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**TO: City of Orange Township Zoning Board of Adjustment**  
**FROM: Gerard Haizel, PP, AICP**  
**RE: 151 North Day Street (Block 1503, Lot 7)**  
**DATE: October 11, 2021**

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The following is prepared on behalf of the City of Orange, Zoning Board of Adjustment. The information provided herein is for advisory purposes only and is intended to assist the Board's decision-making process. Below are descriptions of the project based on the supplied plans and documentation as well as commentary on issues evident from them.

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### Items Reviewed

In preparation of this report, I have reviewed the following documents:

- ✓ City of Orange Township - Board of Adjustment Application dated August 24, 2021
- ✓ Plans titled Multi-Family Reconstruction & Addition, 151 North Day Street, Orange, NJ 07050, consisting of three (3) sheets, dated 7-15-2021, prepared by William J. Gentile, RA of Square Center, LLC.

### Project Summary

The subject property is located within the Township's ***MX-1 (Mixed-Use Low Density Residential and Neighborhood Commercial)***, the applicant **Yosef Chaim, LLC**, proposes to renovate and reconstruct an existing vacant fire-damaged two-family dwelling and convert it to a three-family dwelling. Three-family dwellings **are permitted** in the MX-1 zone. However, the proposed development does not meet all the bulk and design standards for this use in the zone. The applicant is also seeking preliminary and final site plan approval.

### Required Variances/Waivers

- Pursuant to the City of Orange Development Regulations ***§210-24.3 – Three Family Dwellings***, the proposed development exceeds the permitted **density**. Whereas a maximum density of 26-units per acre is permitted, the applicant proposes a density of 43-units per acre. **A D(5)-variance is required to permit a that exceeds the permitted density for this building type.**



- Pursuant to the City of Orange Development Regulations ***§210-24.3 – Three Family Dwellings***, the proposed development exceeds the permitted **Floor Area Ratio (FAR)**. Whereas a maximum FAR of 1.0 is permitted, the applicant proposes an FAR of 1.23. **A D(4)-variance is required to permit an FAR that exceeds the permitted FAR for this building type.**
- Pursuant to the City of Orange Development Regulations ***§210-24.3 – Three Family Dwellings***, a minimum lot area of 5,000-SF is required, and the applicant proposes a lot area of 3,018.2-SF. **A C-variance is required to permit a three-family dwelling with a lesser lot size than required.**
- Pursuant to the City of Orange Development Regulations ***§210-24.3 – Three Family Dwellings***, a minimum lot width of 40-feet is required, and the applicant proposes a lot width of 27.35-feet. **A C-variance is required to permit a three-family dwelling with a lesser lot width than required.**
- Pursuant to the City of Orange Development Regulations ***§210-24.3 – Three Family Dwellings***, a minimum front yard setback of 20-feet is required, and the applicant proposes a front yard setback of 15-feet. **A C-variance is required to permit a three-family dwelling with a lesser front yard setback than required.**
- Pursuant to the City of Orange Development Regulations ***§210-24.3 – Three Family Dwellings***, a minimum side yard setback of 8-feet is required on each side, and the applicant proposes side yard setbacks of 0-feet and 5.68-feet on the southern and northern side yards respectively. **A C-variance is required to permit a three-family dwelling with a lesser side yard setbacks than required.**
- Pursuant to the City of Orange Development Regulations ***§210-24.3 – Three Family Dwellings***, a maximum building coverage of 40% is permitted, and the applicant proposes a lot coverage of 43.2%. **A C-variance is required to permit a three-family dwelling with a greater building coverage than permitted.**
- Pursuant to the City of Orange Development Regulations ***§210-29.1***, 2/3 parking spaces are required for each dwelling unit. The applicant proposes three (3) dwelling units requiring a total of two (2) and one (1) space is proposed. **A C-Variance is required to permit the proposed development with less off-street parking.**

## **Project Description**

The subject site is a 3,018.2-SF lot which is improved with an existing semi-attached dwelling, with two (2) dwelling units. The dwelling on the subject site is attached to the dwelling on the adjacent lot to the west, with both dwellings sharing a partition wall along



the western side property line. The partition wall extends back and forth over each side of the property line on each floor of the building. The structure appears to be currently vacant, with several windows missing or boarded-up.

The applicant proposes to renovate and reconstruct the dwelling on the interior, using the same footprint and maintaining the existing setbacks. An addition is proposed at the rear of the 3<sup>rd</sup> floor, bringing the structure from 2.5-stories to a full 3-stories. Despite this addition, the building will remain at the existing height of 35-feet.

The structure is setback 15-feet from the front (southern) property line, 30.87-feet from the rear property line and 0-feet and 5.67-feet respectively from the western and eastern side property lines. The proposed structure, once reconstructed, will increase from 2.5-stories in height to a full 3-stories and will include an apartment on each floor. Much of the existing layout on each floor will remain as is.

The main entry to the dwelling will remain at front of the building, where there is an existing enclosed porch with a single door. There is a second door in the building facade, which opens to a vestibule with two (2) doors directly ahead. The door on the left accesses the dwelling on the adjacent lot to the west. The door on the right will access the subject dwelling. This door will open to an entry hallway with a staircase located on the left. This stairway provides access to the dwelling units on the 2<sup>nd</sup> and 3<sup>rd</sup> floors.

There is an existing basement in this structure, which will be maintained. The basement is accessible from an existing staircase from the front entry hallway and an existing staircase at the rear of the building. The basement contains an existing kitchen at the rear, which plans indicate will be removed, an enclosed utility room, a proposed laundry area and an enclosed storage room located at the front of the basement.

The first of the three apartments is located on the 1<sup>st</sup> floor of the dwelling and is accessible by a door from the front entry hallway. This door opens to an internal hallway which extends in a north-south orientation. To the right (south) is a 10-foot by 13.8-foot bedroom located at the front of the apartment. Adjacent to this bedroom is a full bathroom. To the north of the bathroom, on the eastern side of the hallway, are two (2) 10-foot by 12.1-foot bedrooms. Opposite these bedrooms, on the western side of the hallway is a closet, powder room, and a utility closet. At the northern end of the hallway is a kitchen/living area located at the rear of the building. There is access to the rear yard from a relocated staircase off the rear façade.

Plans show several walls, an existing kitchen and an existing full bathroom being eliminated from this floor, to accommodate the new layout.



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The second apartment is located on the 2<sup>nd</sup> floor and is accessible from the staircase from the front entry. The entry to this apartment opens to a hallway that extends in a north-south orientation. To the right are two (2) 11.6-foot by 12-foot apartments located at the front of the apartment. To the north of these bedrooms is a third bedroom, which measures 11-feet by 12.1-feet. To the north of this bedroom is a full bathroom, opposite to which is a proposed closet and a powder room. Further to the north is the proposed kitchen/living area. There is also a rear exit from this apartment, which opens to an exterior fire escape that wraps around the northeastern rear corner of the building.

Plans show several walls, an existing kitchen and an existing full bathroom also being eliminated from this floor to accommodate the new layout.

The proposed third apartment is located on the 3<sup>rd</sup> floor and is accessible from the front entry staircase. The layout of this apartment is similar to the layout of the apartment on the 1<sup>st</sup> floor, with three (3) rooms measuring 11-feet by 12.8-feet, 10.5-feet by 12.1-feet and 9.8-feet by 10.5-feet, extending from the front of the apartments northward. A new addition is proposed at the rear of the 3<sup>rd</sup> floor to accommodate the kitchen/living area and a powder room. Fire escape access from this floor will be from the eastern side of the building from within the proposed addition.

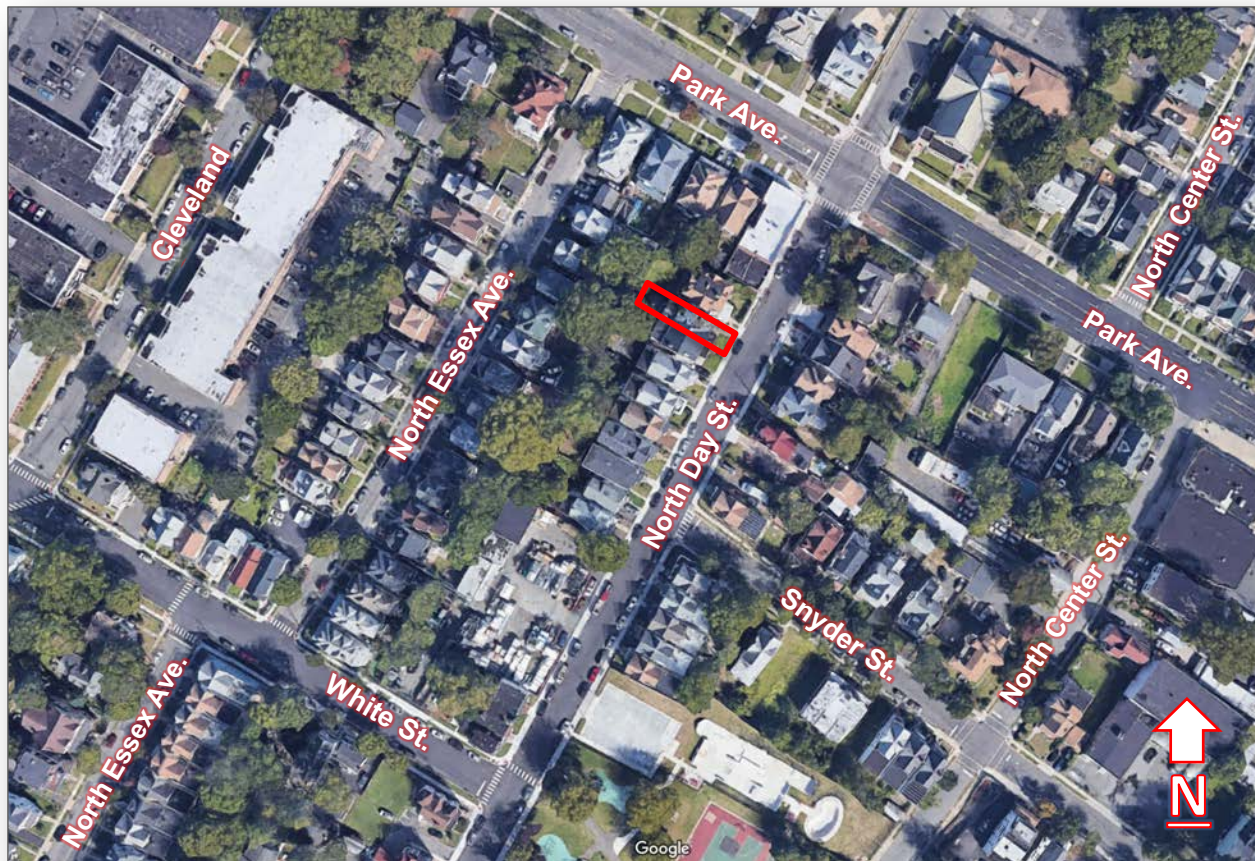
Plans show several walls, an existing kitchen and an existing full bathroom also being eliminated from this floor to accommodate the new layout.

A single parking space is proposed adjacent to the front, southeastern corner of the building. No other modifications are proposed for the remainder of the site.

## Site & Area Description

**Street Address:** 151 North Day Street  
**Block & Lot:** Block 1503, Lot 7  
**Zoning District:** MX-1 (Mixed Use Low Density Residential and Neighborhood Commercial)  
**Total Site Area:** 3,018.2-SF

## Location Map



Location Map – The property in question is outlined in red on the Google aerial map above. The subject site is a regular-shaped lot located on the northern side of North Day Street, between Park Avenue and White Street. Surrounding the site on all side are primarily detached one and two-family dwellings.

## Photo Survey



**Photo #1:** View of the subject property located at 151 North Day Street.

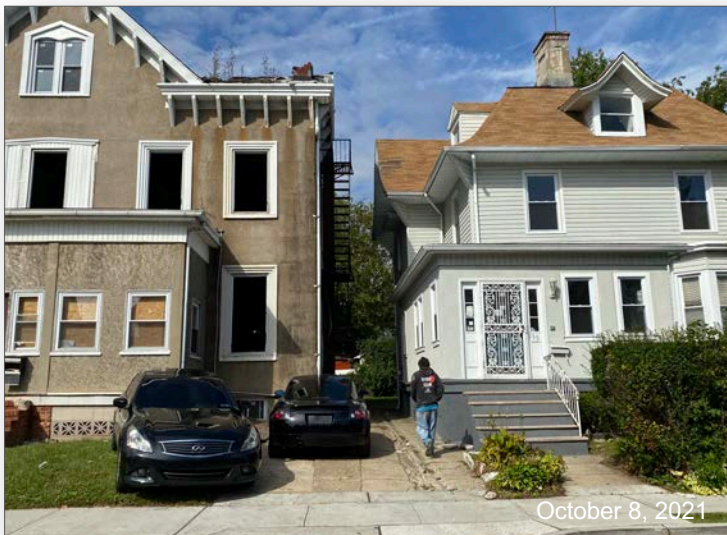


**Photo #2:** View of the subject property from the east on North Day Street.



**Photo #3:** View of the properties located to the east of the subject site, fronting on the northern side of North Day Street.

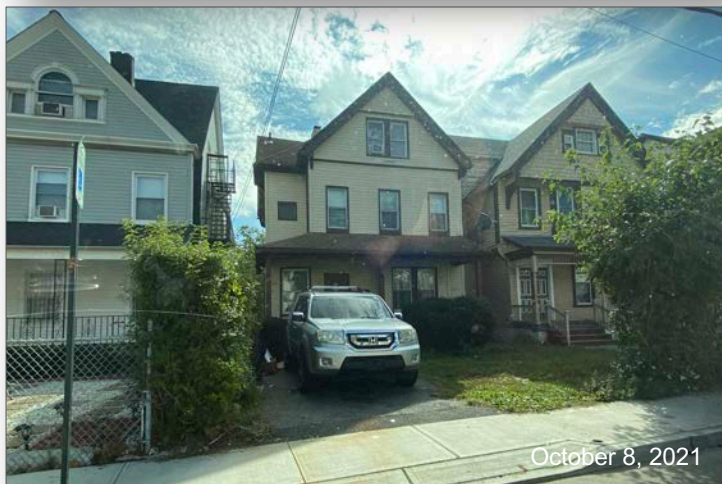
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**Photo #4:** View of the subject property and the adjacent property to the east. Visible is the existing fire escape on the eastern façade, which will be replaced by a new one that will also access the 3<sup>rd</sup> floor.



**Photo #5:** View of the properties located to the west of the subject site on the northern side of North Day Street.



**Photo #6:** View of the properties located to the south, across North Day Street from the subject site.



## Planning Considerations

The subject property is located within the Township's **MX-1 (Mixed Use Low Density Residential and Neighborhood Commercial Zone)**. This zone is intended for neighborhood commercial uses while allowing low-density residential uses to occur on the ground floor and upper floors, thereby providing neighborhood convenience shopping opportunities while encouraging new residential development and residential rehabilitation.

Pursuant to the City of Orange Development Regulations **§210-14 – MX-1 (Mixed Use Low Density Residential and Neighborhood Commercial Zone)** the proposed three-family dwelling **is permitted** in the MX-1 Zone.

The table below has been created to identify bulk deficiencies.

Standard	Permitted/ Required	Existing	Proposed	Variance Required
Use	Three-Family Dwelling	Two-Family Dwelling	Three-Family Dwelling	No
Minimum Lot Area	5,000-SF	3,018.2-SF	3,018-SF	Yes*
Minimum Lot Width	40-Feet	27.35-Feet	27.35-Feet	Yes*
Density	26-Units/acre	29-Units/acre	43-Units/acre	Yes
Maximum Height	3-Stories 40-Feet	2.5-Stories 35-Feet	3-Stories 35Feet	No No
Minimum Front Yard Setback	20-Feet	15-Feet	15-Feet	Yes*
Minimum Side Yard Setback	8-Feet (Each Side)	North: 5.67-Feet South: 0-Feet	North: 5.67-Feet South: 0-Feet	Yes* Yes*
Minimum Rear Yard Setback	25-Feet	30.87-Feet	30.87-Feet	No
Maximum Building Coverage	40%	43.2%	43.2%	Yes*
Maximum Impervious Coverage	75%	70.04%	68.98%	No
Floor Area Ratio (FAR)	1.00	1.079	1.23	Yes
Parking	2 Spaces [1 Space Per 2/3du] (3x 0.6 = 1.8 Sps.)	0-Spaces	1-Space	Yes

**Note:** \* - Existing Non-conforming Condition



## Standards for Granting Variance Relief

### D – (Use) Variances

The MLUL (Municipal Land Use Law) at **N.J.S.A. §40:55D-70d** sets forth the standards for variances from the regulations pursuant to Article 8 of this act. A D-Variance is warranted to permit:

- 1) a use or principal structure in a district restricted against such use or principle structure,
- 2) the expansion of a nonconforming use,
- 3) deviation from a specification or standard pertaining solely to a conditional use,
- 4) an increase in the permitted floor area ratio,
- 5) an increase in the permitted density (*except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings, which lot or lots either isolated undersized lot or lots resulting from minor subdivision*) or
- 6) a height of a principal structure which exceeds by 10 feet or 10%, the maximum height in the district for a principal structure.

A D-variance may be granted where the applicant shows to the satisfaction of the Board, that “*special reasons*” exist to warrant the granting of the variance. *Special reasons* may include that the use is inherently beneficial, that the property owner would suffer undue hardship if required to use the property in accordance with the permitted uses and standards for the zone, or that the site is particularly suited for the proposed use **and** thereby promotes the general welfare.

The applicant must **also** demonstrate that the requested relief will not result in any substantial detriment to the public good, nor substantial impairment to the zoning ordinance or zone plan. A variance under this subsection is granted only by **affirmative votes of at least five members**.

### C - (Bulk) Variances

The Municipal Land Use Law (MLUL) at **N.J.S.A. 40:55D-70c** sets forth the standards for variances from the bulk regulations of a zoning ordinance.

C(1) Variance - The Board must find that there is either undue hardship or practical hardship with the strict application of the zoning requirements as stipulated in the Zoning & Land Use Regulations, as a result of:

- a) exceptional narrowness, shallowness or shape of a specific property, or
- b) 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 structures lawfully existing thereon.

C(2) Variance – The Board must find that the proposed deviation from the Zoning & Land Use Regulations will advance the purposes of the MLUL and that the variance can be granted without substantial detriment to the public good, that the benefits of the deviation would substantially outweigh any detriment and that the variance will not substantially impair the intent an purpose of the zone plan and zoning ordinance. The benefits identified in granting a C(2) variance must include benefits to the community as a whole, not only the applicant of the property owner. Here too, the Board must be satisfied that the variance can be granted “*without substantial detriment to the public good*” and “*without substantial impairment to the intent and purpose of the zone plan and zoning ordinance*” of the City.



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## Planning Comments

The applicant proposes to renovate and reconstruct an existing vacant fire-damaged two-family dwelling and convert it to a three-family dwelling. Three-family dwellings **are permitted** in the MX-1 zone. It should be noted here that the current two-family dwelling use is not a permitted use in the MX-1 zone. **Thus, the proposed conversion from a two-family to a three-family dwelling will bring the property into conformity with the permitted uses in the MX-1 zone.**

As a permitted use in the zone, this application is before this Board as a result of it exceeding the permitted maximum density for this use in the zone. Whereas a maximum density of 26 dwelling units per acre is permitted, the applicant proposes a density of 43 dwelling units per acre. **A D(5) variance is required to permit this development at the proposed density in the zone.** It should be noted here that even with its **current** two-family residential use, at a density of 29 dwelling units per acre, the dwelling exceeds the permitted density.

The elevated density level is as a result of the subject lot being undersized for the proposed three-family use. Whereas a minimum lot area of 5,000-SF is required, the subject lot is 3,018.2-SF in area. The same is true for the lot width, which is 27.35-feet instead of the minimum required width of 40-feet. The applicant has requested variances for both these conditions. **It should be noted here that these are both existing conditions, which the applicant is unable to remedy as the adjoining lots on either side are developed.**

Related to the lot size, the applicant is also requesting a variance for exceeding the maximum permitted floor area ratio (FAR). Whereas a maximum FAR of 1.00 is permitted, the applicant proposes an FAR of 1.23. **A D(4) variance is required to permit this development at an FAR that exceeds the maximum permitted FAR for this use.** It should be noted here that at an FAR of 1.079, the existing structure exceeds the permitted FAR. **In my opinion, the additional 0.15 increase over the current FAR is de minimis and would not have a substantial adverse impact on the surrounding properties.** The increase in FAR is entirely attributable to the proposed addition at the rear of the 3<sup>rd</sup> floor, which increases the building height from 2.5-stories to 3-stories.

Also related to the lot size, a variance is being requested for exceeding the maximum building coverage. Whereas a maximum building coverage of 40% is permitted, the applicant proposes a coverage of 43.2%. **As the applicant does not propose to make any changes to the building footprint, this building coverage is an existing condition which will not change with the proposed conversion to the three-family use.**

Variances are also being requested for insufficient front and side yard setbacks. As is the case with the building coverage, **the footprint of the building will not change and as such**



these are both existing conditions, which will not be worsened by the proposed conversion to the three-family use.

Finally, the applicant is requesting a variance for insufficient off-street parking. Whereas two (2) parking spaces are required, the applicant is proposing one (1) space. **This is an improvement over the current situation, where the property has no on-site parking.**

### **Recommended Conditions of Approval**

Should the Board be inclined to grant the requested variance relief in full or in part, or to approve the accompanying site plan, the following are recommended conditions that should be placed on the approvals.

1. The applicant shall comply with all conditions provided by the Board Engineering.
2. The applicant shall provide testimony clarifying the situation where the partition wall on each floor of the dwelling crosses the property line on both sides.
3. The applicant shall remove the existing kitchen in the basement.