

BOROUGH OF DEAL

PLANNING BOARD/BOARD OF ADJUSTMENT MINUTES

August 4, 2021

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

Kathleen Jannarone 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, Sam Cohen, Mandy Cohen, Kathleen Jannarone, Max Zeevi

Those Absent: Joe Cohen, Nicole Cohen, Richard Cummings, Richard Fetaya, Irwin Levine, David Simhon

A motion was made by Kathleen Jannarone and seconded by Max Zeevi that the minutes of the July 7, 2021 meeting be adopted.

Moved by: Kathleen Jannarone

Seconded by: Max Zeevi

ROLL CALL VOTE

Those in favor: Sam Cohen, Kathleen Jannarone, Max Zeevi

Those opposed: None

Those absent: Joe Cohen, Nicole Cohen, Cummings, Fetaya, Levine, Simhon,

Those not voting: Ruby Antebi, Mandy Cohen

The first item on the agenda is the adoption of the Resolution for 11 Lakeview Road, Block 63, Lot 3. Mitchell & Estelle Betesh. Application was denied at the July 7, 2021.

RESOLUTION

Whereas, Mitchell and Estelle Betesh, the record owner of the property has applied to the Planning Board of the Borough of Deal for variances at the premises located at 11 Lakeview Road, Borough of Deal and known as Block 63, Lot 3 on the official tax map of the Borough of Deal which premises are located in both the R-2 zone.

The Applicant is proposing a one-story addition connecting the dwelling and the existing garage. Also, the Applicant is proposing a swimming pool and patio in the front yard.

The Application was originally heard on March 3, 2021. At that time, the Applicant sought to bifurcate the application. At the March 3, 2021, meeting, the Applicant requested that the Board only consider that portion of the Application which dealt with the proposed one-story addition. It was requested that that portion of the Application which dealt with the proposed swimming pool be carried to a new date. The Board agreed to bifurcate the Application and only rendered a ruling with regard to the one-story addition.

At the March 3, 2021, meeting, the Board granted the variance relief requested in connection with the one-story addition. Said relief was memorialized in a resolution passed by the Board of April 7, 2021.

At the July 7, 2021, Planning Board meeting, the Application associated with the swimming pool was heard.

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 Applicants are the owners of the property.
2. The Applicant was represented by Robert Farber, Esq.
3. The Applicant presented the testimony of William Jensen.
4. The Applicant presented the testimony of Thomas Giegerich.
5. The Applicant presented the following exhibits:
 - a. A-1 Application dated January 11, 2021.
 - b. A-2 Proof of Mailing dated March 1, 2021.
 - c. A-3 Location Survey Map by Rodolfo Pierri of Shark River Land Surveying dated 11/11/2020.
 - d. A-4 Pool Variance Plan by William F. Jensen, Jr. of Jensen Design Group dated February 19, 2020 with the latest revision of December 11, 2020.
 - e. A-5 Architectural Plans/Site Plans by Thomas Giegerich of Thomas Giergerich Architect dated March 23, 2020.
 - f. A-6 Photo rendition of addition to the garage.
 - g. A-7 Street view of Pool and fence surrounding pool.
 - h. A-8 Rendition of Pool and Fence with trees placed in front of fence.
 - i. A-9 Pool Variance Plan by Jensen Design Group dated May 27, 2021.
 - j. A-10 Four renderings
 - k. A-11 Three photos of subject property
 - l. B-1 Leon S. Avakian, Inc. engineer review letter dated February 17, 2021.
 - m. B-2 Leon S. Avakian, Inc. engineer review letter revised June 25, 2021.
 - n. B-3 Planning Board Affidavit by Joseph Cohen dated July 1, 2021.
6. The property has a total area of 14,156 square feet.
7. The existing lot contains a 2 ½ story dwelling with a driveway, patio and detached garage.
8. The proposed improvements require Planning Board approval for various variances relating to installation of an inground pool.
9. The Applicant noted that the property is unique as it is shaped like a "pizza" and has two front yards.
10. The Applicant proposes installing the swimming pool, pool patio and pool equipment in the property's front yard.
11. The Applicant presented testimony on both the variances related to the addition and the pool at the March 3, 2021, Planning Board meeting. Ultimately the application was bifurcated for consideration only of the addition by the garage, which was approved and memorialized in an April 7, 2021, resolution.
12. The July 7, 2021, Planning Board meeting entertained testimony relating to the proposed swimming pool.
13. The minimum lot area permitted is 18,750 square feet. The existing lot area is 14,156 square feet which represents an existing non-conformity.
14. The minimum lot width permitted is 150 feet. The existing lot width is 99.3 feet which represents an existing non-conformity.
15. The minimum front yard setback is 50 feet or the average alignment of the existing buildings within 200 feet of the lot. The existing front yard setback for Lakeview Road is 49.6 feet which represents an existing non-conformity. The existing front yard setback for Monmouth Drive is 24.4. feet which represents an existing non-conformity. The Applicant is proposed a front yard setback of 32.3

feet to the addition along Monmouth Road. **A variance was required and granted.** The garage is now part of the principal dwelling and must comply with the setback of the principal dwelling. The front yard setback to the attached garage is 23.7 feet. **A variance was required and granted.**

16. The minimum side yard setback permitted is 19.8 feet. The existing side yard setback is 9.1 feet, which represents an existing non-conformity. The Applicant is proposing a side yard setback of 6.6 feet to the addition. **A variance was required and granted.** The garage is not part of the principal dwelling and must comply with the setback requirements to the principal dwelling. The side yard setback to the attached garage is 1.7 feet. **A variance was required and granted.**
17. The minimum rear yard setback permitted is 23.4 feet. The existing rear yard setback is 22.1 feet, which represents an existing non-conformity. The Applicant is proposing 2.8 feet. **A variance was required and granted.**
18. No portion of a swimming pool, swimming pool area, accessories or fence shall occupy any portion of the front yard. The proposed swimming pool, pool patio and pool equipment are in the front yard. **A variance is required.**
19. The proposed swimming pool is setback 25.2 feet from Monmouth Drive, where 50 feet is permitted. **A variance is required.**
20. The swimming pool is setback 50 feet from Lakeview Road, where 50 feet is permitted. The Applicant relocated the swimming pool to remove the variance condition. The proposed swimming pool setback along Lakeview Road complies.
21. The pool patio is setback 11.6 feet from Monmouth Drive, where 50 feet is permitted. **A variance is required.**
22. The pool patio is setback 50 feet from Lakeview Road, where 50 feet is permitted. The Applicant relocated the pool patio to remove the variance condition. The proposed pool patio setback along Lakeview Road complies.
23. The Applicant is proposing the pool equipment setback of 2.9 feet from Monmouth Drive, where 50 feet is required. **A variance is required.**
24. The Applicant is proposing pool equipment to have a rear yard setback of 1.5 feet, where 10 feet is required. **A variance is required.**
25. All fences or walls may be erected, altered or reconstructed to height not to exceed three feet above ground level in the front yard. The Applicant is proposing a fence height of 4 feet in the front yard. **A variance is required.**
26. The Applicant represented that the pool layout has been modified to move the pool within 6 feet of the fireplace side of the house.
27. The Applicant represented that the pool equipment moved off the driveway and would be camouflaged from view.
28. The Applicant presented that there were other properties in Deal where pools were located in a front yard due to the uniqueness of those particular properties.
29. The Applicant proposed a four foot vinyl fence with evergreen landscaping.
30. The Applicant proposed a four foot fence to comply with the code relating to pools.
31. The Board was concerned that the pool would be placed in an area visible to neighbors.
32. The Board was concerned that the pool would be placed in an area where neighbors could hear the noise.
33. The Board was concerned that the proposed shrubs and fence will not adequately prevent the noise from activity in the pool area and pool equipment from being heard by the neighbors.
34. The Board was concerned that the pool was accessible from two streets.
35. The Board noted that this Application was to be reviewed on its own merits, and what may or may not have been granted in connection with other Applications.

36. The Board was concerned that the pool patio would be ten feet from the street.

37. The Board felt that it would not be appropriate to permit the pool as proposed.

Whereas, the Board has determined that the relief requested by the Applicant CANNOT be granted 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 7th day of July, 2021, that the application is DENIED.

Moved by: Sam Cohen

Seconded by: Joe Cohen

ROLL CALL VOTE

Those in favor: Sam Cohen, Joe Cohen, Kathleen Jannarone, David Simhon, Max Zeevi

Those opposed: Irwin Levine

Those absent: Ruby Antebi, Mandy Cohen, Nichole Cohen, Richard Fetaya, Cummings

Those not voting: None

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 4th day of August, 2021 that the Resolution of be adopted.

Moved by: Sam Cohen

Seconded by: Kathleen Jannarone

ROLL CALL VOTE

Those in favor: Sam Cohen, Kathleen Jannarone, Max Zeevi

Those opposed: None

Those absent: Joe Cohen, Nicole Cohen, Cummings, Fetaya, Levine, Simhon

Those not voting: Ruby Antebi, Mandy Cohen

The final item on the agenda is the adoption of the Resolution for 2 Runyan Avenue, Block 34, Lot 1.02, Joseph Harary, approved at the July 7, 2021 meeting.

RESOLUTION

Whereas, Joseph Harary, the record owner of the property has applied to the Planning Board of the Borough of Deal for a variance at the premises located at 2 Runyan Avenue, Borough of Deal and known as Block 34, Lot 10 on the official tax map of the Borough of Deal which premises is located in both the R3 zone

The Applicant is proposing the construction of a new rooftop deck on the Pool House.

The Application for this matter was heard on July 7, 2021.

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 Jessica Sweet, Esq.
3. The Applicant presented the following exhibits:

A-1 Planning Board Application dated March 19, 2021

A-2 Architectural Plan by David Feldman dated March 12, 2021

A-3 Boundary Survey by Eric V. Wilde of Colliers Engineering dated February 22, 2021

A-4 Planner Exhibit by Nicholas A. Graviano of Graviano & Gillis Architects
7/7/2021

B-1 Engineer review letter by Leon S. Avakian, Inc. dated June 24, 2021

4. The property has a total area of 47,742 square feet.
5. The existing lot contains an existing one-story dwelling with swimming pool, pool house and driveway.
6. The Applicant is proposing the construction of a new rooftop deck on the pool house.
7. The permitted Minimum Lot Area is 18,750 square feet. Currently existing is 47,742 square feet which conforms.
8. The permitted Minimum Lot Frontage is 150 feet. Currently existing is 190 feet, which conforms.
9. The permitted Minimum Lot Width is 150 feet. Currently existing is 185 feet, which conforms.
10. The permitted Minimum Lot Depth is 125 feet. Currently existing is 261 feet, which conforms.
11. The permitted Minimum Front Yard Setback (Runyon) is 50 feet or average alignment within 200 feet. Currently existing is 69.9 feet which conforms.
12. The permitted Minimum Front Yard Setback (Ocean Avenue) is 50 feet or average alignment within 200 feet. Currently existing is 50 feet which conforms.
13. The permitted Minimum Side Yard Setback is 37 feet. Currently existing is 21 feet which is an existing non-conformity. No change is proposed.
14. The permitted Minimum Rear Yard Setback is 52.3 feet. Currently existing is 89 feet which conforms.
15. The permitted Maximum Building Coverage is 20%. Currently existing is 14.8% which conforms.
16. The permitted Maximum Impervious Coverage is 40%. Currently existing is 41% which is an existing non-conformity. No change is proposed.
17. The permitted minimum rear yard setback to Pool House is 18 feet. Currently existing is 34.9 feet. Proposed is 34.9 feet which conforms.
18. The permitted minimum side yard setback to a Pool House is 18 feet. Currently existing is 11.6 feet which is an existing non-conformity. Applicant proposes 11.6 feet. **A variance is required.**
19. Section 30-86.5 provides for no roof top decks in any residential district. Applicant is proposing a roof top deck on the pool house. **A variance is required.**
20. The proposed deck is approximately 326 square feet.
21. The proposed deck takes up a small portion of rooftop.
22. The property has unique characteristics as it is a corner lot, one story and cannot accommodate balcony's or decks.
23. The Applicant is not modifying the footprint of the Pool House.
24. The Applicant will be putting stairs to the roof on the Ocean Avenue side of the building. Stairs will be shielded by landscaping.

25. Landscaping shields the accessory structure from view from the roadway and it is below height requirements of the district.
26. Applicant agrees that there will be no electric, water or speakers on the rooftop deck.
27. The railings will be glass.
28. Applicant agrees that the rooftop deck cannot be expanded in anyway without seeking appropriate approvals.

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 7th day of July 2021 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 6/24/21.
- (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). All landscaping/landscaping plans, if any, shall be subject to review and approval by the Borough's Engineer.

Moved by: David Simhon

Seconded by: Sam Cohen

ROLL CALL VOTE

Those in favor: Joe Cohen, Sam Cohen, Irwin Levine, David Simhon, Max Zeevi

Those opposed: None

Those absent: Antebi, Mandy Cohen, Nicole Cohen, Cummings, Fetaya

Those not voting: Kathleen Jannarone

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 4th day of August 2021 that the Resolution of be adopted.

Moved by: Max Zeevi

Seconded by: Sam Cohen

ROLL CALL VOTE

Those in favor: Sam Cohen, Max Zeevi

Those opposed: None

Those absent: Joe Cohen, Nicole Cohen, Cummings, Fetaya, Levine, Simhon

Those not voting: Ruby Antebi, Mandy Cohen, Kathleen Jannarone

There being no further business, the meeting was adjourned.

Respectfully submitted,

Michael Egan
Planning Board Secretary