

BOROUGH OF DEAL

PLANNING BOARD/BOARD OF ADJUSTMENT MINUTES

September 6, 2022

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, Nicole Cohen, Richard Cummings, Kathleen Jannarone, David Simhon

Those Absent: Joe Cohen, Mandy Cohen, Sam Cohen, Jack Kassin, Max Zeevi

A motion was made by David Simhon and seconded by Kathleen Jannarone that the minutes of the August 3, 2022 meeting be adopted.

Moved by: David Simhon

Seconded by: Kathleen Jannarone

ROLL CALL VOTE

Those in favor: Ruby Antebi, Kathleen Jannarone, David Simhon

Those opposed: None

Those absent: Joe Cohen, Mandy Cohen, Sam Cohen, Jack Kassin, Max Zeevi

Those not voting: Nicole Cohen, Richard Cummings

The first item on the agenda is the adoption of the Resolution for 1 Roseld Court, Block 35, Lot 7, Alice Tawil approved at the August 3, 2022 meeting.

RESOLUTION

Whereas, Alice Tawil, the record owner of the property has applied to the Planning Board of the Borough of Deal for variances at the premises located at 1 Roseld Court, Borough of Deal and known as Block 35, Lot 7 on the official tax map of the Borough of Deal which premises are located in the R-3 zone.

The Applicant is proposing an addition to the rear of the dwelling, an inground swimming pool and changing the detached garage to a cabana.

The proposed improvements require Planning Board approval for variances on side yard setback to the addition, side yard setbacks to the pool and impervious coverage.

Hearings were held in connection with this matter on July 6, 2022 and August 3, 2022.

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 was represented by Jennifer Krimko.
3. The Applicant presented the testimony of Patrick Ward, a New Jersey licensed engineer and professional planner.
4. The Applicant presented the following exhibits:
 - a. A-1 Topographic Survey dated 11/4/21, last revised 2/7/22.

- b. A-2 Plot Plan dated 3/18/22.
 - c. A-3 Architectural Plan dated 3/17/22
 - d. A-4 Aerial exhibit.
 - e. A-5 Photo packet with 5 photos.
 - f. A-6 Color rendering of property.
 - g. A-7 Revised Plot plan dated 7/14/22.
 - h. A-8 Aerial exhibit
 - i. A-9 Roseld Court Exhibit
 - j. B-1 Leon S. Avakian, Inc. engineer review letter dated June 23, 2022.
 - k. B-2 Revised Leon S. Avakian, Inc. engineer review letter dated July 28, 2022.
 - l. B-3 Affidavit of Jack Kassin.
 - m. B-4 Affidavit of Joe Cohen.
5. The property has a total area of 11,300 square feet.
 6. The existing lot contains a single-family dwelling with a detached garage in the rear yard.
 7. The Applicant proposes an addition to the rear of the dwelling, an inground swimming pool and changing the detached garage to a cabana.
 8. The lot is situated with the municipal parking lot on its southern border, the municipal police station is to the east and there is a paved roadway that goes through the backyard of all the homes on Roseld court. The paved roadway, which provides access from the municipal complex and police station to Runyan are calculated in considering lot coverage for the subject property.
 9. Applicant proposes alterations to the front of the house, and addition to the back which follows the existing lines of the house.
 10. Applicant proposes a swimming pool in the backyard.
 11. The lot is approximately 60 feet wide. Applicant's expert noted that the pool setbacks in the Borough is 30 feet. Due to this, there is no area to put the pool in a compliant location.
 12. Initially, Applicant proposed a pool with a size of 18' x 36'. This pool was setback 21 feet from the side yard property lines. This would require a variance.
 13. The Applicant revised its plans and proposed a location of the pool which it would have a 30-foot setback from the North side property line, 30-foot setback from the rear property line and 15-foot setback from the south property line, which would **require a variance**.
 14. The minimum lot area permitted is 12,500 square feet. Currently existing is 11,300 square feet, which is non-conforming. Applicant proposes no change.
 15. The minimum lot width permitted is 100 feet. Currently existing is 60 feet, which is non-conforming. Applicant proposes no change.
 16. The minimum front yard setback is 50 feet or the average alignment. Currently existing is 33.9 feet. Applicant proposes no change.
 17. The minimum side yard setback permitted is 12 feet. Currently existing is 10.5 feet north side and 10.9 feet south side, which are both non-conforming. Applicant proposes 10.5 feet on the north side and 8 feet on the south side. **A variance is required.**
 18. The minimum rear yard setback permitted is 37.6 feet. Currently existing is 96.1 feet. Applicant proposes 97.74 feet which conforms.
 19. The maximum building coverage permitted is 20%. Currently existing is 13.9%. Applicant proposes 18.8% which conforms.
 20. The maximum impervious coverage permitted is 40%. Currently existing is 20.3%. Applicant agreed at the hearing to impervious coverage not to exceed 40%, including

the asphalt roadway access easement along the rear property line.

21. Applicant proposed the installation of drywells which would drain the property as if it only had 25% impervious coverage.
22. The minimum side yard setback permitted for a swimming pool is 30 feet. The Applicant proposes a side yard setback of 21 feet. **A variance is required.**
23. Board members expressed concern about the lot not being wide to allow for a pool.
24. The Board is of the opinion that not every lot is suitable in size to have a pool.
25. The Board is of the opinion that due to the narrowness of the subject lot; it is not proper to grant a variance for the side yard setback for the proposed pool.
26. The Board is on the opinion that the proposed relief sought in connection with the pool would be a detriment to the public good and would impair the purpose of the Borough's zone plan. Specifically, the lot in question is not large enough to support the installation of an inground pool.
27. The Board expressed its concern that permitting the proposed pool would not be aesthetically pleasing and would overcrowd the property.
28. The Application was bifurcated to consider the proposed addition and proposed pool separately.

Whereas, the Board has determined that the relief requested IN CONNECTION WITH THE PROPOSED ADDITION by the Applicant can 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 3rd day of August 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. This includes, but is not limited to, the Applicant not making any changes to the existing garage.
- (2). The Applicant shall comply will those applicable terms and conditions of the Leon S. Avakian review letters July 28, 2022.
- (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.

Moved by: Kathleen Jannarone

Seconded by: Sam Cohen

ROLL CALL VOTE

Those in favor: Antebi, Joe Cohen, Sam Cohen, Jannarone, Kassin

Those opposed: None

Those absent: Mandy Cohen, Nicole Cohen, Cummings, Zeevi

Those not voting: Simhon

Whereas, the Board has determined that the relief requested IN CONNECTION WITH THE PROPOSED POOL by the Applicant CANNOT be granted as it would be a substantial detriment to the public good and substantially impair 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 August 2022 that the application as to the proposed pool is DENIED.

Moved by: Kathleen Jannarone

Seconded by: Sam Cohen

ROLL CALL VOTE

Those in favor: Joe Cohen, Sam Cohen, Jannarone, Kassin

Those opposed: Antebi

Those absent: Mandy Cohen, Nichole Cohen, Cummings, Zeevi

Those not voting: Simhon

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 6th day of September, 2022 that the Resolution of be adopted.

Moved by: David Simhon

Seconded by: Kathleen Jannarone

ROLL CALL VOTE

Those in favor: Antebi, Jannarone, Simhon

Those opposed: None

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

Those not voting: Nicole Cohen, Cummings

The second item on the agenda is the adoption of the Resolution for 2 Clem Conover Road, Block 29.01, Lot 4, Abraham Kassin, approved at the August 3, 2022 meeting.

RESOLUTION

Whereas, Abraham Kassin, the record owner of the property has applied to the Planning Board of the Borough of Deal for variances at the premises located at 2 Clem Conover Road, Borough of Deal and known as Block 29.01, Lot 4 on the official tax map of the Borough of Deal which premises are located in the R-1 zone.

The Applicant is proposing a second-floor addition with a small addition to the first floor, interior renovation to the basement and first floor, new driveways and new walkways. Applicant is also proposing to remove the existing driveway and portion of the basketball court.

The proposed improvements require Planning Board approval for variances on side and rear yard setbacks to the dwelling, impervious coverage, patio location and side yard setback to the basketball court

A hearing was held in connection with this matter on August 3, 2022.

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 was represented by Jennifer Krimko.
3. The Applicant presented the testimony of Patrick Ward, a New Jersey licensed engineer and professional planner, Michael Savarese, a New Jersey licensed architect and Abraham Kassin, property owner.
4. The Applicant presented the following exhibits:
 - a. A-1 Topographic Survey dated 12/7/21, last revised 1/5/22.
 - b. A-2 Plot Plan dated 4/8/22.
 - c. A-3 Architectural Plan dated 4/8/22.
 - d. A-4 Google photograph.
 - e. A-5 Color rendered aerial.
 - f. B-1 Leon S. Avakian, Inc. engineer review letter dated July 30, 2022.
5. The property has a total area of 43,670 square feet.
6. The existing lot contains a one-story dwelling with swimming pool, basketball court and other amenities.
7. The Applicant is proposing a second-floor addition with a small addition to the first floor, interior renovation to the basement and first floor, new driveways and new walkways. Applicant is also proposing to remove the existing driveway and portion of the basketball court.
8. The Applicant agreed to reduce the impervious coverage to 46.8%.
9. The Applicant agreed to put sufficient drywells on site to achieve drainage as if there was only 40% impervious coverage at the property.
10. The second-floor addition will be on the existing footprint of the home.
11. The Applicant is proposing balconies on the front side facing Clem Conover, a patio on the rear of the home and exterior stairs into the basement.
12. Mr. Savarese testified that the existing foundation can support the new addition.
13. On the east side of the home, the flat roof over first floor living space will be used as a balcony and not a roof deck for entertainment space.
14. The permitted minimum front yard setback to the dwelling is 50 feet or the average within 200 feet. Currently existing is 50.3 feet. Applicant proposes 50.3 feet, which conforms.
15. The permitted minimum side yard setback is 60 feet. Currently existing is 56.8 feet, which is non-conforming. Applicant proposes 56.8 feet. **A variance is required.**
16. The permitted minimum rear yard setback is 29.95 feet. Currently existing is 30.2 feet, which conforms. Applicant proposes 13.26 feet. **A variance is required.**
17. The permitted maximum impervious coverage is 40%. Currently existing is 54.1%, which is non-conforming. Applicant proposes 46.8%. **A variance is required.**
18. A portion of the existing pool and pool patio are located in the front yard, which represents a non-conformity.
19. The Applicant proposes a small expansion of the patio which would occur in the front yard. **A variance is required.**

Whereas, the Board has determined that the relief requested by the Applicant can 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 3rd day of August 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 July 30, 2022.

(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.

Moved by: Ruby Antebi

Seconded by: Sam Cohen

ROLL CALL VOTE

Those in favor: Antebi, Joe Cohen, Sam Cohen, Simhon, Kassin

Those opposed: None

Those absent: Mandy Cohen, Nicole Cohen, Cummings, Zeevi

Those not voting: Jannarone

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 6th day of September, 2022 that the Resolution of be adopted.

Moved by: David Simhon

Seconded by: Ruby Antebi

ROLL CALL VOTE

Those in favor: Ruby Antebi, David Simhon

Those opposed: None

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

Those not voting: Nicole Cohen, Cummings, Jannarone

Prior to the next application, it was announced that 74 Runyan Avenue would not be heard and Attorney Jennifer Krimko asked that it be carried with no further need to notice.

The final item on the agenda is 2 Stratford Place, Block 41, Lot 1.01, Ralph and Rose Nakash. The applicant is proposing a minor subdivision, creating two lots, Lot 1.02 and Lot 1.03.

The applicant is proposing a single-family dwelling with swimming pool, pool patio, cabana and driveway on proposed Lot 1.02. On proposed Lot 1.03 nothing is shown to be constructed. Carried from the August 3, 2022 meeting. Attorney for the applicant, Jennifer Krimko.

Enter into evidence:

A-7 Color rendering Corner

A-8 Color Rendering Straight on

A-9 Color Rendered Plot Plan

A-10 Garage Front Photo

A-11 Height Exhibit Final

B-2 Affidavit by Nicole Cohen of listening to prior meeting testimony

B-3 Affidavit by Richard Cummings of listening to prior meeting testimony

Jennifer Krimko, we are looking to move the lot line and swap it. So, the corner lot will be the bigger lot and the interior lot will be the smaller lot. This makes sense and is a better planning alternative. Looking at A-6, all the lots in yellow are undersized as to lot width, which is 150 feet, the green lot is proposed lot 1.03 and the blue lot is proposed lot 1.02. The reason we are proposing the interior lot to be smaller than the corner lot are for several reasons. The first one is, we want the house that is constructed on the green lot to be consistent with the other houses in the neighborhood. So, when you look around, lot 4 next up is 70 feet wide, lot 5 next to that is 70 feet wide, lot 6 next to that is only 121 feet wide. You have lot 10 across the street is 105 feet wide and the lots behind us is 2 is 135, 7 is 100, 8 is 100, 9.01 is 90 and 9 is 125. You all know the larger the lot the bigger the house you can put on and when you look what is around the green lot it's interior lot would be bigger than any other lot and would be out of place and then also you have a much larger house when the two houses next to it would be significantly smaller. That's point one. Point two, from a planning perspective you always want the corner lot to be the largest lot on the block, and why is that, because it has two front yards so it has two front yard setbacks and the two front yard setbacks are always the most restrictive setbacks. So, the building footprint to start with on a corner are so much smaller to start with. This is recognized as a common planning technique because in some towns like Rumson, Fair Haven and Little Silver they actually require a greater lot width on the corner than on interior lots. From a planning perspective, by allowing the corner lot to be the bigger lot and the interior lot to be the smaller lot you are accomplishing a bunch of things. First, you are keeping the character of the block in the neighborhood, you are making sure the house that is going to get constructed on the interior lot 1.03 is going to be smaller and therefore consistent with size with all the lots around it and then three you are allowing the corner lot to have a more buildable lot area since it has the constraints of those two front yard setbacks. When you are looking at the rendering of the corner it is important to view the approach, it needs to be a little more grand, it needs to be a little nicer. when you look at from Stratford, there two variances we need for the house, the setback of this area that is one story and the other is for the setback of the porte-cochere which is basically an architectural feature. I call Keith Smith, a licensed Engineer in New Jersey. Board accepts. We are not proposing any construction on lot 1.03?

Keith Smith, correct.

Jennifer Krimko, the proposed lot 1.02, the subdivision meets all the requirements, the only difference is we had a non-conformity on Roseld for 125 feet on Stratford, we are proposing to swap it and have 200 feet for the corner lot and 125 feet for the interior lot. That is the only variance relative to the subdivision?

Keith Smith, that is correct.

Jennifer Krimko, in your opinion as an Engineer, if the interior lot was 150, we could build a bigger home than we could if it was 125?

Keith Smith, that's true.

Jennifer Krimko, if we did that would it be out of character with the houses on lot 4 and 5, 9.01 and lot 8 because they are much smaller lots?

Keith Smith, yes.

Jennifer Krimko, in your opinion this is the best planning and zoning alternative on how to subdivide these lots to keep the character of the neighborhood?

Keith Smith, yes.

Jennifer Krimko, looking at A-10 which is a photo of the existing garage. We measured the garage and the height is 24 feet?

Keith Smith, yes.

Jennifer Krimko, what is the existing setback of the garage that is entitled to remain there?

Keith Smith, 9.1 feet.

Jennifer Krimko, based on the architectural plans, the one-story portion of the house is on the same side as the garage?

Keith Smith, yes.

Continued review of the variances needed with Engineer.

Richard Cummings, any questions for the Engineer from the Board? None. From the public? None.

Jennifer Krimko, I call the Architect representative, Lianna Napolitan.

Lianna Napolitan, I am a registered Architect in NY State since 2019, I have worked with Jose Ramirez for 11 years.

Jennifer Krimko, you have been the primary drafter on these plans. So, any questions we would have had for Jose about the design you can answer since you have been the Project Manager up to this point.

Richard Cummings, board accepts.

Jennifer Krimko, this rendering, A-7, looking from corner of Roseld and Stratford to the Southwest. I had indicated this as a Porte-Cochere but it really is an equivalent of a covered front porch only a car would drive under it rather than someone sitting on it. The flat roof, what is the height of it and its dimensions?

Lianna Napolitan, the height is 13 feet and it is 21 feet wide and 20 feet deep.

Jennifer Krimko, so in your opinion it would really be smaller in size an area than a front covered porch would be on a house like this.

Lianna Napolitan, yes.

Discussion on other architectural areas including the garage.

David Simhon, you are not using the garage as a garage, just storage?

Jennifer Krimko, it's just storage, it only looks like a garage from the outside.

Further discussion on A-11 on setbacks and design.

Jennifer Krimko, on the renderings, they were based on actual photographs and actual existing foliage, it wasn't that you super imposed more greenery.

Lianna Napolitan, the trees on the street is accurate.

Richard Cummings, what would happen if you changed the angle of the roof?

Lianna Napolitan, it would impact the architectural feature of the roof. We would have to pitch it down, we looked at it and it's better at this angle.

Kathleen Jannarone, I would assume the neighborhood wouldn't want to see a car in the front yard. I think the best case would be to utilize the garage as garage and not a carport.

Jennifer Krimko, whether the carport is there or not, the circular driveway will be there and it is fully compliant and cars will park there just like the cars are parked on every circular driveway in all of Deal.

Richard Cummings, the building in the back, is it a garage?

Jennifer Krimko, it is not a garage, there is no driveway access to it.

David Simhon, there are no plans for the rear yard. What ultimately do they plan for that?

Jennifer Krimko, they plan on constructing a house there. If I came in for a variance in the future for a house on the middle lot and claimed a hardship, you can say it is a self-created hardship because we are creating the subdivision.

Discussion on the splitting of the lots at 125 feet versus 150 feet and variances plus a recommendation to remove 3 feet to one lot and add 3 feet to the other lot to eliminate two variances.

Ruby Antebi, my opinion is that the sub-division is a win for the town, the storage area replacing the garage is a big win for the town and if we shift the property line another three feet as Nicole suggested, we eliminate two variances.

Nicole Cohen, I agree with Ruby that it is a win for the town.

Richard Cummings, are there any comments from the public? None.

Ruby Antebi makes a motion to accept the application with Nicole's conditions to shift the house three feet and eliminate two variances for the roof and carport.

Nicole Cohen, I just wanted to point out how to eliminate those variances, if the Board feels that they need to be eliminated, I am good with that but I personally don't think it makes that much of a difference.

Richard Cummings, it shouldn't be made any smaller.

Nicole Cohen, the subdivision, I have no problem with that variance. I make a motion to accept their proposal as submitted for the subdivision and the variance for the dwellings. Ruby Antebi seconds the motion.

Moved by: Nicole Cohen

Seconded by: Ruby Antebi

ROLL CALL VOTE

Those in favor: Ruby Antebi, Nicole Cohen, Richard Cummings, David Simhon

Those opposed: Kathleen Jannarone

Those absent: Joe Cohen, Mandy Cohen, Sam Cohen, Jack Kassin, Max Zeevi

Those not voting: None

There being no further business, the meeting was adjourned.

Respectfully submitted.

Michael W. Egan
Planning Board Secretary

