

BOROUGH OF DEAL

PLANNING BOARD/BOARD OF ADJUSTMENT MINUTES

May 4, 2022

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: Ruby Antebi, Joe Cohen, Richard Cummings, Kathleen Jannarone, David Simhon

Those Absent: Mandy Cohen, Nicole Cohen, Sam Cohen, Jack Kassin, Max Zeevi

A motion was made by Richard Cummings and seconded by Joe Cohen that the minutes of the April 6, 2022 meeting be adopted.

Moved by: Richard Cummings

Seconded by: Joe Cohen

ROLL CALL VOTE

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

Those opposed: None

Those absent: Mandy Cohen, Nicole Cohen, Sam Cohen, Jack Kassin, Max Zeevi

Those not voting: Ruby Antebi

A motion was made by Richard Cummings and seconded by Kathleen Jannarone that the Closed session minutes of the April 6, 2022 meeting be adopted.

Moved by: Richard Cummings

Seconded by: Kathleen Jannarone

ROLL CALL VOTE

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

Those opposed: None

Those absent: Mandy Cohen, Nicole Cohen, Sam Cohen, Jack Kassin, Max Zeevi

Those not voting: Ruby Antebi

The first item on the agenda is the adoption of the Resolution for 201 Roseld Avenue/JD Sports Academy, Block 37, Lot 1.01 approved at the April 6, 2022 meeting.

RESOLUTION

Whereas, JD's Sport Academy, LLC, a tenant of the property and with permission of the record owner of the property has applied to the Planning Board of the Borough of Deal for a site plan approval and variance relief at the premises located at 201 Roseld Avenue, Borough of Deal and known as Block 37, Lot 1.01 on the official tax map of the Borough of Deal.

The Applicant is proposing to construct two above ground pools with a pool fence.

The Application for this matter was heard on 4/6/22.

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 a tenant of the property.
2. The Applicant's case was presented by Jennifer Krimko, Esq.
3. The Applicant presented the testimony of Mark Whitaker (New Jersey licensed engineer).
4. The Applicant presented the following exhibits:

A-1 Site Plan by Mark A. Whitaker, P.E. of Dynamic Engineering dated 11/22/2001 with latest revision dated of 3/4/2022.

A-2 Google street view of subject property consisting of 3 views.

A-3 Google Aerial of subject property.

B-1 Engineer review letter by Leon S. Avakian, Inc. dated 3/22/2022.

The property is the Deal School with a total lot area of 11.58 Acres.

5. The Applicant is proposing two above ground pools with a pool fence.
6. The property is located in the R-1 Zoned district.
7. The proposed swimming pools are a permitted accessory structure.
8. The Applicant seeks conditional use site plan approval, a conditional use variance for lot coverage and a bulk variance for the aboveground pools.
9. The minimum front yard setback permitted as a conditional use in the R-1 zone is 100 feet. The existing front yard setback along Drummond Road is 177 feet, which conforms. The existing front yard setback along Roseld is 15 feet, which represents an existing non-conformity.
10. The minimum side yard setback area permitted as a conditional use is the R-1 Zone is 100 feet. The existing west side yard setback is 39.2 feet to the Science Wing, which represents an existing non-conformity. The existing east side yard setback conforms.
11. The minimum impervious coverage permitted as a conditional use in the R-1 Zone is 20% of the lot area. The existing impervious coverage is 21.8% which represents an existing non-conformity. The two swimming pools will increase the impervious coverage by .3% to 2.1%. **A variance is required.**
12. A swimming pool may have 30% of continuous linear feet of pool to be exposed for 18 inches from the top of the ground and the remaining portion of the pool shall not be erected or maintained above the ground but shall be wholly at or below ground. The Applicant is proposing both swimming pools to have 100% continuous linear feet of pool to be exposed more than 18 inches above ground. **A variance is required.**
13. The proposed pools will be placed next to the new wing and will not be visible from Roseld.
14. There will be a compliant fence around the pools.
15. At the conclusion of the season, the pools will be decommissioned. This will include draining the pools, winterizing the pools, securing the pools and covering the pools.
16. The height of the pool wall will be 52 inches.
17. The water level will be approximately 4 to 6 inches below the top of the pool wall.
18. The Applicant will remove the steps to/in the pool at night.

19. The Applicant will research whether it is possible to obtain covers for the pool to be put on at night. If they are available, the Applicant will purchase and use those covers at night

Whereas, the Board has determined that it is appropriate to grant the conditional use site plan approval and variance relief; and

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 6th day of April 2022 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 3/22/22.
- (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: Richard Cummings

Seconded by: Joe Cohen

ROLL CALL VOTE

Those in favor: Joe Cohen, Mandy Cohen, Nicole Cohen, Richard Cummings, Jack Kassin

Those opposed: None

Those absent: Antebi, Zeevi

Those not voting: Sam Cohen, Kathleen Jannarone, David Simhon

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 4th day of May 2022 that the Resolution of be adopted.

Moved by: Richard Cummings

Seconded by: Joe Cohen

ROLL CALL VOTE

Those in favor: Joe Cohen, Richard Cummings

Those opposed: None

Those absent: Mandy Cohen, Nicole Cohen, Sam Cohen, Jack Kassin, Max Zeevi

Those not voting: Ruby Antebi, Kathleen Jannarone, David Simhon

The next item on the agenda is the adoption of the Resolution for 9 Wallace Road, Block 28, Lot 6 approval extension approved at the April 6, 2022 meeting.

RESOLUTION

Whereas, 8 Wallace, LLC, the record owner of the property has applied to the Planning Board of the Borough of Deal for variances at the premises located at 9 Wallace Road, Borough of Deal and known as Block 28, Lot 6 on the official tax map of the Borough of Deal which premises is located in the R-1 zone; and

Whereas, the Board granted variance approvals in September 2020; and

Whereas, due to the Covid-19 pandemic and material shortages the Applicant has been unable to commence construction pursuant to the Board's approvals; and

Whereas, the Applicant seeks an extension of the approval pursuant to the NJ Permit Extension Act of 2020 and section 30-8.6 of the Borough of Deal's ordinance; and

Whereas, the Applicant has represented that there are no changes to the plans approved by the Board; and

Whereas, the Board agrees that it is appropriate to grant the requested six-month extension permitted under section 30-8.6

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 6th day of April 2022 that the extension request is approved

Moved by: Sam Cohen

Seconded by: Kathleen Jannarone

ROLL CALL VOTE

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

Those opposed: None

Those absent: Nicole Cohen, Antebi, Zeevi, Mandy Cohen

Those not voting: None

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 4th day of May 2022 that the Resolution of be adopted.

Moved by: Joe Cohen

Seconded by: Richard Cummings

ROLL CALL VOTE

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

Those opposed: None

Those absent: Mandy Cohen, Nicole Cohen, Sam Cohen, Jack Kassin, Max Zeevi

Those not voting: Ruby Antebi

There being no further business, the meeting was adjourned.

Respectfully submitted.

Michael W. Egan
Planning Board Secretary

