

**BOROUGH OF DEAL**

**PLANNING BOARD/BOARD OF ADJUSTMENT MINUTES**

**June 27, 2023**

A regular virtual meeting of the Planning Board/Board of Adjustment of the Borough of Deal was called to order by Planning Board Attorney Erik Anderson.

FOLLOWING THE SALUTE TO THE FLAG, Stephen Carasia, Board Secretary, read the following 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: Mrs. M Cohen, Mrs. Jannarone, Chair Cummings, Commissioner Simhon, Mayor Cohen

Those Absent: Mr. Antebi, Mrs. N Cohen, Mr. Kassin, Mrs. Mamiye, Mr. Zeevi, Vice Chair J. Cohen

**MINUTES –**

A motion was made by Mayor Cohen and seconded by Mrs. Jannarone that the minutes of the meeting held May 23, 2023 meeting hereby be approved as presented.

**ROLL CALL VOTE**

Ayes: Mrs. M. Cohen, Mrs. Jannarone, Chair Cummings, Mayor Cohen

Nays: None

Absent: Mr. Antebi, Mrs. N Cohen, Mr. Kassin, Mrs. Mamiye, Mr. Zeevi, Vice Chair J. Cohen

Those Not Voting: Commissioner Simhon

**CORRESPONDENCE - None**

**RESOLUTIONS-**

The first item on the agenda is the adoption of the Resolution 2023-009, 23 Marine Place, Block 56 Lot 6. Approved at the April 25, 2023 meeting.

**RESOLUTION 2023-009**

Whereas, David Cohen, the record owner of the property has applied to the Planning Board of the Borough of Deal for variances at the premises located at 23 Marine Place, Borough of Deal and known as Block 56, Lot 6 on the official tax map of the Borough of Deal which premises are located in both the R-1 zone.

The Applicant is removing a detached garage and proposing an inground swimming pool with cabana.

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

A hearing was held in connection with this matter on April 25, 2023.

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 attorney is Jennifer Krimko, Esq.

3. The Applicant presented the testimony of Patrick Ward, a licensed New Jersey engineer and planner.
4. The Applicant presented the following exhibits:
  - a. A-1 Survey by InSite Engineering dated 10/20/22.
  - b. A-2 Plot Plan by InSite Engineering dated 1/23/23.
  - c. A-3 Cabana plans and elevation by CDA Architects dated 1/25/23.
  - d. A-4 Neighborhood aerial by InSite Engineering.
  - e. A-5 Site rendering by InSite Engineering.
  - f. B-1 Leon S. Avakian, Inc. engineer review letter dated 3/15/23.
5. The property has a total area of 11,250 square feet.
6. The existing lot contains a 2 story dwelling with covered porches, detached garage and driveway.
7. The Applicant is proposing to remove a detached garage and install a swimming pool with cabana.
8. The minimum permitted lot area is 18,750 square feet. Currently existing is 11,250 square feet which is a pre-existing non-conformity. No changes are proposed.
9. The minimum permitted lot frontage is 150 feet. Currently existing is 75 feet, which is a pre-existing non-conformity. No changes are proposed.
10. The minimum permitted lot width is 150 feet. Currently existing is 75 feet, which is a pre-existing non-conformity. No changes are proposed.
11. The minimum permitted lot depth is 125 feet. Currently existing is 150 feet, which conforms. No changes are proposed.
12. The minimum permitted front yard setback to a dwelling (Runyan Avenue) is 50 feet. Currently existing is 39.8 feet, which is a pre-existing non-conformity. No changes are proposed.
13. The minimum side yard setback permitted is 15 feet. Currently existing is 14.9 (east) which is non-conforming and 14.7 feet (west) which is a pre-existing non conformity. No changes are proposed.
14. The maximum permitted building coverage is 20%. Currently existing is 24.4%, which does not conform. No changes are proposed.
15. The maximum permitted impervious coverage is 40%. Currently existing is 49.01% which is non-conforming. Applicant proposes 47.60% A variance is required.
16. The minimum permitted side yard setback to a pool is 30 feet. Applicant to proposing 20 feet (west) and 25 feet (east). Applicant agreed to increase the west side setback to 25 feet.. A variance is required.
17. The minimum permitted side yard setback to a cabana is 10 feet. Applicant proposes 7 feet. A variance is required.
18. The minimum permitted rear yard setback to a cabana is 10 feet. Applicant proposes 7 feet. A variance is required.
19. The maximum height permitted for a cabana is 18 feet. Applicant proposes 10 feet. This conforms.
20. The proposed pool will be 15 feet by 25 feet.
21. The proposed cabana will be 12 feet deep by 27 feet in width.
22. Applicant will collect all runoff from the patio and cabana and direct same towards the right of way on the property.
23. Applicant will be regarding the property to allow for positive drainage.
24. Applicant presented that a hardship exists as the lot is narrow in that it is 75 feet, where 150 feet is required.
25. Applicant presented testimony that the proposed improvements will have minimal, if any, impact on neighboring properties.
26. Applicant presented testimony that evergreens buffer the property owners to the west and east.
27. There were no public comments and/or questions relating to this application.

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 25th day of April 2023 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 March 15, 2023.
- (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: Chair Cummings  
 Seconded by: Mayor Cohen

#### ROLL CALL VOTE

Those in favor: Mr. Antebi, Mrs. Jannarone, Chair Cummings, Commissioner Simhon, Mayor Cohen, Mr. Kassin  
 Those opposed: None  
 Those absent: Mrs. M. Cohen, Mrs. N. Cohen, Mrs. Mamiye, Mr. Zeevi  
 Those not voting: Vice Chair J. Cohen

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 27th day of June, 2023 that the Resolution of be adopted.

Moved by: Mrs. Jannarone  
 Seconded by: Chair Cummings

#### ROLL CALL VOTE

Those in favor: Mrs. Jannarone, Chair Cummings, Commissioner Simhon, Mayor Cohen  
 Those opposed: None  
 Those absent: Mr. Antebi, Mrs. N Cohen, Mr. Kassin, Mrs. Mamiye, Mr. Zeevi, Vice Chair J. Cohen  
 Those not voting: Mrs. M Cohen

The second item on the agenda is the adoption of the Resolution 2023-010, 103 Neptune Avenue, Block 78 Lot 8. Approved at the April 25, 2023 meeting.

#### **RESOLUTION 2023-010**

Whereas, Ely and Sara Levy, the record owners of the property have applied to the Planning Board of the Borough of Deal for variances at the premises located at 103 Neptune Avenue, Borough of Deal and known as Block 78, Lot 8 on the official tax map of the Borough of Deal which premises are located in both the R-2 zone.

The Applicant proposes a two-story addition to the rear of the dwelling and a new front porch. Applicant is also proposing an in-ground swimming pool with a cabana and new driveway. The proposed improvements require Planning Board approval for variances for side yard setback to the house, side and rear yard setback to the swimming pool, pool patio in a front yard and fence height in a front yard.

A hearing was held in connection with this matter on April 25, 2023.

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 attorney is Jennifer Krimko, Esq.
3. The Applicant presented the testimony of Patrick Ward, a licensed New Jersey engineer and planner.
4. The Applicant presented the following exhibits:
  - a. A-1 Survey by InSite Engineering dated 5/12/22.

- b. A-2 Plot Plan by InSite Engineering dated 2/2/2023.
  - c. A-3 Architectural plans by Zimbler Architects dated 1/21/2023.
  - d. B-1 Leon S. Avakian, Inc. engineer review letter dated 3/15/2023.
5. The property has a total area of 15,908 square feet.
  6. The existing lot contains a single-family dwelling with a driveway.
  7. The Applicant proposes a two-story addition to the rear of the dwelling and a new front porch. Applicant is also proposing an in-ground swimming pool with a cabana and new driveway.
  8. The minimum permitted lot area is 18,750 square feet. Currently existing is 15,908 square feet which is a pre-existing non-conformity. No changes are proposed.
  9. The minimum permitted lot frontage is 150 feet. Currently existing is 110.41 feet, which is a pre-existing non-conformity. No changes are proposed.
  10. The minimum permitted lot width is 150 feet. Currently existing is 107.51 feet, which is a pre-existing non-conformity. No changes are proposed.
  11. The minimum permitted lot depth is 125 feet. Currently existing is 150 feet, which conforms. No changes are proposed.
  12. The minimum permitted front yard setback to a dwelling is 50 feet. Currently existing is 49.7 feet (Neptune Avenue) and 49.9 feet (Atlantic Avenue) which are pre-existing non-conformities. No changes are proposed.
  13. The minimum permitted front yard setback to a porch is 40 feet. Currently existing is 36.9 feet (Neptune Avenue), which is a pre-existing non-conformity. Applicant proposes 40 feet (Neptune Avenue) and 40.67 feet (Atlantic Avenue) both of which conform.
  14. The minimum side yard setback permitted is 21.5 feet. Currently existing is 17.1 feet which is non-conforming Applicant proposes 17.3 feet for the front covered porch, 18.17 feet to the side landing and stairs and 21.5 feet to the 2-story addition. A variance is required.
  15. The maximum permitted building coverage is 20%. Currently existing is 10.6%, which conforms. Applicant proposes 14.55%, which conforms.
  16. The maximum permitted impervious coverage is 40%. Currently existing is 18.9% which conforms. Applicant proposes 39.51% which conforms.
  17. The maximum permitted building height at 50 feet is 28 feet. Currently existing is 33.89 feet which is a pre-existing non-conformity. No change is proposed.
  18. The Applicant has agreed to reduce the size of the length of the proposed pool to 28 feet and to slide it 5 feet to the west, so it will meet the required 30 foot side yard setback. Applicant has agreed to also slide the cabana to west to center it on the pool. This will require a variance for the cabana and pool encroaching into the front yard.
  19. The minimum permitted rear yard setback permitted for a pool is 30 feet. Applicant proposes 26.49 feet which is non-conforming. A variance is required.
  20. The minimum permitted side yard setback to a cabana is 10.5 feet based on a building height of 10.5 feet. Applicant proposes 21.75 feet, which conforms.
  21. The minimum permitted rear yard setback to a cabana is 10.5 feet based on a building height of 10.5 feet. Applicant proposes 10.5 feet, which conforms.
  22. The maximum permitted height for a cabana is 18 feet. Applicant proposes 10.5 feet, which conforms.
  23. The maximum fence height allowed in a front yard is 3 feet. Applicant proposes a 4-foot-high pool fence in the Atlantic Avenue front yard. A variance is required.
  24. Applicant presented testimony that there are existing evergreens at the rear of the property which creates buffering to the adjacent property.
  25. Applicant presented testimony that Leyland cypresses will be planted to shield the pool, this will include along Atlantic Avenue.
  26. Applicant will center the cabana on the pool.
  27. The Applicant is proposing a portion of the pool patio, cabana and pool in the front yard along Atlantic Avenue, which is not allowed. A variance is required.
  28. Applicant presented testimony that the existing driveway and detached garage will be removed.
  29. Applicant proposes a new circular driveway for the property.
  30. Applicant presented testimony that a hardship exists due to the fact that the property is a corner lot which in turn creates two front yards which create constraints to the extent in which improvements can be made in the rear yard.
  31. Applicant presented testimony that the proposed improvements will have minimal, if any, impact on neighboring properties.

32. There were no public comments and/or questions relating to this application.

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 25th day of April 2023 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 March 15, 2023.
- (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: Mayor Cohen

Seconded by: Vice Chair J. Cohen

#### ROLL CALL VOTE

Those in favor: Mr. Antebi, Mrs. Jannarone, Chair Cummings, Commissioner Simhon, Mayor Cohen, Mr. Kassin, Vice Chair J. Cohen

Those opposed: None

Those absent: Mrs. M. Cohen, Mrs. N. Cohen, Mrs. Mamiye, Mr. Zeevi

Those not voting: None

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 23rd day of May, 2023 that the Resolution of be adopted.

Moved by: Chair Cummings

Seconded by: Commissioner Simhon

#### ROLL CALL VOTE

Those in favor: Mrs. Jannarone, Chair Cummings, Commissioner Simhon, Mayor Cohen

Those opposed: None

Those absent: Mr. Antebi, Mrs. N Cohen, Mr. Kassin, Mrs. Mamiye, Mr. Zeevi, Vice Chair J. Cohen

Those not voting: Mrs. M Cohen

The third item on the agenda is the adoption of the Resolution 2023-011, 49 Norwood Avenue, Block 12 Lot 7.02. Approved at the May 23, 2023 meeting.

#### **RESOLUTION 2023-011**

Whereas, 49 Norwood, LLC, the record owner of the property have applied to the Planning Board of the Borough of Deal for variances at the premises located at 49 Norwood Avenue, Borough of Deal and known as Block 12, Lot 7.02 on the official tax map of the Borough of Deal which premises are located in both the R-2 zone.

The Applicant initially proposed a third-floor habitable space addition to the principal dwelling and converting the one-story detached garage to a two-story principal dwelling. At the March 23, 2023, meeting, the Applicant sought and received approval to bifurcate the application. The Planning Board at that time only considered the proposed improvements to the principal dwelling. After hearing testimony, the Planning Board granted approval with respect to the

improvements to the principal dwelling. This grant of approval was memorialized in Resolution #23-07.

With regard to the accessory structure, the Applicant submitted revised plans. Specifically, the Applicant proposed a one-story accessory structure which includes a hangout and recreational space.

The proposed improvements require Planning Board approval for variances for minimum side yard setback and rear yard setback.

A hearing was held in connection with this matter on March 28, 2023 and May 23, 2023.

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 attorney is Jeffrey Dweck, Esq.
3. The Applicant presented the testimony of Jason Peist, a licensed New Jersey architect and planner.
4. The Applicant presented the following exhibits:
  - a. A-1 Affidavit of Service.
  - b. A-2 Application.
  - c. A-3 Checklist.
  - d. A-4 Architectural Drawings dated November 15, 2022.
  - e. A-5 Omitted.
  - f. A-6 Revised architectural drawings dated March 28, 2023.
  - g. B-1 Leon S. Avakian, Inc. engineer review letter dated 3/15/23.
  - h. B-2 Mr. Antebi affidavit that he listened to the recording of the March 28, 2023 meeting
  - i. B-3 Mrs. M. Cohen affidavit that she listened to the recording of the March 28, 2023 meeting.
  - j. B-4 Leon S. Avakian, Inc. engineer review letter with revised date of May 2, 2023.
5. The property has a total area of 8,594 square feet.
6. The existing lot contains a two-story single-family dwelling, with a one-story detached garage.
7. The Applicant is proposing a one-story accessory structure which includes a hangout and recreational space.
8. The minimum permitted lot area is 18,750 square feet. Currently existing is 8,594, which is non-conforming. No changes are proposed.
9. The minimum permitted lot frontage is 150 feet. Currently existing is 63.67 feet, which is non-conforming. No changes are proposed.
10. The minimum permitted lot width is 150 feet. Currently existing is 62.88 feet, which is non-conforming. No changes are proposed.
11. The minimum permitted lot depth is 125 feet. Currently existing is 135 feet, which is non-conforming. No changes are proposed.
12. The minimum permitted front yard setback is 50 feet. Currently existing is 46.4 feet. Applicant proposes 56 feet, which conforms.
13. The minimum permitted front yard setback to the porch is 40 feet. Currently, existing is 35.8 feet, which is non-conforming. No changes are proposed.
14. The minimum side yard setback permitted is 12.58 feet. Currently existing is 11.9 feet (north) which is non-conforming and 8.5 feet (south) which is non-conforming. Applicant proposes 11.9 feet (north). A variance was granted. Applicant proposes 28 feet (south) which conforms.
15. The minimum front yard setback to the second principal dwelling permitted is 50 feet. Currently existing to the garage is 109 feet, which conforms. Applicant proposes 109 feet to the proposed second dwelling.
16. The minimum permitted side yard setback to a second principal dwelling is 12.58 feet. Currently existing to the garage is 3.6 feet, which is non-conforming. Applicant proposes 3.6 feet. A variance was granted.

17. The minimum permitted rear yard setback to a second principal dwelling is 27 feet. Currently existing to the garage is 2.5 feet, which is non-conforming. Applicant proposes 2.5 feet. A variance was granted.

18. The maximum permitted building coverage is 20% for a second principal dwelling. Currently existing for the garage is 18.47%, which conforms. Applicant proposes 26.5% for the second dwelling. A variance was granted.

19. The maximum permitted impervious coverage is 40%. Currently existing for the is 46.12%, which is non-conforming. Applicant proposes 46.23% (an increase of 9 square feet for an air conditioning unit), which does not conform. A variance is required.

20. The permitted minimum side yard setback to an accessory structure (recreational facility) is 13 feet. Applicant proposes 3.6 feet (north) which does not conform. A variance is required.

21. The permitted minimum rear yard setback to an accessory structure (recreational structure) is 13 feet. Applicant proposes 2.5 feet, which does not conform. A variance is required.

22. The Applicant testified that the accessory structure will be one story. It will contain countertops, cabinets, one sink and a refrigerator. There will be no cooktop. The structure will also contain a bathroom.

23. The Applicant testified that the existing roof, walls, and window locations will remain as-is.

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 23rd day of May 2023 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 March 15, 2023 and May 3, 2023.

(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: Mayor Cohen

Seconded by: Mr. Antebi

#### ROLL CALL VOTE

Those in favor: Mr. Antebi, Chair Cummings, Mayor Cohen, Mrs. M. Cohen

Those opposed: Mrs. Jannarone

Those absent: Mrs. N. Cohen, Mrs. Mamiye, Mr. Zeevi, Mr. Kassin, Vice Chair J. Cohen, Commissioner Simhon

Those not voting: None

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 27th day of June, 2023 that the Resolution of be adopted.

Moved by: Mayor Cohen

Seconded by: Mrs. M. Cohen

#### ROLL CALL VOTE

Those in favor: Mrs. M. Cohen, Chair Cummings, Mayor Cohen

Those opposed: None

Those absent: Mr. Antebi, Mrs. N Cohen, Mr. Kassin, Mrs. Mamiye, Mr. Zeevi, Vice Chair J. Cohen

Those not voting: Commissioner Simhon, Mrs. Jannarone

**OLD BUSINESS-** None

**NEW BUSINESS-**

The Planning Board was advised regarding the Municipal Public Beach Access Plan for NJDEP submission, which will be incorporated into the Master Plan after final approval by NJDEP.

There being no further business, a motion to adjourn was made at 7:40 P.M. by Mayor Cohen, seconded by Commissioner Simhon, and moved unanimously by all members present.

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Cassandra Achille  
Board Secretary