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September 9, 2025
22200 75

Re: [REDACTED] - Fence
Bulk Variance
253 Foxwood Lane
Block 44.20, Lot 27
Application # Z25-13

Ms. Jennifer Newton, Board Secretary
Township of Evesham
984 Tuckerton Road
Marlton, NJ 08053

Dear Ms. Newton:

Our office has reviewed a Bulk Variance application for the proposed installation of a fence withing the setback. The property contains an end-unit townhome in the Barton Run Neighborhood at the intersection of Foxwood Lane and Shady Lane. Improvements include an above-ground pool, shed, driveway, pavers and mature landscaping.

The zoning district is Regional Growth 1 Barton Run (RG-1BR). The site is incumbered by a 15 FT wide water main easement. An access easement for emergency vehicles is located adjacent to the western property line.

Submitted Application Materials

We have reviewed the following documents which were submitted in support of the application:

1. Township of Evesham Land Development Application with Building and Lot Coverage Worksheet.
2. Plan of Survey, with highlight information showing proposed improvements.

General Information

Owner/ [REDACTED]
Applicant: 253 Foxwood Lane
Marlton, NJ 08053

Zoning Review

The property is located entirely in Regional Growth 1 Barton Run (RG-1BR) zoning district. The following area and bulk requirements apply to this application:

1. Per §160-60.1A, existing townhome dwelling units consistent with §160.36C are permitted uses.
2. Per §160-50.1C(5), fences and walls up to 4 FT high in front yards and 6 FT in rear yards are accessory uses.
3. The following area and bulk requirements apply to this application:

Area and Bulk Requirements – RB-1BR Zoning District:
§160-06.1D and Attachment 7A

Requirements	Required	Existing	Proposed	Status
Principle Structure				
Min. Lot Area	2,500 SF	11,863 SF	N/C	C
Min. Front Yard Setback (Foxwood)	35 FT	47.2 FT	N/C	C
Min. Front Yard Setback (Shady)	35 FT	28.2 FT	N/C	ENC
Min. Rear Yard Setback*	25 FT	76.6 FT	N/C	C
Min. Side Yard Setback (interior)	0 FT	12.7 FT	N/C	C
Max. Impervious Cover (Percent)*	70 %	24%	N/C	C
Max. Building Height	35 FT	unknown	N/C	C

C = Conforming; N/C = No Change; NA = Not Applicable; V = Variance required; ENC = Existing Non-Conforming

* Scaled dimension

Variances

1. Per §162-60.1, a fence or wall shall be 4 FT in height in front yards and 6 FT in height in rear yards. The applicant is proposing a fence A 4 FT fence is proposed between the dwelling and the Shady Lane ROW. This fence will replace an existing fence and is setback 6.5 FT from the property line. The fence will then turn, continuing on the Shady Lane frontage for a few feet before the roadway turns. This fence is proposed to be 6 FT in height. A variance will be required for the 6 FT fence in the front yard setback.
 - a. In addition, front fences on corner properties shall not be constructed of materials that would block the view of vehicular traffic at the intersection. The fence location and property alignment allow for clear site at the intersection and would not be impacted by the 6 FT fence.
2. Per §160-22B(2), fences not exceeding 4FT in height may be erected between the road, street and/or ROW and the building line. A proposed fence 6FT in height is to be erected between the building line and the road. A variance will be required.
3. Per §160-22B(7), all fences must be erected within the property lines. The proposed fence is located on the adjoining parcel (Lot 28). A variance will be required.
4. Per §162-60.1D and Attachment 7A, the minimum front yard in this zoning district is 25 FT. The front yard along the Shady Lane frontage is 28.2 FT. This is an existing, non-conforming condition which is not impacted by this application.

The Applicant has the burden of proof to justify the variance, by testimony or other means, by using either the c(1) or c(2) proofs.

For c(1) variances the Applicant must demonstrate that strict application of the zoning requirement would have “peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the Applicant arising out of:

- a. The exceptional narrowness, shallowness, or shape of a specific piece of property, or By reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or
- b. By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.”

For c(2) variances the Applicant must demonstrate that:

- a. The purposes of the Municipal Land Use Law (MLUL) would be advanced by a deviation from strict application of the zoning requirement;
- b. The variance can be granted without substantial detriment to the public good;

- c. The benefits of the deviation would substantially outweigh the detriment; and
- d. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

General Comments

1. It appears that the proposed fence is to replace an existing fence. The applicant is seeking privacy in their rear yard, thus the request for the 6 FT privacy fence. However, there are a few comments that should be addressed:
 - a. The existing fence (and thus the proposed fence) is located within a 25 FT water main easement. The applicant has provided a letter to the Township stating the understanding that if work was required within the easement, that the homeowner is responsible to remove and replace the fence at their expense, and not that of any contractor performing work within the easement. In addition, the applicant has provided a letter from the homeowner (358 Shady Lane) indicating that they understand that the fence is on their property and they will be required to remove the fence should utility work be required
 - b. The existing fence (and thus the proposed fence) is located on a portion of Lot 28. Approximately 400 SF of the adjoining parcel is located within the fence line and will continue to be located within the fence line. The applicant has provided a letter from the owner of 358 Shady Lane that they understand the fence is located on their property and they are ok with the fence replacement at the same location.
 - c. Testimony should be provided as to how these items will be enforceable.
2. As a reminder, per §160-22, Fences, a description and specifications of the fence should be provided. It is not clear from the application if the fence is to be replaced with a similar style fence with just the height increased or if the fence will be a different style (picket fence, aluminum, vinyl, privacy, etc.).

Administrative

3. We reserve the right to make further comments in our review of plans should additional information become available to address this initial review.

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

Sincerely,



Rakesh R. Darji, PE, PP, CME, CFM
Zoning Board Engineer

RRD/mbs

cc: Matthew Wieliczko, Esq., Board Solicitor, via email mwieliczko@zwattorneys.com
[REDACTED]