

BOROUGH OF DEAL
PLANNING BOARD/BOARD OF ADJUSTMENT MINUTES

March 2, 2022

A regular 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: Nicole Cohen, Sam Cohen, Richard Cummings, Kathleen Jannarone, David Simhon

Those Absent: Ruby Antebi, Joe Cohen, Mandy Cohen, Jack Kassin, Max Zeevi

A motion was made by David Simhon and seconded by Nicole Cohen that the minutes of the February 2, 2022 meeting be adopted.

Moved by: David Simhon

Seconded by: Nicole Cohen

ROLL CALL VOTE

Those in favor: Nicole Cohen, Sam Cohen, Jannarone, Simhon

Those opposed: None

Those absent: Antebi, Joe Cohen, Mandy Cohen, Kassin, Zeevi

Those not voting: Richard Cummings

The first item on the agenda is the adoption of the Resolution for 77 Darlington Road, Block 41, Lot 7, approved at the February 2, 2022.

RESOLUTION

Whereas, Judah J. Cattan 2012 Irrevocable Trust, 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 77 Darlington Road, Borough of Deal and known as Block 41, Lot 7 on the official tax map of the Borough of Deal.

The Applicant is proposing an in-ground swimming pool with a cabana and small renovation to the dwelling. The Applicant is also removing the rear deck, asphalt area, shed and a portion of the driveway.

The Application for this matter was heard on 2/2/22.

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 and Utility Survey by Justin J. Hedges, PLS of Insite Engineering dated 3/16/2021 with a latest revision dated 11/8/21.

A-2 Pool Plan by Patrick R. Ward, P.E., P.P. of InSite Engineering, LLC dated 5/28/21.

A-3 Architectural Plan by Michael Saverese R.A. of Michael Saverese Architects dated 12/3/21.

A-4 Aerial photos of the property.

B-1 Engineer review letter by Leon S. Avakian, Inc. dated January 19, 2022.

4. The property is 15,000 square feet.
5. The existing lot contains a single-family dwelling with a covered front carport, porch, basketball court and rear deck.
6. The Applicant is proposing an in-ground swimming pool with a cabana and small renovation to the dwelling. The Applicant is also removing the rear deck, asphalt area, shed and a portion of the driveway.
7. The property is located in the R-2 Zoned district.
8. The proposed inground swimming pool and cabana are a permitted accessory structure under the Swimming Pool, Tennis Court and Recreational Area Ordinance.
9. The Applicant seeks a variance for a rear yard setback to the proposed stairway/deck and side yard setback to the swimming pool.
10. The minimum lot area permitted in the R-2 Zone is 18,750 square feet. The existing lot area is 15,000 square feet, which represents an existing non-conformity.
11. The minimum lot width permitted in the R-2 Zone is 150 feet. The existing lot width is 100 feet, which represents an existing non-conformity.
12. The minimum lot frontage permitted in the R-2 Zone is 150 feet. The existing lot frontage is 100 feet, which represents an existing non-conformity.
13. The permitted front yard setback in the R-2 Zone is 50 feet or the average alignment of the existing buildings within 200 feet of the lot. The existing front yard setback is 49.8 feet, which represents an existing non-conformity. Applicant proposes no change.
14. An open front porch may project a maximum of 10 feet into a front yard. The permitted front yard setback to the porch is 40 feet. The existing front yard setback is approximately 38.5 feet, which represents an existing non-conformity. Applicant proposes no change.
15. The maximum building coverage permitted in the R-2 Zone is 20% of the lot area. The existing building coverage is 24.9% which represents an existing non-conformity. Applicant proposes no change.
16. The maximum impervious coverage permitted in the R-2 Zone is 40% of the lot area. The existing impervious coverage is 46% which is an existing non-conformity. Applicant proposes reducing the impervious coverage to 40% which conforms.
17. The minimum rear yard setback permitted in the R-2 Zone is 30 feet. Applicant is proposing to remove the existing deck and construct a new uncovered porch and steps which will have a 24 foot setback. **A variance is required.**
18. The minimum side yard setback permitted for a swimming pool is 30 feet. The Applicant has modified the submitted plan to propose a side yard setback of 25 feet to the swimming pool. **A variance is required.**
19. The property is unique as, when looking at the rear of the property, the home is set to the right of the property. The immediately adjacent house is set to the left of that property. This results in spacing between the dwellings.
20. The Applicant is seeking to remove the basketball court and the rear porch which extends into the rear yard setback.

21. The existing rear deck is being replaced with a reconfigured porch and stairs.
22. The Cabana will be 10 feet from the property line and 10 feet in height. The cabana will be 100 feet from the nearest home.
23. The Applicant proposes the addition of drainage structures to pipe any runoff to a stone bed to improve site drainage.
24. The Applicant submits that a hardship exists due to the location of the home and other improvements combined with the uniqueness of the lot warranting the relief sought.

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 2nd day of February 2022 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 1/19/22.
- (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: Sam Cohen

Seconded by: David Simhon

ROLL CALL VOTE

Those in favor: Mandy Cohen, Nicole Cohen, Same Cohen, Kathleen Jannarone, David Simhon, Max Zeevi

Those opposed: None

Those absent: Antebi, Joe Cohen, Cummings, Fetaya, Kassin

Those not voting: None

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 2nd day of March, 2022 that the Resolution of be adopted.

Moved by: Sam Cohen

Seconded by: David Simhon

ROLL CALL VOTE

Those in favor: Nicole Cohen, Sam Cohen, Kathleen Jannarone, David Simhon

Those opposed: None

Those absent: Antebi, Joe Cohen, Mandy Cohen, Kassin, Zeevi

Those not voting: Richard Cummings

Prior to presenting the next application, it was announced that Richard Cummings had listened to audio of the prior meeting presentation and had signed an affidavit to that effect and is eligible to sit for this application.

The second item on the agenda is 111 Norwood Avenue, Block 26, Lot 3, James & Pauline Salame. This application was carried from the February 2, 2022 meeting for revisions to the plans for Board review. Attorney for the applicant, Michael Wenning.

Enter into Evidence:

A-6 An Architectural plan by CDZ Architects, LLC dated September 7, 2021, with a latest revision date of February 7, 2022.

A-7 A Plot Plan by Douglas D. Clelland, P.E. of Insite Engineering, LLC dated October 28, 2021 with a latest revision date of February 16, 2022.

B-2 Engineer revised review letter by Leon S. Avakian, Inc. dated January 19, 2022 with a latest revision date of February 24, 2022.

B-3 Signed affidavit by Richard Cummings that he has listened to the audio of the prior presentation on February 2, 2022, dated March 2, 2022.

Michael Wenning, with input from the Board, the plans were revised. Specifically the Cabana was relocated 10 feet from the rear property line which is conforming and 10 feet from the side property line, thus eliminating two variances for the Cabana setback. We lowered the Cabana roof to 10 feet thus eliminating the height variance for the Cabana. We eliminated the rear coverage and we reduced the pool in size to 16x32 thus creating 19 feet for side yard setback and 28.63 feet from the rear. We reduced the overall lot coverage from 50.2% to 48.43% in reduction. I call Jennifer White.

Jennifer White, I am employed by InSite Engineering as a Civil Engineer, with a BS from Lafayette College and work in the field of Civil Engineering for 7 ½ years and am Licensed in New Jersey.

Richard Cummings, we accept her credentials.

Michael Wenning, you had the opportunity to review the revised plans. Please testify.

Jennifer White, the applicant based the plan on the comments by the Board at the last meeting. We are reducing the total coverage from 50.2% to 48.43% and we are proposing a subsurface drywell capable of storing the 100 year storm event and this is providing a benefit by removing any potential negative impact of the existing non-conforming coverage and this drywell will be tied into the existing structure, proposed Cabana and will handle all the runoff from the proposed patio and we are proposing an overflow pipe that will drain into the right of way.

Michael Wenning, reviews general comments on the Engineer review letter. Any questions from the Board?

Richard Cummings, I can agree with most of this, is there any way to make this pool instead of 19 feet off the property line to 20 feet off the property line?

Kathleen Jannarone, there isn't that much change from the plan from last month. I will stick to the 25 feet setback on the pool.

Justin Ausiciello, Planner. Compares the original plan and the changes to the new plan. In the current plan, the Cabana conforms. Relative to the Pool, the pool on one side is 19 feet, and the other is 19 feet and to the rear it is 28.63 feet. A good portion of the pool would be blocked by the Cabana use. To the rear of the sight, there is a sports court. You will note that the porch has been eliminated and the stairs have been reoriented. Now the pool has been reoriented based on comments from the Board.

Sam Cohen, you have made a substantial effort to conform.

Justin Ausiciello, what is proposed is not inconsistent with the character of the area and in my professional opinion, the applicant has listened to the concerns of the Board and has made changes and this is a much-improved plan. The pool has been reduced in size and if it is reduced anymore, it would look out of place. The benefits of this plan outweigh any detriments.

Sam Cohen, Mr. Cummings has asked to make the pool 16 x 30 instead of 16 x 32, I don't think it would be a substantial difference and Mr. Cummings would be on board.

James Salame, as the owner we can accept those changes and make it 20 feet on each side.

Richard Cummings, any comments from the audience? None.

Richard Cummings makes a motion to accept the application with the 20 feet on each side yard. Sam Cohen seconds the motion.

Moved by: Richard Cummings

Seconded by: Sam Cohen

ROLL CALL VOTE

Those in favor: Nicole Cohen, Sam Cohen, Richard Cummings, David Simhon

Those opposed: Kathleen Jannarone

Those absent: Antebi, Joe Cohen, Mandy Cohen, Kassin, Zeevi

Those not voting: None

There being no further business, the meeting was adjourned.

Respectfully submitted.

Michael W. Egan
Planning Board Secretary