

BOROUGH OF DEAL

PLANNING BOARD/BOARD OF ADJUSTMENT MINUTES

February 2, 2022

A regular meeting of the Planning Board/Board of Adjustment of the Borough of Deal was called to order by Chair Kathleen Jannarone.

Kathleen Jannarone 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: Mandy Cohen, Nicole Cohen, Sam Cohen, Kathleen Jannarone, David Simhon, Max Zeevi

Those Absent: Ruby Antebi, Joe Cohen, Richard Cummings, Richard Fetaya, Jack Kassin

A motion was made by David Simhon and seconded by Mandy Cohen that the minutes of the January 5, 2022 meeting be adopted.

Moved by: David Simhon

Seconded by: Mandy Cohen

ROLL CALL VOTE

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

Those opposed: None

Those absent: Antebi, Joe Cohen, Cummings, Fetaya, Kassin

Those not voting: Nicole Cohen, Max Zeevi

The first item on the agenda is the adoption of the Resolution for 90 Lehman Avenue, Block 32.02, Lot 20, Ezra and Frieda Sultan approved at the January 25, 2022.

RESOLUTION

Whereas, Ezra and Frieda Sultan, the record owners of the property has applied to the Planning Board of the Borough of Deal for a variance at the premises located at 90 Lehman Avenue, Borough of Deal and known as Block 32.02, Lot 20 on the official tax map of the Borough of Deal.

The Applicant is proposing an in-ground pool with a cabana and basketball court.

The Application for this matter was heard on 1/5/22.

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 case was presented by Jennifer Krimko, Esq.
3. The Applicant presented the following exhibits:
 - A-1 Topographic Survey by Justin J. Hedges, PLS of Insite Engineering dated 7/12/2021 with a latest revision dated 10/15/2021.
 - A-2 Plot Plan by Douglas D. Clelland, P.E. of Insite Engineering dated 10/8/2021.
 - A-3 Architectural Plan by Michael Saverese R.A. of Michael Saverese Architects dated 10/11/2021.
 - A-4 Aerial with a color rendered Plot Plan

A-5 Color record Plot Plan

B-1 Engineer review letter by Leon S. Avakian, Inc. dated November 11, 2021.

4. The property is 16,545 square feet.
5. The existing lot contains a single-family dwelling with a shed and driveway.
6. The Applicant is proposing an in-ground pool with a cabana and basketball court.
7. The property is located in the R-3 Zoned district.
8. The proposed in-ground swimming pool, cabana and basketball court are permitted accessory structures in the R-3 Zoned district.
9. The Applicant seeks a variance for a side yard setback to the proposed pool.
10. The permitted Minimum Side Yard setback to a dwelling is 24.7 feet. Currently existing is 15.6 feet on the east side (which is an existing non-conformity) and 50.2 feet on the west side. Applicant proposes no change.
11. The permitted minimum side yard setback for a swimming pool is 30 feet. The Applicant is proposing a side yard setback of 19.97 feet to the swimming pool. **A variance is required.**
12. The property abuts railroad tracks.
13. With the exception of the side yard setback to the pool, all other aspects of the application conforms with zoning requirements for the R-3 Zone.
14. With regard to the side yard setback which requires a variance, there are no neighbors to require a 30 foot buffer.

Whereas, the Board has determined that the relief requested by the applicant can be granted as presented 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 January 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.
- (2). The Applicant shall comply will those applicable terms and conditions of the Leon S. Avakian review letters dated 11/11/21.
- (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.
- (8). The Applicant will not direct stormwater and/or runoff from the property onto adjacent properties.
- (9). All landscaping/landscaping plans, if any, shall be subject to review and approval by the Borough's Engineer.

Moved by: Kathleen Jannarone

Seconded by: Sam Cohen

ROLL CALL VOTE

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

Those opposed: None

Those absent: Joe Cohen, Nicole Cohen, Richard Fetaya, Max Zeevi

Those not voting: Jack Kassin

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 2nd day of February 2022 that the Resolution be adopted.

Moved by: David Simhon

Seconded by: Mandy Cohen

ROLL CALL VOTE

Those in favor: Mandy Cohen, Sam Cohen, Kathleen Jannarone, David Simhon

Those opposed: None

Those absent: Antebi, Joe Cohen, Cummings, Fetaya, Kassin

Those not voting: Nicole Cohen, Max Zeevi

The second item on the agenda is 77 Darlington Avenue, Block 41, Lot 7, Judah J. Cattani 2012 Irrevocable Trust. The applicant is proposing an in-ground swimming pool with a Cabana and small renovation to the dwelling. The applicant is also removing the rear deck, asphalt area, shed and a portion of the driveway. Attorney for the applicant, Jennifer Krimko.

Enter into evidence:

A-1 Topographic & Utility Survey prepared by Justin J. Hedges, P.L.S. of InSite Engineering, LLC. dated 3/16/2021 with a revision date of November 8, 2021.

A-2 Pool Plan by Patrick R. Ward, P.E., P.P. of InSite Engineering, LLC dated May 28, 2021.

A-3 Architectural Plan prepared by Michael J. Savarese R.A. of Michael Savarese Associates, dated December 3, 2021.

A-4 2 Aerial Photos of subject property.

B-1 Engineer review letter by Leon S. Avakian, Inc. dated January 19, 2022.

Jennifer Krimko, The application before you is a simple one, we have an existing house and basketball court and some other improvements at 77 Darlington. The house is set all the way to the left and towards the rear of the lot. What's unique about this lot is when you look at it from the rear not only is our house set all the way to the right, but the house immediately adjacent is set all the way to the left. So really in between the two is the area to the yard and you have an existing basketball court. What the applicant is looking to do is simply remove the basketball court and the very large rear porch that extends to the rear yard setback and so the court is being removed, the rear deck is being removed and some driveway behind the shed is being removed. In it's place we are proposing to tuck the pool right in, a Cabana with a small patio and eliminating the deck and just putting in a small staircase and reconfiguring the porch. The variances that are needed are the setback for the pool to the East of 20 feet where 30 feet is required but as you can see it is three feet from the house and the air conditioning is here and there is no other place to put it and the setback to the stairs is 24 feet where 30 feet is required but is much better than what is there today because the existing stairs is 14.9 feet. The Cabana is 10 feet in height so it is ten feet from the property line. The most compelling argument is that is literally 100 feet from the nearest house so it more than meets the intent of the Ordinance in that

it is giving ample space to the neighbors. So between the hardship we have based on lot and the existing location of the house and the other improvements combined with the uniqueness of this lot in that the other house is developed fully to the East side of the lot there is virtually no impact at all if this variance were granted.

Kay Jannarone, what is the size of the pool?

Jennifer Krimko, 20 wide by 30 feet long.

Kay Jannarone, can it be reduced?

Jennifer Krimko, it can always be reduced if these weren't unusual circumstances. We come for a variance when it is unique or special circumstances. This is an unusual circumstance where there is more than 60 feet to the house next door, it's only up against driveway, it's further away from the basketball court that was existing that was going to be far nosier that a pool would be and we are eliminating non-conformities with regard to the wood deck setback.

Kay Jannarone, you have a variance required for the deck?

Jennifer Krimko, we do not have a variance for the deck. We are eliminating the deck and in it's place all we are putting in is a staircase and a landing in the back of the house. Even though we are under coverage, we are adding a drainage structures to pipe any runoff to a stone bed so we are improving the drainage to the site.

David Simhon, I think you can reduce the width of the Pool.

Jennifer Krimko, What would make you comfortable?

David Simhon, I would feel comfortable with 15 to 16 feet.

Sam Cohen, I think 15 x 30 is a nice size.

Max Zeevi, I agree with that.

Kay Jannarone, I think 15 feet is fair.

Jennifer Krimko, I ask to grant a pool variance of a side yard setback of 25 feet so we can maybe re-configure the pool. I don't want to be stuck to a pool of 15 feet.

Kay Jannarone, any members of the public wish to speak? None.

Sam Cohen makes a motion to accept the application subject to the side yard setback of 25 feet. David Simhon seconds the motion.

Moved by: Sam Cohen

Seconded by: David Simhon

ROLL CALL VOTE

Those in favor: Mandy Cohen, Nicole Cohen, Sam Cohen, Kathleen Jannarone, David Simhon, Max Zeevi

Those opposed: None

Those absent: Antebi, Joe Cohen, Cummings, Fetaya, Kassin

Those not voting: None

The final item on the agenda is 111 Norwood Avenue, Block 26, Lot 3, James and Pauline Salame. The applicant is proposing an in-ground swimming pool with a Cabana and rear covered patio. The applicant is removing the detached garage and a portion of the driveway. Attorney for the applicant, Michael Wenning.

Enter into evidence:

A-1 Cabana Floor Plan by CDZ Architects, LLC dated September 7, 2021.

A-2 Topographic Survey prepared by James B. Goddard P.L.S. of CC Widdis Surveying, LLC dated July 26, 2021.

A-3 Plot Plan prepared by Douglas D. Clelland, PE of InSite Engineering, LLC dated October 28, 2021.

A-4 Color Google street view of subject property

A-5 Google aerial of subject property

B-1 Engineer review letter by Leon S. Avakian, Inc. dated January 19, 2022.

Michael Wenning, I represent James and Pauline Salame in connection with the project here. The property is an area of 10,250 square feet where 18,750 is required. This is to build a pool. I call Pauline Salame, owner of the property.

Pauline Joyce Salame, I have been a resident for 35 years. I bought that house from the original owner, the town plumber, O'Brien. I love Deal and just want to upgrade and put a pool in for my great-grandchildren for when they come over to visit me.

Michael Wenning, I call Kathy Zuckerman, Architect, Licensed in the State of New Jersey and have testified before this board in the past.

Kathy Zuckerman, in reference to exhibit A-1. The house is at an angle and not parallel with the side yard or front or rear and there is a 2 car garage in the back of the property. With the angle of the house and the garage and an undersize lot, it became difficult to comply with the setbacks and bulk requirements. We scaled down the pool to 16 x 35 and the Cabana was just for a bathroom and a sitting area.

Michael Wenning, what is the height of the Cabana?

Kathy Zuckerman, 15 feet to the top. It is also a flat roof building. The house currently has a back stoop and it is not very useful or attractive. We propose an addition to the back of the house for a covered porch. Because of the angle of the structure it is 6.5 feet from the neighbor at one point and it is an open porch. Because of the angle we end up with a point on the Cabana is 6 feet on the East side of the property and the setback gets larger on the North side at ten feet. The existing garage will be removed.

David Simhon, why did you put everything at an angle?

Kathy Zuckerman, I can't imagine coming out of a house and having the pool at an angle. It would be a strange thing to look at.

David Simhon, your Cabana is 6 feet away from the property line. You know that for every foot it should be 10 feet and the height should be 10 feet, you should reduce the Cabana accordingly.

Kay Jannarone, I think we have to realize that not all properties in Deal can accommodate a pool and Cabana. This property already has 8 exiting non-conformities and we are looking to extubate these non-conformities and you are looking at more variances. It is too much. Any member of the Public wish to ask questions of the Architect? None.

Michael Wenning, I call the Planner, Justin Ausiciello.

Justin Ausiciello, I am a Licensed Planner of New Jersey and employed with the Capone Consulting Group. Board accepts credentials. In reference to exhibit aerial A-5. Right next to the property there is a court on that property and there is another sports court catty-corner to the lot. There are a number of courts and pools in the area. The area where the pool and Cabana is planned and to the East of the property and to the South, both have accessory uses. There are a number of uses that are secondary to the principal use in this area. We do require some variances and there are some non-conformities. The new variances are building coverage at 21.5% where 20% is permitted and impervious coverage at 48.6% where 40% is permitted. The accessory uses variances for pool and minimum side yard. Even though we need new variances, in my professional opinion that this is a better condition. There are improvements to the drainage to this property. There are hardships not only with the lot but with the structure that currently stands on the property. I believe that the site can carry the pool and the Cabana. This site is consistent with the area. In my professional opinion this application does not present a detriment to the public.

Kay Jannarone, how large is the pool?

Kathy Zuckerman, 15x35. I think I can re-angle the pool.

Kay Jannarone, I think you should continue this and bring in a new plan.

Michael Wenning, when you say a new plan, what specifically are you saying?

Kathy Zuckerman, make the Cabana parallel with the rear lot line and make the pool parallel with the Cabana and have to look at the porch but I think I can keep everything I have.

Jimmy Salame, our lot is surrounded by all land right behind us and there is nothing there but a basketball court.

David Simhon, I know what you are saying but you can't look at something at the property next to you and we understand you need a variance and we are trying to work within the numbers but sometimes you need to reduce what you are looking for to stay within the Ordinance.

Jimmy Salame, just to clarify, I want to go over this with Kathy later, the pool itself at the angle is problematic or the pool itself is okay?

David Simhon, I believe if you do the Cabana parallel to the lot line you should do the pool also, just because the house is angled, I am not an Architect, I feel it would help your numbers on the side yard setbacks.

Kathy Zuckerman, I think I can do but the back porch I can't change. The pool itself I am not sure if I can make it less but I won't increase.

Erik Anderson, we will carry this with no need for a further notice. Carry to the March 2, 2022 meeting.

There being no further business, the meeting was adjourned.

Respectfully submitted.

Michael W. Egan
Planning Board Secretary