

**BOROUGH OF DEAL
PLANNING BOARD**

RESOLUTION No. 1-28-2025 (8)

Whereas, ETTY Benzaken, 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 56 Hathaway Avenue, Borough of Deal and known as Block 73, Lot 4.02 on the official tax map of the Borough of Deal which premises are located in both the R-2 zone.

The Applicant is proposing a new two-story dwelling with a new inground pool, cabana, covered front porch and covered rear porch. The proposed dwelling will include roof leaders that drain to a proposed 45' x 16' x 3' drywell.

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 Jennifer Krimko, Esq.
3. The Applicant presented the following exhibits:
 - a. A-1 Application dated September 24, 2024.
 - b. A-2 Survey dated August 15, 2024.
 - c. A-3 Architectural plans dated July 3, 2024.
 - d. A-4 Plot plan, grading plan and variance plan dated September 14, 2024.
 - e. A-5 Notice.
 - f. A-6 Aerial.
 - g. A-7 Side Elevation markup.
 - h. B-1 Leon S. Avakian, Inc. technical review letter dated October 29, 2024.
4. The property has a total area of 15,000 square feet.
5. The existing lot contains a single-family dwelling with a inground pool and patio.
6. The Applicant proposes demolish the existing home and is proposing a new two-story dwelling with a new inground pool, cabana, covered front porch and covered rear porch. The proposed dwelling will include roof leaders that drain to a proposed 45' x 16' x 3' drywell.
7. The minimum lot area permitted is 18,750 square feet. Currently existing is 15,000 square feet which is non-conforming. Applicant proposes no change.
8. The minimum lot frontage permitted is 150 feet. Currently existing is 100 feet,

- which is non-conforming. Applicant proposes no change.
9. The minimum lot width permitted is 150 feet. Currently existing is 100 feet, which is non-conforming. Applicant proposes no change.
 10. The minimum front yard setback permitted is 50 feet. Currently existing is 50 feet, which conforms. Applicant proposes 50 feet, which conforms.
 11. The minimum side yard setback permitted is 20 feet. Currently existing is 24.8 feet, which conforms. Applicant proposes 21 feet, which conforms.
 12. The minimum rear yard setback permitted is 30 feet. Currently existing is 72 feet, which conforms. Applicant proposes 50.10 feet, which conforms.
 13. The maximum building coverage permitted is 20%. Currently existing is 9.1%, which conforms. Applicant proposes 22.65% which is nonconforming. **A variance is required.**
 14. The maximum impervious coverage permitted is 40%. Currently existing is 39.91%, which conforms. Applicant proposes 38.43%, which conforms.
 15. The maximum building height 50 feet from the right of way permitted is 28 feet. Currently existing is over 28 feet, which is non-conforming. Applicant proposes 29.58 feet, which is nonconforming. **A variance is required.**
 16. The maximum building height permitted is 42 feet. Currently existing is 39.64 feet, which conforms. Applicant proposes 42 feet, which conforms.
 17. Applicant represented that the nonconforming condition relating to the building coverage was due to the eaves of the proposed home being included in that calculation.
 18. Applicant represented that the lot was non-conforming with regard to lot area, lot frontage and lot width. These were conditions that cannot be changed.
 19. Applicant represented that due to the grade of the property above the curb line a hardship existed which made complying with the maximum building height 50 feet from the right of way requirement.
 20. Applicant represented that the proposed pool and cabana fully conform with zoning requirements.
 21. Applicant represented that the proposed drywell will accommodate proposed construction on site. Further, Applicant agreed that the proposed drywell will be subject to review and approval from Borough professionals.
 22. No public comments were presented in connection with 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 5th day of December 2024 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 letter dated October 29, 2024.
- (3). The drywell plans will be subject to review and approval of the Borough professionals.
- (4). 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.
- (5). 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.
- (6). The Applicant shall obtain all approvals necessary for this project.
- (7). The Applicant shall in conjunction with appropriate Borough Ordinances pay all appropriate/required fees and taxes
- (8). Any future improvements will require Planning Board Approval.
- (9). 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.
- (10). Any conditions of approval stipulated to by the applicant are incorporated herein even if not specifically stated.

Moved by: Chairman Cummings

Seconded by: Joseph Cohen

ROLL CALL VOTE

Those in favor: Chairman Cummings, Joseph Cohen, Mayor Cohen, Nitka, Dweck, Zeevi

Those opposed: None

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 28th day of January, 2025 that the Resolution of be adopted.

Moved by: Mayor Cohen

Seconded by: Chairman Cummings

ROLL CALL VOTE

Those in favor: Mayor Cohen Chairman Cummings, Joe Cohen, Peggy Nitka

Those opposed: None

Those absent: Dweck, Zeevi

Those not voting: None

The foregoing is a true copy of a resolution adopted by the Planning Board of the Borough of Deal at its meeting on January 28, 2025.

As copied from the minutes
Of said meeting

A handwritten signature in black ink, appearing to read "Kelly Barrett", written over a horizontal line.

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