

BOROUGH OF DEAL

PLANNING BOARD/BOARD OF ADJUSTMENT MINUTES

April 7, 2021

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: Joe Cohen, Mandy Cohen, Sam Cohen, Richard Cummings, Kathleen Jannarone, David Simhon,

Those Absent: Ruby Antebi, Nicole Cohen, Richard Fetaya, Irwin Levine, Max Leevi

A motion was made by David Simhon and seconded by Richard Cummings that the minutes of the March 3, 2021 meeting be adopted.

Moved by: David Simhon

Seconded by: Richard Cummings

ROLL CALL VOTE

Those in favor: Sam Cohen, Cummings, Jannarone, Simhon

Those opposed: None

Those absent: Antebi, Nicole Cohen, Fetaya, Levine, Zeevi

Those not voting: Joe Cohen, Mandy Cohen

The first item on the agenda is the adoption of the Resolution for 11 Lakeview Road, Block 63, Lot 3, Mitchell and Estelle Betesh for the house addition approved at the March 3, 2021 meeting.

RESOLUTION

Whereas, Mitchell and Estelle Betesh, the record owner of the property has applied to the Planning Board of the Borough of Deal for variances at the premises located at 11 Lakeview Road, Borough of Deal and known as Block 63, Lot 3 on the official tax map of the Borough of Deal which premises are located in the R-2 zone.

The Applicant is proposing a one-story addition connecting the dwelling and the existing garage. Also, the Applicant is proposing a swimming pool and patio in the front yard.

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 Applicants are the owners of the property.
2. The Applicant was represented by Robert Farber, Esq.
3. The Applicant presented the testimony of William Jensen.
4. The Applicant presented the testimony of Thomas Giegerich.
5. The Applicant presented the following exhibits:
 - a. A-1 Application dated January 11, 2021.
 - b. A-2 Proof of Mailing dated March 1, 2021.

- c. A-3 Location Survey Map by Rodolfo Pierri of Shark River Land Surveying dated 11/11/2020.
 - d. A-4 Pool Variance Plan by William F. Jensen, Jr. of Jensen Design Group dated February 19, 2020 with the latest revision of December 11, 2020.
 - e. A-5 Architectural Plans/Site Plans by Thomas Giegerich of Thomas Giergerich Architect dated March 23, 2020.
 - f. A-6 Photo rendition of addition to the garage.
 - g. A-7 Street view of Pool and fence surrounding pool.
 - h. A-8 Rendition of Pool and Fence with trees placed in front of fence.
 - i. B-1 Leon S. Avakian, Inc. engineer review letter dated February 17, 2021.
6. The property has a total area of 14,156 square feet.
 7. The existing lot contains a 2½ story dwelling with a driveway, patio and detached garage.
 8. The proposed improvements require Planning Board approval for various variances relating to the construction of an addition which attaches the principal dwelling with the detached garage and installation of an inground pool.
 9. The Applicant noted that the property is unique as it is shaped like a “pizza” and has two front yards.
 10. The Applicant offered that they seek to add more living space to the home. By attaching the detached garage to the dwelling, a number of bulk variances are created.
 11. The Applicant presented testimony on both the variances related to the addition and the pool. Ultimately the application was bifurcated for consideration only of the addition by the garage.
 12. The minimum lot area permitted is 18,750 square feet. The existing lot area is 14,156 square feet which represents an existing non-conformity.
 13. The minimum lot width permitted is 150 feet. The existing lot width is 99.3 feet which represents an existing non-conformity.
 14. The minimum front yard setback is 50 feet or the average alignment of the existing buildings within 200 feet of the lot. The existing front yard setback for Lakeview Road is 49.6 feet which represents an existing non-conformity. The existing front yard setback for Monmouth Drive is 24.4. feet which represents an existing non-conformity. The Applicant is proposing a front yard setback of 32.3 feet to the addition along Monmouth Road. **A variance is required.** The garage is now part of the principal dwelling and must comply with the setback of the principal dwelling. The front yard setback to the attached garage is 23.7 feet. **A variance is required.**
 15. The minimum side yard setback permitted is 19.8 feet. The existing side yard setback is 9.1 feet, which represents an existing non-conformity. The Applicant is proposing a side yard setback of 6.6 feet to the addition. **A variance is required.** The garage is not part of the principal dwelling and must comply with the setback requirements to the principal dwelling. The side yard setback to the attached garage is 1.7 feet. **A variance is required.**
 16. The minimum rear yard setback permitted is 23.4 feet. The existing rear yard setback is 22.1 feet, which represents an existing non-conformity. The Applicant is proposing 2.8 feet. **A variance is required.**
 11. The Applicant has agreed to bifurcate this Applicant and have the Board only consider the relief sought in connection with the addition. The application as it relates to the pool will be heard at another hearing.

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 March 2021 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 February 17, 2021. This includes, but is not limited to, providing building height calculations to the second floor addition in accordance with the definition set forth in the Borough's ordinance/the review letter.
- (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: Sam Cohen

Seconded by: Richard Cummings

ROLL CALL VOTE

Those in favor: Sam Cohen, Richard Cummings, Kathleen Jannarone, Irwin Levine, David Simhon, Max Zeevi

Those opposed: None

Those absent: Ruby Antebi, Joe Cohen, Mandy Cohen, Nichole Cohen, Richard Fetaya

Those not voting: None

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 7th day of April, 2021 that the Resolution of be adopted.

Moved by: Richard Cummings

Seconded by: Sam Cohen

ROLL CALL VOTE

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

Those opposed: None

Those absent: Ruby Antebi, Nicole Cohen, Richard Fetaya, Irwin Levine, Max Zeevi

Those not voting: Joe Cohen, Mandy Cohen

The second item on the agenda is 102 Deal Esplanade, Block 51, Lot 2, Saul Tawil. The applicant is proposing a swimming pool and converting the garage to a pool house. The applicant is also removing and relocating the back wall of the proposed pool house. Attorney for the Applicant, Robert Farber.

Enter into evidence:

A-1 Planning Board Application

A-2 Proof of Notice

A-3 Architectural Plan by Passman & Ercolino by Donald Passman dated 12/4/2020

A-4 Survey by Charles Surmonte, P.E. dated 12/17/2020

A-5 Plot Plan by Charles Surmonte, P.E. dated 2/6/2021

A-6 Letter from MD

B-1 Engineer review letter by Leon S. Avakian, Inc. dated 2/17/2021

Robert Farber, I am representing Saul Tawil for 102 Deal Esplanade, Block 51, Lot 2. This is a pool application. What is different about this one is that my client has a significant health issue requiring a need for a pool. The pool issue is a setback issue and the neighbor, Salim Alfaks and has no objection to it. There is a slight increase in coverage. I call Donald Passman, a license architect in the State of New Jersey. Accepted by Board Chair.

Donald Passman, the property is a single family residence, tennis court and a garage. From the street you can not see any of the tennis court and there is a pathway leading to the porch and a driveway that has a porte-cochere on it. Several years ago we did an addition for Mr. Tawil which added a second story to rear portion of the house. Mr. Tawil came to us for a lap pool for health purposes and there aren't too many places to put it given the site plan. We put just west of the property line and it runs East-West. It is a 36 foot pool. The swimming pool is 15 feet x36 feet and it's 11 feet from the West property line. The garage we are requesting to be a pool house. Knowing that we were already 44% coverage, the idea was to minimize on the extra coverage. For example, the one story garage has an extra piece on the back to be removed. We put the pool in with minimal paving. There is pool equipment that is also 11 feet from the property line. The coverage is 44% and we went up 678 square feet and we removed some of the asphalt. We went up 2.5% in lot coverage and we reduced a little bit the building coverage.

Robert Farber, adjacent to this pool is another pool that is being constructed right now. The location of our pool is not going to affect the private enjoyment of the property by the contiguous neighbor. The pool will near the other pool. The rear yard has no variance issue. Any questions for Mr. Passman?

Richard Cummings, the 11 feet off the property line is an issue.

Kathleen Jannarone, I agree and maybe reduce size of the pool.

David Simhon, is there a possibility of shifting the tennis court more East?

Donald Passman, I will tell you that the pool is 30 feet from the Easterly property line.

David Simhon, where the tennis court ends, it's 13.5 feet to the fence.

Samuel Cohen, you are converting the garage to a pool house and increasing coverage making it even more non-conforming.

Robert Farber, I am going to ask permission to carry this one cycle but since my client is here now and will not be needed for the next meeting.

Richard Cummings, any comments from the public for Mr. Passman.

Sam Alfaks, neighbor. Does the pool need to be 30 feet from the back of the house?

Donald Passman, it is 36 feet from the rear.

Robert Farber, I call the applicant, Saul Tawil. You are the owner of 102 Deal Esplanade.

Saul Tawil, yes.

Robert Farber, you have Parkinson's disease and are being treated by a Doctor who recommends a pool and you require a heated pool?

Saul Tawil, that is correct.

Erik Anderson, any questions from the public for the homeowner? None.

Robert Farber, based on the comments of the board, I would like permission to carry this one cycle for better options to the plan.

Erik Anderson, so this will be carried to the May 5, 2021 meeting and there will not be another notice required.

The final item on the agenda is 18 Woodford Road, D.R.E.A.M. 531, LLC, Block 61, Lot 1, Applicant is proposing an in-ground pool with no patio. The applicant is also removing a wall that encroaches on the adjacent property. Attorney for the applicant, Jennifer Krimko.

Enter into evidence:

A-1 Topographic & Utility Survey by Justin J. Hedges of InSite Surveying, LLC dated September 8, 2020 with a revision date of 1/1/2021.

A-2 Plot Plan by Patrick R. Ward of InSite Engineering, LLC dated 1/28/2021 with a revision date of 2/10/2021.

A-3 Google Photo of Subject property

A-4 Photo of sidewalk to South of Site Photo

B-1 Engineer review letter by Leon S. Avakian, Inc. dated March 29, 2021

Jennifer Krimko, this application is also for pool setback which has a hardship. A fully developed lot with existing non-conformities that have been grandfathered in and because we have two front yards and there are other legal structures existing on the property there is but one place where a very small pool can go. The property is enclosed by very small dense shrubs along its two frontages. We are also proposing similarly dense shrubs along the property line where we seek a variance. The purpose of the setback of the pool is primarily to keep the activity and the noise away from the neighbors. We are not proposing any patio at all. Most importantly, if approved, several existing non-conformities will be improved. We are removing a non-conforming wall, there are two adjacent sheds to the front property line on Norwood Avenue and we are proposing to remove those and most importantly we are proposing to lower the impervious coverage very close to 40% and we are also proposing to put in drainage structures to mitigate it. So we are not only going to be better than what is existing because of the reduction of impervious coverage but we are going to be that much better by additionally adding in the drainage. I call Patrick Ward, licensed Engineer in the State of New Jersey.

Patrick Ward, centrally located is the dwelling, existing tennis court, existing driveway and garage. There are two sheds and a pergola. We are proposing a 15x30 foot pool. There is no patio.

Jennifer Krimko, we do not need a variance for the fence and it stays out of the front yard and is a 3 foot fence, fully conforming.

Patrick Ward, the current coverage is 42.5% and we are reducing it about 500 square feet to 40.9%. The drywell will handle the excess runoff from the additional coverage.

Jennifer Krimko, from a planning prospective, we have two front yards, all these existing legal structures there is a hardship to put a pool in a conforming location. In your opinion, the changes we are making reduction of coverage, adding of the trees, the addition of the drainage and the removal of the shed by a few feet from the property line, are they a benefit to the application?

Patrick Ward, they certainly are.

Jennifer Krimko, do those benefits outweigh any potential detriment if the board were to grant this variance?

Patrick Ward, in my opinion they do.

Richard Cummings, what if we moved the pool. I don't like it 15 feet off. Move it at an angle.

Jennifer Krimko, it would be in the front yard.

Kathleen Jannarone, maybe reduce size of pool.

Sam Cohen, not in the front yard.

Jennifer Krimko, the pool is not too much for the lot. We would be over coverage. Right now if we shrunk the size of the pool and moved it closer to the house we could get 20 feet side yard.

Mandy Cohen, based what you have portrayed and based on the plans, this is a hardship and the Board has to look at it on it's own and saying that they did what they could, I do think it's fair and not asking too much.

Jennifer Krimko, I call the homeowner, Ralph Gindi.

Ralph Gindi. I have been on the property for 25 years and a family property for about 60 years. We have a clay tennis court, the entire square block is occupied by family members. On any given Saturday we have neighbors and family using the court. We are ripping out the driveway to make the coverage. The trees that are coming down are dying and once the trees come down, we could put a pool in.

Richard Cummings, any questions for the applicant. None.

Jennifer Krimko, we would like to amend the application to ask for a 20 foot setback off the South property line.

Richard Cummings, any comments from the public? None.

Jennifer Krimko, I am amending the application subject to the Engineers review and approval and only the 20 foot side yard setback.

Sam Cohen makes a motion to accept the application subject to the 20 foot side yard setback. Richard Cummings seconds the motion.

Moved by: Sam Cohen

Seconded by: Richard Cummings

ROLL CALL VOTE

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

Those opposed: None

Those absent: Ruby Antebi, Nicole Cohen, Richard Fetaya, Irwin Levine, Max Zeevi

Those not voting: Kathleen Jannarone

The final item on the agenda is Board review of Ordinance 1237.

Stephen Carasia, at the Commissioner meeting this morning we introduced ordinance 1237 and this is to amend Chapter 30 and the amended relates to the sale of Cannabis within the municipality. The new law for the State of New Jersey, they created six classes. We are recommending to prohibit all classes within the Borough of Deal. We have to make sure that this Ordinance conforms with our Master Plan.

Erik Anderson, essentially with the new Cannabis law and the Borough should not take action of these new classes, let's see how the novel statutory framework works out and then if the Borough down the road wishes to entertain some sort of the element of the business that are allowed, they can do. But if the Commissioners did not take any action by August, all 6 of these business's would be allowed in the Borough. Does the Board find this consistent with the Master Plan? All aye.

There being no further business, the meeting was adjourned.

Respectfully submitted.

Michael W. Egan
Planning Board Secretary

