

**BOROUGH OF DEAL  
PLANNING BOARD**

**RESOLUTION**

**8-27-2024 (1)**

Whereas, Albert Maleh, the record owner of the property has applied to the Planning Board of the Borough of Deal seeking a Minor Subdivision to create two separate lots from the existing parcel identified as Lot 3, Block 45 on the official tax map of the Borough of Deal which is located in the R-1 and R-2 Zones.

The Applicant is proposing a Minor Subdivision to create two lots from the existing parcel identified as Lot 3, Block 45. The new lots would be identified as Lot 3.01, Block 45 and Lot 3.02, Block 45.

The Applicant is requesting approval from the Planning Board for minor subdivision approval and variances for lot width, lot frontage and lot area.

The Planning Board conducted its review at a public hearing on July 30, 2024.

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, Esquire.
3. The objector, David Hitari, was represented by Ronald Gasiorowski, Esquire.
4. The Applicant presented the testimony of Patrick Ward, a New Jersey licensed planner and engineer.
5. The following exhibits were introduced during the hearing:
  - A-1 Application dated 5/1/24.
  - A-2 Survey dated 1/4/24.
  - A-3 Minor Subdivision plan dated 5/1/24.
  - A-4 Notice of hearing.
  - A-5 Aerial of neighborhood exhibit.
  - B-1 Avakian review letter dated 6/10/24.
  - O-1 Aerial.
  - O-2 Lot depiction.

O-3 July 28, 2022, Avakian letter regarding 2 Stratford Place.

6. The currently existing lot is both in the R-1 and R-2 zones. Proposed lot 3.01 is to be located in the R-2 Zone and Proposed lot 3.02 is to be located in the R-1 Zone.
7. The current property contains a house numbered 51 Deal Esplanade (Lot 3, Block 45) with a total lot area of 45,000 square feet. The property has frontage on Deal Esplanade and Darlington Road. The existing lot contains a two and half story dwelling on the lot, with driveway access.
8. Under the proposed subdivision, Lot 3.01 will front Darlington Road and Lot 3.02 will front Deal Esplanade.
9. The Applicant is not proposing any development or use for Lot 3.01 at this time.
10. The permitted minimum lot area in the R-1 and R-2 zones is 18,750 square feet. Currently existing is 45,000 square feet, which conforms. Applicant proposes 15,000 square feet for Lot 3.01 which does not conform, **a variance is required**. Applicant proposes 30,000 square feet for Lot 3.02 which conforms.
11. The permitted minimum lot frontage in the R-1 and R-2 zones is 150 feet. Currently existing is 200 feet on Deal Esplanade, which conforms and 100 feet on Darlington Road, which does not conform. Applicant proposes 100 feet for Lot 3.01 which does not conform, **a variance is required**. Applicant proposes 200 feet for Lot 3.02 which conforms.
12. The permitted minimum lot width for the R-1 and R-2 zones is 150 feet. Currently existing is 200 feet on Deal Esplanade, which conforms and 100 feet on Darlington Road, which does not conform. Applicant proposes 100 feet for Lot 3.01 which does not conform, **a variance is required**. Applicant proposes 200 feet for Lot 3.02 which conforms.
13. The permitted minimum front yard setback to a dwelling in the R-1 and R-2 Zones is 50 feet or average within 200 feet. Currently existing is 49.5 feet to the dwelling and 38 feet to the porch, which does not conform. There is no change with Lot 3.02, **A variance is required**. Lot 3.01 is to conform. .
14. The permitted minimum side yard setback in the R-1 and R-2 Zones is 20% of the lot width – 20 feet for Lot 3.01 and 40 feet for Lot 3.02. Currently existing is 39.2 feet, which does not conform, There is no change with Lot 3.02. **A variance is required**.  
Lot 3.01 is to conform.
15. The permitted minimum rear yard setback in the R-1 and R-2 Zones is 20% lot depth or 50 feet, whichever is less. Currently existing is 41.6 feet, which does not conform. Lot 3.01 is to conform. Lot 3.02 is to be 35.01 feet, which conforms.
16. The permitted maximum building coverage in the R-1 and R-2 Zones is 20%. Currently existing is 6.02%, which conforms. Applicant proposes 9.02% for Lot 3.02, which conforms. Lot 3.01 is to conform.
17. The permitted maximum impervious coverage in the R-1 and R-2 Zones is 40%. Currently existing is 16.77%. Applicant proposes 18.18% for Lot 3.02, which conforms. Lot 3.01 is to conform.

18. Mr. Ward provide the following testimony:

- a. The property is atypical as it is both in the R-1 and R-2 Zone.
- b. The proposed subdivision will split the lot along the zone line, which promotes a more uniformity with the zones of the Borough.
- c. Applicant proposes to remove hardscape and driveway on Lot 3.01.
- d. With regard to lot area, while extending into Lot 3.02 could occur, it does not make sense from a zoning perspective as that lot would be in the R-1 and R-2 zones. A better planning alternative is to have each lot be in one zone.
- e. The proposed subdivision maintains neighborhood harmony.
- f. Homes fronting Darlington Road have similar frontage and lot sizes to that being proposed with the subdivision.
- g. Three of the five properties across on Darlington Road are similar/consistent with the new proposed lot on Darlington Road.
- h. The lot on Deal Esplanade becomes more conforming with the proposed subdivision.
- i. The proposed subdivision promotes open space, appropriate population density, desirable visible environment, more efficient use of land and conservation of property values in the neighborhood.
- j. The proposed subdivision promotes the purpose of zoning as there is not substantial negative impact as single family homes are permitted in the zones, promotes harmony in the neighborhood and allows for the utilization of the property.
- k. Citing to Kaufmann v. Planning Bd. For Warrant Twp., 110 N.J. 551 (1988), the subdivision creates a lot that is closer conformity to the surrounding area and advances the purposes of the Municipal Land Use Law.

19. The Objector provided the following testimony:

- a. The creation of Lot 3.01 allows for the possibility of a home being built on that lot.
- b. If a new home is built on Lot 3.01 an application could be made for variance relief.
- c. A new home on Lot 3.01 would overcrowd the lot.
- d. A new home on Lot 3.01 would create potential noise issues.
- e. A new home on Lot 3.01 would impact their quality of life.

20. The Objector did not present expert testimony concerning planning or traffic impacts.

21. There will be no substantial impairment of the intent and purpose of the zone plan and no substantial detriment to the public good as a result of the variances being granted in connection with this subdivision approval.

22. The net result is that the density with the subdivision and variances is consistent with the R-1 and R-2 Zones.

23. The application satisfies the “flexible c” criteria of N.J.S.A. 40:55D-70c(2) for the extensive reasons presented by Applicant’s planner. The purpose of the Municipal Land Use Law are advanced and the benefits to be derived substantially outweigh any detriment.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 30<sup>th</sup> day of July 2024 find that the proposed Minor Subdivision and variances are appropriate and consistent with the Borough of Deal’s Master Plan and to the extent required under the law, approves of same 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 letter.
- (3). All recordable instruments required by this resolution shall be submitted to and approved by the Borough engineer and Planning Board attorney prior to the signing the plat or deed.
- (4). The Applicant shall obtain all approvals necessary for this project.
- (5). The Applicant shall in conjunction with appropriate Borough Ordinances pay all appropriate/required fees and taxes.
- (6). Any future improvements will require Planning Board Approval.
- (7). Any and all outstanding escrow fees shall be paid in full and the escrow account shall be replenished to the level required by ordinance within 30 days of adoption of the resolution, within 30 days of written notice that a deficiency exists in the escrow account, prior to signing the site plan/plans, prior to the issuance of a zoning permit, prior to the issuance of construction permits and prior to the issuance of a temporary and/or permanent certificate of occupancy, completion and/or compliance review.
- (8). Any conditions of approval stipulated to by the applicant are incorporated herein even if not specifically stated.
- (9) The applicant must comply with the Development Fee Ordinance of the Borough of Deal, if applicable.

Moved by: Kathleen Jannarone

Seconded by: Commissioner Simhon

ROLL CALL VOTE

Those in favor: Jannarone, Chairman Cummings, Commissioner Simhon, Antebi

Those opposed: Mayor Cohen

Those abstain: Mandy Cohen

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 27<sup>th</sup> Day of August, 2024 that the Resolution of be adopted.

Moved by: Chairman Cummings

Seconded by: Commissioner Simhon

ROLL CALL VOTE

Those in favor: Kathleen Jannarone, Chairman Cummings, Commissioner Simhon

Those opposed: None

Those absent: Mandy Cohen, Mr. Antebi, Nicole Cohen, Max Zeevi, Abraham Dweck Vice-Chairman Cohen

Those not voting: Mayor Cohen, Peggy Nitka, Vice-Chairman Cohen

The foregoing is a true copy of a resolution adopted by the Planning Board of the Borough of Deal at its meeting on August 27, 2024.

As copied from the minutes  
Of said meeting



Kelly Barrett  
Secretary, Planning Board  
Borough of Deal, N.J.