANCE APPLICATION TO CONSTRUCT A DETACHED GARAGE AT AN EXISTING FUNERAL HOME; 781 NEWARK POMPTON TURNPIKE; BLOCK 701, LOT 24; APPLICANT: M. JOHN SCANLAN FUNERAL HOME.
DATE: May 5, 2021

This is a Site Plan and Expansion of a Non-Conforming Use Variance to construct a garage for business vehicles associated with an existing funeral home. The subject site is located in the R-15 Residential District of the Township. The funeral home is not a permitted use in the R-15 District, but an existing non-conforming use. The proposed detached garage is not permitted. A d(2) expansion of a non-conforming use variance. The Zoning Board of Adjustment has jurisdiction to hear this application. The following submitted documents were utilized in the preparation of this planning report:

- Completed Pequannock Township Application for Variance, signed by Frank Scangrella, Esq., dated February 8, 2021.
- Plot Plan/Variance Plan, consisting of 3 sheets, prepared by James P. Cutillo, RA, dated February 4, 2021 with revisions through February 23, 2021.
- Planning Report prepared for M. John Scanlan Funeral Home, prepared by John McDonough, LA, AICP, PP, dated March 26, 2021.

ZONING ANALYSIS AND COMMENTS

1. The subject site is a 3.2 acre corner parcel that is fully developed with a funeral home since the mid-1950's. It contains the two story funeral home, the 1½ story residential dwelling, a shed and various backyard improvements related to the residence. In addition, the site contains parking for the funeral home and a portico, located in the front of the funeral home, to service the business. It is non-conforming in terms of its use and multiple principal structures on one lot.
2. The application proposes to construct a 20' wide x 24' deep garage to house 2 business vehicles, a hearse and a limousine. The driveway will be extended to meet the new garage. The new garage will be located in the front yard with a setback of 50' from the Newark Pompton Turnpike right-of-way and 148.98' from the Mountain Avenue right-of-way.

No other site changes or improvements are proposed.

3. The existing funeral home with single family residence is not permitted in the R-15 District. It is an existing non-conforming use in the R-15 District. The proposed two vehicle garage improvement, in the front yard, will increase the non-conformity of this site. Therefore, a d(2) expansion of a non-conforming use variance is required.

An application for a d(2) variance to permit the expansion of an existing, nonconforming use need not show that it would have been entitled to a variance for the initial nonconformity. However, it must satisfy the same positive and negative criteria test as other d variances.

The positive criteria or special reasons include the showing, by the applicant, that the granting of the variance will effectuate the intents and purposes of the MLUL and advance the goals and objectives of the municipal master plan.

The negative criteria establishes that the variance can be granted without substantial detriment to the public good; that the benefits of the deviation would outweigh any detriment and that it will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

3. The application proposes to locate the two vehicle detached garage in the front yard of the subject site. The Township Ordinance does not permit accessory structures to be located in the front yard. Variance relief from this regulation is required.
4. No other variances are required.
5. The required variances are classified as "c" variances. As with all "c" variance applications, the applicant must provide testimony as to how the variance requested addresses the statutory requirements of N.J.S.A 40:55D-70c (1) hardship or (2) that the variances requested benefit the community in that they represent a better zoning alternative for the property.

The c(1) hardship variance must relate to a specific piece of property or in other words the hardship arises out of a condition of the land itself or structures lawfully existing on the site. The c(2) variance does not require the showing of undue hardship. What must be shown is that the application (1) relates to a specific piece of property and (2) that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance. Essentially, the variances requested must benefit the community in that they represent a better zoning alternative for the property.

Zone Table

781 Newark Pompton Turnpike
Block 701, Lot 24

R-15
(For Comparison Purposes)

	Required	Existing	Proposed
Lot Size	15,000 sf	140,964 sf	140,964 sf
Lot Width	100'	267.21'	267.21'
Lot Depth	150'	In excess of 200'	In excess of 200'
Front Yard Setback (Mountain Ave.)	50'	235'	148.98'
Front Yard Setback (NP Turnpike)	50'	95.1'	50'
Side Yard Setback	15'	183' (To residence)	183' (To residence)
Side Yards Combined	35'	NA	NA
Rear Yard Setback	40'	9.3'	9.3'*
Building Coverage	15%	6.3%	6.8%
Impervious Coverage	35%	32%	32.6%

* This is an existing non-conforming condition that will not be impacted by the proposed new garage addition.