

## **BOROUGH OF DEAL**

### **PLANNING BOARD/BOARD OF ADJUSTMENT MINUTES**

**April 6, 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: Joe Cohen, Sam Cohen, Richard Cummings, Kathleen Jannarone, Jack Kassin, David Simhon

Those Absent: Ruby Antebi, Mandy Cohen, Nicole Cohen, Max Zeevi

A motion was made by Richard Cummings and seconded by Kathleen Jannarone that the minutes of the March 2, 2022 meeting be adopted.

Moved by: Richard Cummings

Seconded by: Kathleen Jannarone

### **ROLL CALL VOTE**

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

Those opposed: None

Those absent: Ruby Antebi, Mandy Cohen, Nicole Cohen. Max Zeevi

Those not voting: Joe Cohen, Jack Kassin

The first item on the agenda is the adoption of the Resolution for 111 Norwood Avenue, Block 26, Lot 3, James and Pauline Salame approved at the March 2, 2022 meeting.

### **RESOLUTION**

Whereas, James and Pauline Salame, 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 111 Norwood Avenue, Borough of Deal and known as Block 26, Lot 3 on the official tax map of the Borough of Deal.

The Applicant is proposing an in-ground swimming pool with a cabana and rear patio. The Applicant is also removing the detached garage and a portion of the driveway.

The Application for this matter was heard on 2/2/22 and 3/2/22.

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 Michael Wenning, Esq.
3. The Applicant presented the testimony of Kathy Zuckerman (New Jersey licensed architect), Justin Ausiciello (New Jersey licensed planner), Jennifer White (New Jersey licensed engineer) and James Salame (applicant).
4. The Applicant presented the following exhibits:

A-1 Cabana Floor Plan by CDZ Architects, LLC dated 9/7/21.

A-2 Topographic Survey prepared by James B. Goddard PLS of CC Widdis Surveying, LLC dated 7/26/21.

A-3 Plot Plan prepared by Douglas D. Clelland, PE of InSite Engineering, LLC dated October 28, 2021.

A-4 Color Google street view of subject property.

A-5 Google aerial of subject property.

A-6 Architectural plan by CDZ Architects, LLC dated 9/7/21 with a revision date of 2/7/22.

A-7 Plot Plan by Douglas D. Clelland, PE of InSite Engineering, LLC dated 10/28/21 with a revisions date of 2/16/22.

B-1 Engineer review letter by Leon S. Avakian, Inc. dated 1/19/22.

B-2 Engineer review letter by Leon S. Avakian, Inc. dated 2/24/22.

B-3 Affidavit by Richard Cummings confirming he listen to the 2/2/22 audio recording, dated 3/2/22

5. The property is 10,250 square feet.
6. The existing lot contains a single-family dwelling with a detached garage.
7. The Applicant is proposing an in-ground swimming pool with a cabana and rear porch. The Applicant is also removing the detached garage and a portion of the driveway.
8. The property is located in the R-2 Zoned district.
9. The proposed inground swimming pool and cabana are a permitted accessory structure under the Swimming Pool, Tennis Court and Recreational Area Ordinance.
10. The Applicant seeks a variance for side and rear yard setbacks to the swimming pool and impervious coverage.
11. The minimum lot area permitted in the R-2 Zone is 18,750 square feet. The existing lot area is 10,250 square feet, which represents an existing non-conformity.
12. The minimum lot width permitted in the R-2 Zone is 150 feet. The existing lot width is 71.27 feet, which represents an existing non-conformity.
13. The minimum lot frontage permitted in the R-2 Zone is 150 feet. The existing lot frontage is 71.27 feet, which represents an existing non-conformity.
14. 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 44.31 feet, which represents an existing non-conformity. Applicant proposes no change.
15. The permitted front yard setback to the porch is 40 feet. The existing front yard setback is 34.6 feet, 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 50.2% which is an existing non-conformity. Applicant proposes reducing the impervious coverage to 48.43%. **A variance is required.**
17. The minimum rear yard setback permitted in the R-2 Zone is 29.3 feet. The existing rear yard setback is 57.3 feet. Applicant proposes 55 feet, which conforms.
18. The minimum side yard setback permitted is 14.25 feet. The side yard setback to the north is 7.58 feet and 12.99 feet to the south. Both are non-conforming. Applicant proposes no change.

19. The minimum side yard setback permitted for a swimming pool is 30 feet. The Applicant 20 feet to the north and 20 feet to the south. **A variance is required.**
20. The minimum rear yard setback permitted for a swimming pool is 30 feet. The Applicant proposes 28.63 feet. **A variance is required.**
21. The minimum side yard setback to a cabana is 18 feet. Applicant proposes 33.16 feet to the south and 10 feet to the north, which conforms.
22. The minimum rear yard setback to a cabana is 18 feet. The Applicant proposes 10 feet, which conforms.
23. The maximum height for an accessory structure is 10 feet. The Applicant proposes 10 feet, which conforms.
24. The pool dimensions will be 16 feet by 30 feet.
25. The Applicant will install a subsurface drywell capable of storing a 100 year storm event which will be tied into the existing dwelling, cabana and patio. The overflow pip will drain into the right of way.
26. Applicant offers that the proposed plans are not inconsistent with the character of the area.

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 2<sup>nd</sup> day of March 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 2/24/22.
- (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: Richard Cummings

Seconded by: Sam Cohen

ROLL CALL VOTE

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

Those opposed: Kathleen Jannarone

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

Those not voting: None

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 6<sup>th</sup> day of April 2022 that the Resolution of be adopted.

Moved by: Richard Cummings

Seconded by: Sam Cohen

ROLL CALL VOTE

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

Those opposed: None

Those absent: Ruby Antebi, Mandy Cohen, Nicole Cohen, Max Zeevi

Those not voting: Joe Cohen, Kathleen Jannarone, Jack Kassin

The next item is 9 Wallace Avenue/8 Wallace LLC approval extension request. Attorney for the applicant, Jennifer Krimko.

Jennifer Krimko, as the Board knows we came in for an approval for variance relief but due to Covid and the inability to get materials, we were unable to commence construction within a year, typically we haven't been coming to the Board since the Covid put the permanent extension act into play and what we are asking for is an extension which is provided for under the Ordinance. To allow us time and because you do not allow construction in the summer it would be impossible to get started before the summer.

Joe Cohen, this is the Oceanfront Wallace?

Jennifer Krimko, Yes. We are merely asking for an extension, no changes to the approval.

Moved by: Joe Cohen

Seconded by: Kathleen Jannarone

ROLL CALL VOTE

Those in favor: Joe Cohen, Sam Cohen, Richard Cummings, Kathleen Jannarone, Jack Kassin, David Simhon

Those opposed: None

Those absent: Ruby Antebi, Mandy Cohen, Nicole Cohen, Max Zeevi

Those not voting: None

Prior to the next application, Mandy Cohen and Nicole Cohen join the Board. Sam Cohen, Kathleen Jannarone and David Simhon step down from the Board.

The next item on the agenda is 201 Roseld Avenue/Deal School, applicant JD Sports Academy. Applicant is proposing to construct two above ground pools with a pool fence. Attorney for the applicant, Jennifer Krimko.

Enter into evidence:

A-1 Site Plan by Mark A. Whitaker, P.E. of Dynamic Engineering dated 11/22/2021 with latest revision date of 3/4/2022.

A-2 Google street view of subject property consisting of 3 views.

A-3 Google Aerial of subject property

B-1 Engineer review letter by Leon S. Avakian, Inc. dated March 22, 2022.

Jennifer Krimko, JD Sports Academy operates a sport's camp at the school, they are proposing two above ground pools on the property. The location of the pools will be invisible to everybody. We are proposing to put the pools in the area next to the new construction wing. No matter what angle you are on Roseld, it will be entirely invisible. There is a fence around the pool as required and there will be a prosed decking and stairs. We are going to run out to it. There was discussion of putting the pools down and one of the things we looked into was the cost and expense of putting them up and taking them down year after year. So one of the things I spoke to the applicant, Jack Dweck who runs the camp, about was we could decommission them, drain them, winterize them, secure them and fully cover them and would be available for use the next year. Obviously when the lease runs out, we could remove them. It would be quite difficult to do on an annual basis.

Joe Cohen, how deep are they?

Jennifer Krimko, I call my Engineer, Mark Whitaker.

Mark Whitaker, a licensed Engineer in New Jersey.

Richard Cummings, we can accept that.

Jennifer Krimko, what is the height of the pool wall?

Mark Whitaker, 52 inches.

Jennifer Krimko, so the water level is usually 4-6 inches below that.

Mark Whitaker, that is correct.

Jennifer Krimko, so we are looking at a 4 foot deep pool. If the School came before you they would come before you as a Capital improvement, since this is a non-school entity.

David Simhon, is the school okay with it being left drained?

Jennifer Krimko, that's going to be subject to the school's decision and we will abide by their decision.

Joe Cohen, what is the pool made of?

Jennifer Krimko, it is an above ground pool, vinyl above ground pool.

Sam Cohen, normally Jack, they are unsightly which is why we don't allow them in town, we are considering this is on a provisional basis because no one will see it.

Joe Cohen, the school has no input into this?

Jennifer Krimko, of course they do, they signed the application.

Joe Cohen, they are okay with it if we are okay with it?

Sam Cohen, I don't know if they know that you are thinking of leaving it there.

Jennifer Krimko, they are okay with us putting it up for the summer and I am just asking the Board not to qualify it and we will recognize that we will have to abide whatever the School says.

David Simhon, will there be covers at night?

Jack Dweck, there are no covers, just remove the steps at night. They do not make covers for this type of pool. I will check into it.

Richard Cummings, any comments from the public? None.

Joe Cohen, the pools belong to the camp?

Jennifer Krimko, yes. The school is the landlord.

Richard Cummings makes a motion to accept the application. Joe Cohen seconds the motion.

Motion by: Richard Cummings

Second by: Joe Cohen

#### ROLL CALL VOTE

Those in favor: Joe Cohen, Mandy Cohen, Nicole Cohen, Richard Cummings, Jack Kassin

Those opposed: None

Those absent: Ruby Antebi, Max Zeevi

Those not voting: Sam Cohen, Kathleen Jannarone, David Simhon

The Board goes into a Closed session for Litigation discussion at 8:01 P.M.

The Board comes out of the Closed Session at 8:24 P.M.

There being no further business, the meeting was adjourned.

Respectfully submitted.

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Michael W. Egan  
Planning Board Secretary