

Applicant: Vadim Susanin - 42 Helen Avenue

Appl. No.: ZB-5/23

REFERRALS

	<u>Date</u>	<u>Comments</u>	<u>Date</u>	<u>Comments</u>	<u>Additional</u>
	<u>Referred</u>	<u>Dated</u>	<u>Referred</u>	<u>Dated</u>	<u>Reports</u>
a. Municipal Engineer	<u>1/18/24</u>	<u>1/26/24</u>	<u> </u>	<u> </u>	<u> </u>
b. Professional Planner	<u>1/18/24</u>	<u>2/15/24</u>	<u> </u>	<u> </u>	<u> </u>
c. Traffic Consultant	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
d. Construction Official	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
e. Shade Tree Advisory Comm.	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
f. Health Officer	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
g. Tax Collector	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
h. Public Safety	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
i. Environ. Res. Committee	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
j. Mercer County Planning Bd.	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
k. Ewing-Law. Sewer Auth.	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
l. _____ Water Co.	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
m. D & R Canal Commission	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
n. U.S. Post Office	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
o. NJDOT	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
p. PSE&G Co.	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
q. Board of Education	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
r. Historic Preserv. Comm.	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
s. NJDEPE/Wetlands	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
t. NJDEPE/Stream Encroach.	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
u. _____	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
v. _____	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
w. _____	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
x. _____	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
y. _____	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
z. _____	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

TOWNSHIP OF LAWRENCE
Division of Planning and Redevelopment

TO: File

FROM: ~~BK~~ Brenda Kraemer, Assistant Municipal Engineer

SUBJECT: Bulk Variance Application No. ZB-5/23
Vadim Susanin, 42 Helen Avenue
Tax Map Page 9, Block 902, Lot 22.01

DATE: January 26, 2024

General:

The applicant has requested a side yard variance to permit a 2' overhang on a second story addition currently under construction. The existing right-side yard setback is 9.3' and a side setback of 7.3' has been proposed. Note that the 6.3' setback to the previously existing steps is not considered as part of the structure setback.

The applicant shall explain way a conforming 9.3' setback cannot be provided. There is no opportunity for landscape buffering to mitigate the encroachment.

Detailed Report:

1. In addition to the variance noted above, the application documents state the first floor will be used as an accessory apartment. Accessory apartments are regulated via §429 of the Land Use Ordinance. The applicant shall indicate how compliance with the requirements will be achieved, particularly the intended occupants, external entrance restriction and required on-site parking space.
2. Any conditions, or improvements required by the Board shall be addressed prior to a Certificate of Occupancy.

BK/jrt

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Documents Reviewed:

- Application No. ZB-5/23, dated September 1, 2023.
- Survey Plan, Sheet 1 of 1, dated January 4, 2024.
- Existing Floor Plans, Sheet 1 of 5, dated January 4, 2024.
- Proposed Floor Plans, Sheet 2 of 5, dated January 4, 2024.
- Proposed Elevations, Sheets 3-4 of 5, dated January 4, 2024.
- Exterior Photos, Sheet 5 of 5.

February 15, 2024

Lawrence Township Zoning Board of Adjustment (via e-mail)
2207 Lawrenceville Road
PO Box 6006
Lawrence Township, NJ 08648



**Re: Vadim Susanin – ZB-5/23
Block 902 Lot 22.01 – 42 Helen Avenue
Bulk Variance Relief/Proposed Accessory Apartment
R-4 Residential 4 District**

Dear Board Members:

Pursuant to the Board’s request, we have reviewed the above captioned matter for compliance with the Land Use Ordinance of the Township of Lawrence. The material reviewed, as supplied by the applicant, included the following:

1. Land Use Application ZB-5/23 and supporting documents.
2. Survey Plan, prepared by James T. Lalli, AIA, dated 1/4/2024, consisting of 1 sheet.
3. Architectural Plans, prepared by James T. Lalli, AIA, dated 1/4/2024, consisting of 5 sheets.

Based on the information provided with the submission, the applicant seeks bulk variance relief related to improvements at the above referenced property which are already constructed. As noted on the architectural plans, the first floor is proposed as an accessory apartment, which is permitted in the R-4 district, containing a kitchen, pantry, full bath, powder room, living room, bedroom and front entry with laundry. The second floor unit will be accessed via a new stair on the west side of the structure (not yet constructed), and will contain a kitchen, full bath, two bedrooms and a bonus room and half bath on the third floor.

The subject property, known as Block 902, Lot 22.01, with a street address of 42 Helen Avenue, is located on the north side of Helen Avenue, which is just east of Princeton Avenue. The site is 12,652 square feet in area with 100.54’ of frontage on Helen Avenue and an average depth of 127’ feet. Existing on the property is a “shotgun” style 2 ½ story frame dwelling, a detached garage and narrow driveway. All improvements are concentrated on the far east side of the lot.

Zoning

The subject property is located in the R-4 Residential 4 district, where the existing single family dwelling is permitted. Also permitted as an accessory use is an accessory apartment, pursuant to the requirements of §429.A, which are discussed on the following page. The table on the following page notes the bulk requirements for the R-4 district and compares proposed

conditions to the bulk requirements.

	Permitted/Required	Proposed
Minimum Lot Size	7,500 s.f.	12,652 s.f.
Minimum Lot Frontage	60'	100.54'
Minimum Front Yard	30'	*9.9'
Minimum Side Yard	10'	**7.3' (9.3' existing)
Minimum Rear Yard	35'	53.4'
Maximum Impervious Surface Ratio	0.60	0.15
Minimum Usable Yard Area	20% of each yard	Not Provided
Maximum Building Height	35'	34.6'
Accessory Building Setback	5'	*1.2' (rear), 2.1' (side)

*denotes legally existing nonconforming condition or variance previously granted

**denotes variance required

As noted in the table above, there are legally existing nonconforming conditions related to front and side yard setbacks as well as setbacks for the existing detached garage at the rear of the property. The applicant has applied for the following variance relief:

1. §407.E.1.d for minimum side yard, where 10' is required, 9.3' exists and 7.3' is proposed to the second floor portion of the addition that was already constructed.

The applicant is also proposing the first floor unit as an accessory apartment, which is permitted as an accessory use in the R-4 district pursuant to the requirements of §429.A, which are noted below.

1. There shall be no more than one accessory apartment per lot and per primary residence.
2. An accessory apartment may be created within an existing single family detached dwelling, as an addition to the same or within an existing accessory building on the lot containing the principal dwelling. If an accessory apartment is to be created within an accessory building on the premises, it shall meet the following requirements:
 - a. The minimum lot size for the creation of an accessory apartment shall be 3 acres.
 - b. The lot and the building shall have been in existence on January 1, 2015.
3. Accessory apartments shall be permitted only on those lots and in those primary dwellings that have no rental space; however, the accessory apartment itself may be rented or leased.
4. Each accessory apartment shall be used only for residential purposes for one household.
5. Each occupant of the accessory apartment; or, of the primary residence if the owner is to occupy the accessory apartment, shall be a member of the family of the owner of the property; or, a caretaker of an owner or member of the family of the owner.
6. An accessory apartment shall not contain an external entrance which faces the same street which the external entrance to the primary residence faces, except that this restriction shall not apply to dwellings with two or more such external entrances in existence on December 1, 1982; and,

7. Each accessory apartment shall be provided with one on-site parking space for sole use by its occupants(s).
8. An accessory apartment shall contain no more than a bathroom, kitchen and two habitable rooms.

The applicant will need to provide testimony confirming compliance with the above provisions, particularly related to occupancy requirements in §429.A.5. While some departures could be considered bulk variance relief, noncompliance with occupancy requirements may require use variance relief. Further, the ordinance strictly limits accessory apartments to properties that are not themselves rentals. If both units are to be offered as rentals, then use variance relief would be required as the unit on the first floor could not be considered an accessory apartment.

Consideration of Bulk Variances

The Board has the power to grant c(1) or hardship variances “(a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, (b) or 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, 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.” The Board may also consider the grant of

c(2) variances where the purposes of the New Jersey Municipal Land Use Law would be advanced and the benefits of the deviation would substantially outweigh any detriment. In either case, the Board cannot grant “c” or bulk variances unless the negative criteria are satisfied, or that there is no substantial impact to surrounding properties (first prong) and the grant of the variance will not cause substantial impairment to the intent and purpose of the zone plan (master plan) or zoning ordinance (second prong).

Improvements that have already been constructed require the Board to consider side yard setback relief to the east side of the property. While the first floor of the addition is in line with the existing building wall setback 9.3’ from the property line, the second floor of the addition cantilevers over the driveway and reduces the setback to 7.3’. The



photo on the previous page shows the east side of the dwelling and the addition at the rear, within the yellow circle.

While the master plan and ordinance do not provide a specific basis for setbacks required in individual zoning districts, as a general concept, setbacks are designed to ensure the adequate provision of light, air and open space, which is Purpose C of the Municipal Land Use Law. Often required setbacks are determined based on minimum lot sizes and the character of different zones. Relative to the negative criteria, the Board will need to be satisfied that the encroachment into the required setback, which is only for the addition, does not substantially impair that intent. The applicant should provide testimony regarding the positioning of the dwelling on the lot to the east as well as the use of the yard space to the west of the dwelling. There is a 6' solid fence along the western property line of the adjacent lot.

We trust the Board will find this information useful in consideration of the matter at hand and reserve the right to provide additional comment based on the applicant's presentation at the public hearing. Should you wish to discuss this review memo, please feel free to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Kyle', written in a cursive style.

James T. Kyle, PP/AICP, Board Planner

attachment

Cc: Brenda Kraemer, PE (via e-mail)
Ed Schmierer, Esq., Board Attorney (via e-mail)