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TO: City of Orange Township Zoning Board of Adjustment
FROM: Gerard M. Haizel, PP, AICP, Board Planner
RE: (MW-23-010) – 389 Olcott Street (Block 4701, Lot 13)
DATE: June 10, 2024

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.

Items Reviewed

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

- ✓ City of Orange Township – Application for Preliminary and Final Site Plan Review dated October 31, 2023.
- ✓ Zoning Approval Denial for 389 Olcott Street, dated 11-8-2023.
- ✓ Plans titled 389 Olcott Street, Orange, NJ, New One Family Dwelling, consisting of six (6) sheets, dated 8-25-2021, prepared by Daniel A. Roma, RA, AIA of Artek Studio, LLC.
- ✓ Boundary and Topographic Survey of 389 Olcott Street, Lot 13 in Block 4701, City of Orange Township, Essex County, New Jersey, consisting of one (1) sheet, dated 6-14-2021, prepared by Michael Pronesti, PLS of Pronesti Surveying, Inc.

Project Summary

On property located within the Township's **R-1 (One-Family Residential) Zone**, the applicant **Pefund Investment Group, LLC**, proposes to construct a new single-family dwelling on an existing vacant lot. One-family dwellings **are permitted** in the R-1 zone. However, the proposed building type, an *Urban One-Family Detached* dwelling, is not a permitted building type in the R-1 zone. Additionally, the proposed dwelling does not meet all the required bulk and design standards for this building type. Site plan approval is not required for this application.



Required Variances/Waivers

- Pursuant to the City of Orange Development Regulations **§210-24.2 – Table I: Permitted Building Typologies**, Urban One-Family Detached structures are not permitted in the R-1 zone, and the applicant proposes to construct an Urban One-Family Detached dwelling in the R-1 zone. **A C-variance is required to permit an Urban One-family Detached structure in the R-1 zone.**
- Pursuant to the City of Orange Development Regulations **§210-24.3 – Building Typologies, Urban One-family Detached** a minimum lot area of 5,000-SF is required and the applicant proposes a lot area of 4,313-SF. **A C-variance is required to permit a lesser lot area than required. This is an existing nonconforming condition.**
- Pursuant to the City of Orange Development Regulations **§210-24.3 – Building Typologies, Urban One-family Detached** a minimum lot width of 50-feet is required and the applicant proposes a lot width of 37.5-feet. **A C-variance is required to permit a lesser lot width than required. This is an existing nonconforming condition.**
- Pursuant to the City of Orange Development Regulations **§210-24.3 – Building Typologies, Urban One-family Detached** a minimum side yard setback of 8-feet is required on each side yard and the applicant proposes a side yard setback of 3.5-feet on the northern side. **A C-variance is required to permit a lesser side yard setback than required.**
- Pursuant to the City of Orange Development Regulations **§210-24.3 – Building Typologies, Urban One-family Detached** a minimum rear yard setback for accessory use of 10-feet is required and the applicant proposes an accessory use setback of 4-feet from the detached garage. **A C-variance is required to permit a lesser rear yard accessory use setback than required.**

Project Description

The subject site is a 4,313-SF lot, which is improved with an existing detached garage. The applicant proposes to construct a new 2½-story block and frame single-family dwelling on the site. The proposed house will be setback 20.1-feet from the front (eastern) property line, 49.3-feet from the rear property line and 10.5-feet and 3.5-feet from the southern and northern side property lines respectively.

The applicant also proposes to replace an existing two-car garage on the site with a new garage structure. The proposed new garage will measure 22-feet by 21-feet and will be located 4-feet each from the rear (western) and southern side property lines and 11.6-feet



from the northern side property line. The garage will accommodate two-parking spaces and will be accessible by way of a 10.5-foot-wide permeable paved driveway, which will extend from a new curb cut on the Olcott Street frontage and along the southern side of the proposed house, to the garage.

The permeable pavers will extend from the driveway into the rear yard area between the garage and the rear of the house. The remainder of the rear yard, extending around the northern side and rear of the garage will be landscaped with grass. Additionally, a 7.7-foot-wide concrete paved area at the rear of the house, will provide access to a 3-foot-wide stairway down to the basement and a 4-foot-wide staircase up to the rear door of the house.

The main entry to the proposed house will be located on the northern side of the front façade, where a staircase is proposed up to a landing, to a proposed entry door. The entry door will open to a foyer, with a staircase up to the 2nd floor located on the right side. On the left (southern) side is a proposed living room, with a dining room and kitchen located to the west of that. In the northwestern area of the 1st floor is proposed an 11.6-foot by 13.2-foot bedroom, adjacent to which is a proposed full bathroom.

On the northern side of the 1st floor, opposite the proposed dining room, is proposed a door which will access a staircase down to a proposed basement. Plans depict the basement as a 12.9-foot by 40-foot open area, which is identified as a “recreation area.” On the northern side of the basement is proposed a laundry room and a powder room. The basement will extend to the western (rear) end of the house, where there is a door, which will open to the staircase up to the rear yard.

The 2nd floor will be accessible from the staircase up from the 1st floor foyer. The 2nd floor landing will be located in the approximate center of the floor, with a full bathroom located directly ahead on the southern side, with two (2) bedrooms proposed on the western side, each measuring 11-feet by 12.4-feet and 11-feet by 14.3-feet respectively.

To the left (east) of the 2nd floor landing is proposed a 13.4-foot by 14.-foot master bedroom, located at the front of the house. This room will include a walk-in closet and full bathroom.

Exterior Finishes

- The exterior of the building will be finished with a combination of brick, Hardie Panel Vertical Siding and fiber cement panels on the front façade and fiber cement siding and brick on the basement facade, on the remaining elevations.

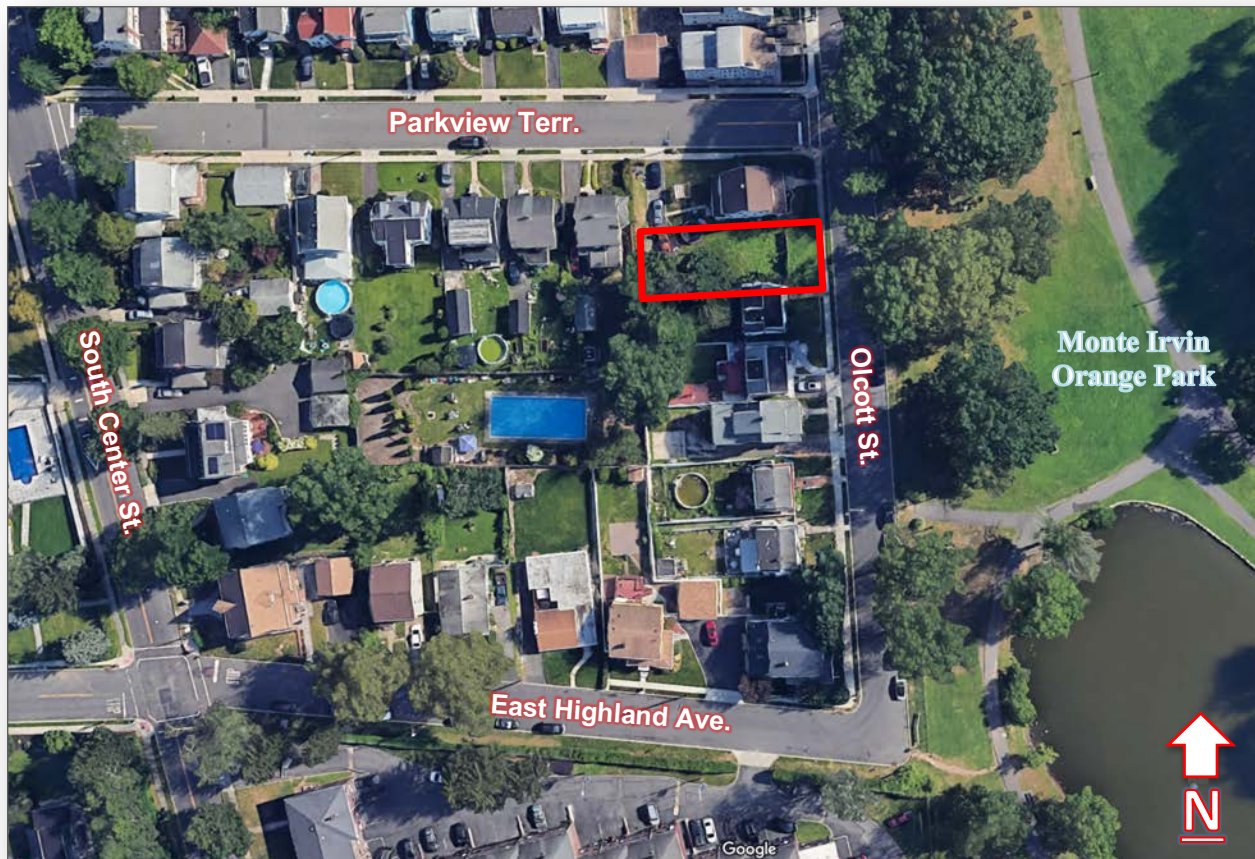
Landscaping

- No information provided.

Site & Area Description

Street Address: 389 Olcott Street
Block & Lot: Block 4701, Lot 13
Zoning District: R-1 (One-Family Residential) Zone
Total Site Area: 4,313-Sqare Feet

Location Map



Location Map – The property in question is outlined in red on the Google aerial map above. The subject site is located on the western side of Olcott Street, between Parkview Terrace and East Highland Avenue. To the north and south of the site are single-family detached dwellings fronting on the western side of Olcott Street. To the east across Olcott Street from the site is the Monte Irvin Orange Park.

Photo Survey



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Photo #1: View of the subject property located at 389 Olcott Street. The applicant proposes to construct a single-family dwelling on this undersized site.



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Photo #2: View of the properties located to the immediate south of the subject site.



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Photo #3: View of the property located to the immediate north of the subject property, on the southwestern corner of the intersection of Olcott Street and Parkview Terrace.

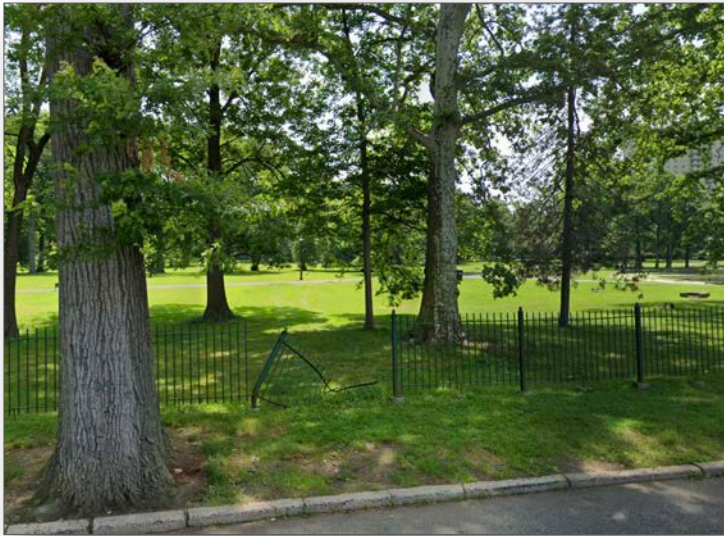


Photo #4: View of Monte Irvin Orange Park located to the east, across Olcott Street from the subject site.



Photo #5: View looking north on Olcott Street past the subject site.

Planning Considerations

The subject property is located within the Township's **R-1 (One-Family Residential Zone)**. This zone is intended primarily for single-family detached residential use on larger lots. This zone consists of the lowest density residential development in the city. The purpose of this district is to maintain the low-density single-family residential character, with uses like commercial, and mid and high-density residential not permitted.

Pursuant to the City of Orange Development Regulations **§210-14 – R-1 (One-Family Residential Zone)**, the proposed one-family dwelling **is permitted** in the R-1 zone.

The table below has been created to identify bulk deficiencies.

Standard	Permitted/ Required	Proposed	Variance Required
Use	One-Family Dwelling	One-Family Dwelling	No
Building Type	Suburban One-Family	Urban One-Family	Yes
Minimum Lot Area	5,000-SF	4,313-SF	Yes*
Minimum Lot Width	50-Feet	37.-Feet	Yes*
Density	8.8-Units/Acre	10.1-Units/Acre	No
Maximum Height	2½-Stories / 35-Feet	2½-Stories / 31.1-Feet	No / No
Minimum Front Yard Setback	20-Feet	20.1-Feet	No
Minimum Side Yard Setback (Each Side)	8-Feet	North: 3.5-Feet South: 10.5-Feet	Yes No
Minimum Rear Yard Setback	25-Feet	49.3-Feet	No
Minimum Rear Yard Setback for Accessory Use	10-Feet	4-Feet	Yes
Maximum Building Coverage	40%	23.38%	No
Maximum Impervious Coverage	70%	54.38%	No
Floor Area Ratio (FAR)	1.00	0.63	No
Parking	2 Space {2 Spaces Per Unit}	2-Spaces	No

Note: * - Existing nonconforming 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.



Planning Comments

The applicant proposes to construct a new single-family dwelling on an existing vacant lot. One-family dwellings **are permitted** in the R-1 zone, where the site is located. However, the proposed **building type**, an *Urban One-Family Detached* dwelling, **is not a permitted building type in the R-1 zone.**

As a permitted use in the R-1 zone, this application is before this Board because despite being a permitted use, the proposed development does not meet all the required bulk standards for the proposed use/building type. **The proposed building type itself is not permitted in the R-1 zone. Whereas the R-1 zone permits only Suburban One-Family Detached structures, the applicant here proposes an Urban One-Family Detached structure.**

The *Urban One-Family Detached* building type is not permitted in the City's R-1 zone. The R-1 zone only permits *Suburban One-Family Detached* dwellings, which requires a minimum lot size of 10,000-SF. For the *Urban One-Family Detached* the minimum lot size required is 5,000-SF. **This is the main distinction between the two building types. They are both one-family dwellings, but the former has bulk standards specifically designed for the larger lots that typify the R-1 zone, while the latter is contemplated for a smaller sized lot, more characteristic of the R-2 zone, where the one-family dwelling use is also permitted.**

In this case, the subject site is an existing undersized isolated lot, relative to the standards for the R-1 zone. Whereas a minimum lot size of 10,000-SF is required for development in this zone, the subject site is only 4,313-SF.

Further, the adjoining lots on both sides of the subject site are fully developed, making it impractical for the applicant to acquire additional land from the properties on either side to increase their lot size. **In such a case, the applicant has a hardship for which they are before this Board seeking relief.**

The Board may consider relief from the permitted building typology standard, pursuant to City of Orange Development Regulations **§210-24.2 – Table 1: Permitted Building Typologies**, under the C(1) standard, for which 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 City's Land Use Regulations.

In my opinion, the requested variance can be granted with no substantial adverse impact on the surrounding properties nor on the integrity of the R-1 zone in this area. The strict adherence to the building typology standard would result in the applicant being unable to



develop the subject lot **in any way at all**, nor is there any practical means of addressing the lot size condition, as the adjoining properties are both fully developed.

Further, despite the subject property being undersized, **the proposed development is consistent with the development pattern in the surrounding area, with many of the adjoining lots improved with similar structures and uses.**

In addition to the requested variance for a non-permitted building type, the proposed development will also require variances for nonconforming conditions related to the proposed structure on the site. These include the following:

- **Insufficient Lot Area and Width** – Whereas a minimum lot area of 5,000-SF and lot width of 50-feet are required, the applicant proposes a lot area and width of 4,313-SF and 37.5-feet respectively. **These are both existing conditions and not being proposed as a result of any subdivision action. Despite being undersized, the proposed development is consistent with the development pattern on the surrounding lots, which appear to generally be of a similar size.**
- **Insufficient Side Yard Setback** – Whereas a minimum side yard setback of 8-feet is required on each side, the applicant proposes side yard setbacks of 3.5-feet on the northern side and 10.5-feet on the southern side. **The insufficient setback on the northern side is due in part to the nonconforming lot width, which is an existing condition. The lesser setback on the northern side is also attributable to the proposed driveway in the southern side yard. While even without the proposed driveway there would be insufficient space on either side to accommodate the required 8-foot setbacks, the 3.5-foot proposed on the northern side is dictated by the driveway on the southern side.**
- **Insufficient Rear Yard Setback for Accessory Use** – Whereas a minimum rear yard setback for accessory use of 10-feet is required, the applicant proposes a setback of 4-feet. **By the replacement of the existing garage with a newly constructed one, this situation is no longer an existing nonconforming condition. However, with the limited depth of the lot, a greater setback would make it difficult for vehicles to maneuver in and out of the garage.**

The applicant does not provide any information regarding proposed landscaping on their site plans. **The applicant should provide testimony as to any landscaping proposed for the development, including the name, type, size (at planting and at maturity) and the proposed location of all plantings.**



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**389 Olcott Street
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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 comments and recommended conditions provided by the Board Engineering.
2. The applicant shall provide testimony as to any landscaping proposed for the development, including the name, type, size (at planting and at maturity) and the proposed location of all plantings.