

# CITY OF JERSEY CITY

Department of Housing, Economic Development & Commerce  
Division of City Planning



## Interdepartmental Memorandum

DATE: 10/20/23  
TO: Zoning Board Commissioners  
FROM: Francisco Espinoza, Senior Planner  
Matthew Ward, Supervising Planner, AICP, PP  
RE: 194 Freeman Ave.  
Z23-025  
Block: 14602 Lot: 46 'c' Variance(s)



Site

Aerial View of Site

## **BACKGROUND**

The existing site is an undersized R-1 lot with a total area of 1,474 SF. A standard lot in the R-1 zone measures at 25 FT by 100 FT and totals to 2,500 SF. The site measures 24.58 FT wide by 60 FT deep and is currently a vacant lot.

The applicant is proposing to construct a 3-story 2 family home on the vacant lot. The applicant is requesting relief of “c” Variances for building coverage, rear yard, combined Front and rear yard setback, and side yard.

## **EXISTING “c” VARIANCES/DEVIATIONS**

#	REQUIREMENT	PROPOSED
1	Max. Building Coverage 60%	~72%
2	Combined Front and Rear yard setback of 35’ (Front yard + Rear yard)= 35 FT	1’+10’=11’
3	Rear yard setback 20’	10’
4	Side yard setback 2’ /3’	0’-3’

## **STAFF COMMENTS**

### **Rear yard:**

Both the rear yard minimum and the combined front/rear yard setback are in direct correlation to the hardship of the undersized lot. The structure is complying with the front yard requirement of meeting the predominant setback which also limits the ability to meet the rear yard minimum.

### **Height:**

The project requires a ‘c’ variance related to height in feet where 30ft is the maximum and 32’-9 1/8” is the proposed height of the building.

- Staff sees the 2ft height variance as de minimis in nature. Given that the building is compatible with the overall district as the building is under the max height permitted in the R-1 zone on a peaked roof design. Staff feels the intent of the zone plan is not impaired through the granting of the variances.

The project will improve the overall block by restoring residential use to a vacant lot, plant two new street trees, as well as provide much needed housing.

**STAFF RECOMMENDED CONDITIONS:**

1. All materials and color selections shall be shown on final plans. No change to the facade, site design, including materials, can be made without approval by the office of planning.
2. All testimony given by the applicant and their expert witnesses in accordance with this application shall be binding.
3. Applicant shall provide an affidavit from the architect of record representing that the constructed project is consistent with final approved plans.
4. A copy of the memorialized resolution with amended deed shall be filed with the Hudson County Register's Office with proof of such filing to be submitted to the Division of City Planning prior to application for construction permits.
5. All street trees/landscaping shall be installed in accordance with 345-66 and the City's Forestry Standards, prior to an issuance of a certificate of occupancy.

## **ADDENDUM**

### **FINDINGS NEEDED FOR “c” VARIANCE RELIEF**

The following findings are required for “c” Variance Relief:

- 1) **Hardship “C1” Variance Standard under N.J.S.A. 40:55(D)-70(c)(1):**
  - a. Pertinent information: Exceptional narrowness, shallowness, or shape of the property, exceptional topographical conditions, and/or other exceptional situations.
  - b. Based on this information, the strict application of the Ordinance would result in exceptional difficulties to, and undue hardships upon, the developer of such property.
  - c. The conditions causing hardship are peculiar to the subject property, and do not apply generally to other properties in the same district.
  - d. Other means to cure the deficiency (such as purchase or sale of property) do not exist, or are unreasonable or impracticable.
  - e. The variance requested is the reasonable minimum needed.
- 2) **Flexible “C2” Variance Standard under N.J.S.A. 40:55D-70(c)(2):**
  - a. The justifications must relate to a specific piece of property;
  - b. The purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirement;
  - c. The variance can be granted without substantial detriment to the public good;
  - d. The community benefits of the deviation would substantially outweigh any detriment and;
  - e. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

### **NEGATIVE CRITERIA**

**No relief may ever be granted unless it can be done**

- 1) **without substantial detriment to the public good, and**
- 2) **without substantially impairing the intent and purpose of the zone plan and zoning ordinance**

**1) Substantial detriment to the public good – Balancing Requirement.**

The focus of this first prong of the negative criteria is on the variance's effect on the surrounding properties. The board must weigh the zoning benefits from the variance against the zoning harms. In many instances, conditions of approval address the negative criteria standard and help to mitigate the impact of the variance.

**2) Substantial impairment to the intent and purpose of the zone plan and ordinance.**

The focus of this second prong of the negative criteria is on the power to zone based on ordinance and not variance