

BOROUGH OF DEAL

PLANNING BOARD/BOARD OF ADJUSTMENT MINUTES

July 1, 2020

A regular virtual meeting of the Planning Board/Board of Adjustment of the Borough of Deal was called to order by Chair Richard Cummings.

Richard Cummings asked everyone to salute the flag.

Michael Egan read the sunshine law, in conjunction with the "Open Public Meeting Law", p.l. 1975 C231, the notice required by this statute has been satisfied as per a resolution passed on December 5, 1997 at 8:00 P.M. at Borough Hall at a regular meeting of the Planning Board, Borough of Deal, Monmouth County, New Jersey. This meeting is a judicial proceeding. Any questions or comments must be limited to the issues of what this Board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all times.

Roll Call of those present: Ruby Antebi, Mandy Cohen, Sam Cohen, Richard Cummings, Kathleen Jannarone, David Simhon.

Those Absent: Nicole Cohen, Richard Fetaya, Irwin Levine, Max Zeevi

A motion was made by David Simhon and seconded by Richard Cummings that the minutes of the June 3, 2020 meeting be adopted.

Moved by: David Simhon

Seconded by: Richard Cummings

Roll Call Vote:

Those in favor: Mandy Cohen, Sam Cohen, Richard Cummings, Kathleen Jannarone, David Simhon.

Those opposed: None

Those absent: Nicole Cohen, Richard Fetaya, Irwin Levine, Max Zeevi

Those Not Voting: Ruby Antebi

The first item on the agenda is the adoption of the Resolution for 232 Norwood Avenue, Block 52, Lot 8, Evan and Ezra Hedaya, approved at the June 3, 2020 meeting.

RESOLUTION

Whereas, Evan and Ezra Hedaya, the record owner of the property has applied to the Planning Board of the Borough of Deal for variances at the premises located at 232 Norwood Avenue, Borough of Deal and known as Block 52, Lot 8 on the official tax map of the Borough of Deal which premises is located in the R-2 zone

The Applicant is proposing an attic floor with living space and replacing of the front porch railing and roof.

The property has non-conformities with existing lot area, lot width, lot frontage and lot depth. The existing dwelling has non-conformities with side yard setback, rear yard setback, building coverage and impervious coverage. The development of a non-conforming lot/structure and variances for side yard setback, rear yard setback, building height and impervious coverage requires Planning Board approval.

Whereas, the Board after carefully considering the evidence presented by the Applicant, the Applicant's expert and the comments, if any, by the general public, has made the following factual findings:

1. The Applicant is the owner of the property.
2. The Applicant's case was presented by Jennifer Krimko, Esq.

3. The Applicant presented the following exhibits:

A-1 Boundary and topographic survey by Justin Hedges of Insite Surveying, LLC dated November 14, 2019 with the latest revision dated February 24, 2020.

A-2 Architectural Plans by Antonio Scalise of Parallel Architectural Group dated August 13, 2019 with the latest revision date of December 31, 2019.

A-3 Street view rendering of subject property.

B-1 Engineer review letter by Leon S. Avakian, Inc. dated April 14, 2020.

4. The property has a total area of 6,000 square feet.
5. The existing lot contains a 2-story dwelling with a covered front porch, driveway and shed.
6. The Applicant is proposing an attic floor with living space and replacing of the front porch railing and roof.
7. The minimum lot area permitted is 18,750 square feet per the R-2 Zoned Districts. The existing lot area is 6,000 square feet, which represents an existing non-conformity.
8. The minimum lot width permitted is 150 feet per the R-2 Zoned Districts. The existing lot width is 60 feet, which represents an existing non-conformity.
9. The minimum lot frontage permitted is 150 feet per the R-2 Zoned Districts. The existing lot frontage is 60 feet, which represents an existing non-conformity.
10. The minimum lot depth permitted is 125 feet per the R-2 Zoned Districts. The existing lot depth is 100 feet, which represents an existing non-conformity.
11. The minimum side yard setback is 12 feet per the R-2 Zoned Districts. The existing side yard setback on the north is 11.6 feet which represents an existing non-conformity. The Applicant is proposing 11.65 feet. **A variance is required.**
12. The minimum rear yard setback is 20 feet per the R-2 Zoned Districts. The existing side yard setback on the north is 15.17 feet which represents an existing non-conformity. The Applicant is proposing 15.21 feet. **A variance is required.**
13. The maximum building coverage permitted is 20% per the R-2 Zoned Districts. The existing building coverage is 27%, which represents an existing non-conformity.
14. The maximum impervious coverage permitted is 40%. The existing impervious coverage is 47%, which represents an existing non-conformity. The Applicant is proposing 44% impervious coverage. **A variance is required.**
15. The maximum building height at 50 from the ROW permitted is 28 feet per the R-2 Zoned Districts. The existing building height at 50 feet from ROW is 24.42 feet. The Applicant is proposing 33.71 feet. **A variance is required.**

Whereas, the Board has determined that the relief requested by the applicant can be granted as presented without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan of the Borough of Deal.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 3rd day of June 2020 that the application is approved subject to the following conditions:

- (1). The Applicant shall comply with all promises, commitments and representations made at or during the Public Hearing Process.
- (2). The Applicant shall comply will those applicable terms and conditions of the Leon S. Avakian review letters dated April 14, 2020.

- (3). A general note should be added to the plan indicating the existing curb and sidewalk along the frontage will be replaced if found in poor condition.
- (4). The Applicant shall be strictly limited to the plans which are referenced herein and which are incorporated herein at length. All construction shall comply with prevailing provisions of the Uniform Construction Code.
- (5). The Applicant shall obtain all approvals necessary for this project.
- (6). The Applicant shall in conjunction with appropriate Borough Ordinances pay all appropriate/required fees and taxes.
- (7). Any future improvements will require Planning Board Approval.
- (8). The Applicant will not direct stormwater and/or runoff from the property onto adjacent properties.
- (9). The grading plan and landscaping plan of the Applicant shall be subject to the review and approval of the Borough Engineer.

Moved by: Sam Cohen

Seconded by: David Simhon

ROLL CALL VOTE

Those in favor: Mandy Cohen, Sam Cohen, Cummings, Jannarone, Levine, Simhon

Those opposed: None

Those absent: Nicole Cohen, Fetaya, Zeevi, Antebi

Those not voting: None

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 1st day of July 2020 that the Resolution be adopted.

Moved by: David Simhon

Seconded by: Kathleen Jannarone

ROLL CALL VOTE

Those in favor: Mandy Cohen, Sam Cohen, Cummings, Jannarone, Simhon

Those opposed: None

Those absent: Nicole Cohen, Fetaya, Levine, Zeevi

Those not voting: Antebi

The second item on the agenda is the adoption of the Resolution of 104 Deal Esplanade, Block 51, Lot 3, Salim Alfaks, approved at the June 3, 2020 meeting.

RESOLUTION

Whereas, Salim Alfaks, the record owner of the property has applied to the Planning Board of the Borough of Deal for variances at the premises located at 104 Deal Esplanade, Borough of Deal and known as Block 51, Lot 3 on the official tax map of the Borough of Deal which premises is located in the R-1 zone

The Applicant is proposing an addition to the east side and rear of the dwelling. The Applicant is also proposing an inground swimming pool with patio, cabana and raised patio. The plan indicates the existing garage is to be removed.

The property has non-conformities with existing lot area, lot width and lot frontage. The existing dwelling has non-conformities with side yard setback and front yard setback to the porch. The development of a non-conforming lot/structure and variances for side yard setback and building height requires Planning Board approval.

Whereas, the Board after carefully considering the evidence presented by the Applicant, the Applicant's expert and the comments, if any, by the general public, has made the following factual findings:

1. The Applicant is the owner of the property.
2. The Applicant's case was presented by Jennifer Krimko, Esq.
3. The Applicant presented the following exhibits:
 - A-1 Topographic survey by Charles Surmonte dated May 21, 2019.
 - A-2 Front yard setback plan by Charles Surmonte dated December 30, 2019.
 - A-3 Street view rendering of subject property.
 - A-4 Plot and Grading Plan by March Leber of East Point Engineering dated June 10, 2019 with the latest revision date of August 28, 2019.
 - B-1 Engineer review letter by Leon S. Avakian, Inc. dated April 14, 2020.
4. The property has a total area of 16,137 square feet.
5. The existing lot contains a 2 ½ story dwelling with detached garage.
6. The Applicant is proposing an addition to the east side and rear of the dwelling. The Applicant is proposing an inground swimming pool with patio, cabana and raised patio. The plan indicates the existing garage is to be removed.
7. The minimum lot area permitted is 18,750 square feet per the R-1 Zoned Districts. The existing lot area is 16,137 square feet, which represents an existing non-conformity.
8. The minimum lot width permitted is 150 feet per the R-1 Zoned Districts. The existing lot width is 90 feet, which represents an existing non-conformity.
9. The minimum lot frontage permitted is 150 feet per the R-1 Zoned Districts. The existing lot frontage is 90 feet, which represents an existing non-conformity.
10. The minimum side yard setback is 18 feet per the R-1 Zoned Districts. The existing side yard setback on the west side is 4.3 feet which represents an existing non-conformity. The Applicant is proposing 3.58 feet. **A variance is required.**
11. The maximum building height at 50 feet from the front property line permitted is 28 feet per the R-1 Zoned Districts. The existing building height at 50 feet is inches above 28 feet which represents an existing non-conformity. The Applicant is proposing to expand this non-conformity. **A variance is required.**
12. The Applicant is removing the currently existing detached garage on the property.

Whereas, the Board has determined that the relief requested by the applicant can be granted as presented without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan of the Borough of Deal.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 3rd day of June 2020 that the application is approved subject to the following conditions:

- (1) The Applicant shall comply with all promises, commitments and representations made at or during the Public Hearing Process.
- (2) The Applicant shall comply will those applicable terms and conditions of the

Leon S. Avakian review letters dated April 14, 2020.

- (3) A general note should be added to the plan indicating the existing curb and sidewalk along the frontage will be replaced if found in poor condition.
- (4) The Applicant shall be strictly limited to the plans which are referenced herein and which are incorporated herein at length. All construction shall comply with prevailing provisions of the Uniform Construction Code.
- (5) The Applicant shall obtain all approvals necessary for this project.
- (6) The Applicant shall in conjunction with appropriate Borough Ordinances pay all appropriate/required fees and taxes.
- (7). Any future improvements will require Planning Board Approval.
- (8). The Applicant will not direct stormwater and/or runoff from the property onto adjacent properties.
- (9). The grading plan and landscaping plan of the Applicant shall be subject to the review and approval of the Borough Engineer.

Moved by: David Simhon

Seconded by: Richard Cummings

ROLL CALL VOTE

Those in favor: Mandy Cohen, Sam Cohen, Cummings, Jannarone, Simhon

Those opposed: None

Those absent: Nicole Cohen, Fetaya, Zeevi, Antebi

Those not voting: Levine

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 1st day of July 2020 that the Resolution be adopted.

Moved by: Kathleen Jannarone

Seconded by: Richard Cummings

ROLL CALL VOTE

Those in favor: Mandy Cohen, Sam Cohen, Cummings, Jannarone, Simhon

Those opposed: None

Those absent: Nicole Cohen, Fetaya, Levine, Zeevi

Those not voting: Antebi

The final item on the agenda is the adoption of the Resolution for 46 Runyan Avenue, Block 34, Lot 3, Ralph and Vivian Sitt, approved at the June 3, 2020 meeting.

RESOLUTION

Whereas, Ralph and Vivian Sitt, the record owner of the property has applied to the Planning Board of the Borough of Deal for variances and other approvals at the premises located at 46 Runyan Avenue, Borough of Deal and known as Block 34, Lot 3 on the official tax map of the Borough of Deal which premise is located in the R-2 zone.

Whereas, the Applicants submitted plans to this Board in May 2008 to construct a pool, pool house, deck, paver patio, pergola, stone path, and grass tennis court. In June 2008, the Applicants received approval from this Board for the Project. However, the Applicants constructed a paved basketball court in lieu of the grass tennis court without Board approval, where such approval was required.

Whereas, the Applicants appeared before this Board on July 2, 2015, and sought approval for their prior improperly constructed the basketball court and also proposed a revised floor plan and relocation of the formerly approved pool house. The Applicants received approval from this Board for said work in September 2015.

Whereas, the Applicants appeared before this Board on March 2, 2017, for a second-floor addition to the dwelling which did not change the footprint of the dwelling. The Applicants received approval from this Board in April 2017 for said work. This included the approval of a dormer length of 8.9 feet.

Whereas, the Applicants constructed the dormer with a length of 14.75 feet.

Whereas, the Construction Department notified the Applicants that the dormer constructed on the front of the dwelling exceeded the approval previously granted by this Board.

Whereas, the Applicants were required to receive approval for the change in the improvements per the approvals of the Board.

Whereas, the Applicants submitted a revised application and revised architectural plans for the change in improvements. The Applicant sought approval of the as-built dormer with a length of 14.75 feet.

Whereas, the Applicants appeared before the Board of July 11, 2018 seeking approval from the Planning Board to allow the as-built enlarged dormer on the front of the dwelling which did not conform to the April 2017 approvals.

Whereas, the Board denied that July 2018 application.

Whereas, the Applicants appeared before the Board on April 4, 2019 seeking approval for a dormer extension at the front of the dwelling. The new proposed dormer was 18 feet wide, angling back to a width of 21.25 feet. That application was denied.

Whereas, the Applicants filed an action in lieu of prerogative writ on June 18, 2019, challenging the Board's denial.

Whereas, the Applicants and Board reached an amicable resolution of the issues by and between them regarding all claims which were raised or could have been raised in the Applicant's action.

Whereas, the Board held a Public Hearing on June 3, 2020 pursuant to Whispering Woods v. Middletown Planning Board, 220 N.J. Super 161 (1987) to approve the as constructed dormer.

Whereas, the Board after carefully considering the evidence presented by the Applicant's attorney, the Applicant's expert and the comments, if any, by the general public, has made the following factual findings:

- 1 The Applicants are the owner of the property.
- 2 Jennifer Krimko, Esq. appeared at the hearing on behalf of the Applicants.
- 3 The property has a total lot area of 32,540 square feet.
- 4 The existing lot contains a 2-story framed dwelling with an in-ground pool, pool cabana, patio and paved basketball court.
- 5 The property has non-conformities with existing lot width and frontage. The development of a non-conforming lot will require Planning Board approval.
- 6 The Minimum Lot Width permitted in the Zone is 150 feet. The existing lot

width is 100 feet which represents an existing non-conformity.

- 7 The Minimum Lot Frontage permitted in the Zone is 150 feet. The existing lot frontage is 100 feet which represents an existing non-conformity.
- 8 The Minimum Front Yard Setback permitted in the Zone is 50 feet. The existing front yard setback is 49.5 feet, which requires a variance, which was previously granted.

The second story addition has a proposed front yard setback of 49.5 feet, which is an expansion of an existing non-conformity. **A variance was previously granted.**

- 9 The Minimum Side Yard setback permitted in the Zone is 20% of the lot width (20 feet). The existing east side yard setback is 19.7 feet, which is an expansion of an existing non-conformity. **A variance was previously granted.**
- 10 The Applicants previously submitted plans to this Board which were approved.
- 11 The Board previously approved a dormer with a length of 8.9 feet. The Applicant constructed a dormer with a length of 14.75 feet. This constituted an expansion of an existing non-conformity. **A variance is required.**

Whereas, the Board has determined that the relief requested by the applicant can be granted as presented without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan of the Borough of Deal.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 3rd day of June 2020 that the application is approved subject to the following conditions:

- (1). The Applicant shall comply with all promises, commitments and representations made at or during the Public Hearing Process.
- (2). The Applicant shall be strictly limited to the plans which are referenced herein and previously and which are incorporated herein at length. All construction shall comply with prevailing provisions of the Uniform Construction Code.
- (3). The Applicant shall obtain all approvals necessary for this project.
- (4). The Applicant shall in conjunction with appropriate Borough Ordinances pay all appropriate/required fees and taxes.
- (5). Any future improvements will require Planning Board Approval.
- (6). The Applicant will not direct stormwater and/or runoff from the property onto adjacent properties.
- (7). The grading plan and landscaping plan of the Applicant shall be subject to the review and approval of the Borough Engineer.

Moved by: Richard Cummings

Seconded by: Kathleen Jannarone

ROLL CALL VOTE

Those in favor: Mandy Cohen, Sam Cohen, Cummings, Jannarone, Simhon, Levine

Those opposed: None

Those absent: Nicole Cohen, Fetaya, Zeevi, Antebi

Those not voting: None

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 1st day of July 2020 that the Resolution be adopted.

Moved by: Sam Cohen

Seconded by: Richard Cummings

ROLL CALL VOTE

Those in favor: Mandy Cohen, Sam Cohen, Cummings, Jannarone, Simhon

Those opposed: None

Those absent: Nicole Cohen, Fetaya, Levine, Zeevi

Those not voting: Antebi

There being no further business, the meeting was adjourned.

Respectfully submitted;

Michael W. Egan

Planning Board Secretary