

**BOROUGH OF DEAL**

**PLANNING BOARD/BOARD OF ADJUSTMENT MINUTES**

**April 25, 2023**

A regular virtual meeting of the Planning Board/Board of Adjustment of the Borough of Deal was called to order by Planning Board Attorney Erik Anderson.

FOLLOWING THE SALUTE TO THE FLAG, Stephen Carasia, Board Secretary, read the following 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: Mr. Antebi, Mrs. Jannarone, Mr. Kassin (arrived at 7:40 pm), Vice Chair J. Cohen, Chair Cummings, Commissioner Simhon, Mayor Cohen

Those Absent: Mrs. M Cohen, Mrs. N Cohen, Mrs. Mamiye, Mr. Zeevi

**MINUTES –**

A motion was made by Vice Chair J. Cohen and seconded by Commissioner Simhon that the minutes of the meeting held March 28, 2023 meeting hereby be approved as presented.

**ROLL CALL VOTE**

Ayes: Mrs. Jannarone, Vice Chair J. Cohen, Chair Cummings, Commissioner Simhon, Mayor Cohen

Nays: None

Absent: Mrs. M Cohen, Mrs. N Cohen, Mr. Kassin, Mrs. Mamiye, Mr. Zeevi

Those Not Voting: Mr. Antebi

A motion was made by Mr. Antebi and seconded by Vice Chair J. Cohen that the minutes of the meeting held April 3, 2023 meeting hereby be approved as presented.

**ROLL CALL VOTE**

Ayes: Mr. Antebi, Mrs. Jannarone, Vice Chair J. Cohen, Commissioner Simhon

Nays: None

Absent: Mrs. M Cohen, Mrs. N Cohen, Mr. Kassin, Mrs. Mamiye, Mr. Zeevi

Those Not Voting: Chair Cummings, Mayor Cohen

**CORRESPONDENCE - None**

**RESOLUTIONS-**

The first item on the agenda is the adoption of the Resolution 2023-007, 49 Norwood Avenue, Block 12 Lot 7.02. Approved at the March 28, 2023 meeting.

**RESOLUTION 2023-007**

Whereas, 49 Norwood, LLC, the record owner of the property have applied to the Planning Board of the Borough of Deal for variances at the premises located at 49 Norwood Avenue, Borough of Deal and known as Block 12, Lot 7.02 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 third-floor habitable space to the principal dwelling and converting the one-story detached garage to a two-story principal dwelling.

The proposed improvements require Planning Board approval for variances for use, building coverage, side yard setback to both dwellings and rear yard setback to the second dwelling.

A hearing was held in connection with this matter on March 28, 2023.

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 attorney is Jeffrey Dweck, Esq.
3. The Applicant presented the testimony of Jason Peist, a licensed New Jersey architect and planner.
4. The Applicant presented the following exhibits:
  - a. A-1 Affidavit of Service.
  - b. A-2 Application.
  - c. A-3 Checklist.
  - d. A-4 Architectural Drawings dated November 15, 2022.
  - e. B-1 Leon S. Avakian, Inc. engineer review letter dated 3/15/23.
5. The property has a total area of 8,594 square feet.
6. The existing lot contains a two-story single-family dwelling, with a one-story detached garage.
7. The Applicant is proposing a third-floor habitable space to the principal dwelling and converting the one-story detached garage to a two-story principal dwelling.
8. The minimum permitted lot area is 18,750 square feet. Currently existing is 8,594, which is non-conforming. No changes are proposed.
9. The minimum permitted lot frontage is 150 feet. Currently existing is 63.67 feet, which is non-conforming. No changes are proposed.
10. The minimum permitted lot width is 150 feet. Currently existing is 62.88 feet, which is non-conforming. No changes are proposed.
11. The minimum permitted lot depth is 125 feet. Currently existing is 135 feet, which is non-conforming. No changes are proposed.
12. The minimum permitted front yard setback is 50 feet. Currently existing is 46.4 feet. Applicant proposes 56 feet, which conforms.
13. The minimum permitted front yard setback to the porch is 40 feet. Currently, existing is 35.8 feet, which is non-conforming. No changes are proposed.
14. The minimum side yard setback permitted is 12.58 feet. Currently existing is 11.9 feet (north) which is non-conforming and 8.5 feet (south) which is non-conforming. Applicant proposes 11.9 feet (north) **which requires a variance**. Applicant proposes 28 feet (south) which conforms.
15. The minimum front yard setback to the second principal dwelling permitted is 50 feet. Currently existing to the garage is 109 feet, which conforms. Applicant proposes 109 feet to the proposed second dwelling.
16. The minimum permitted side yard setback to a second principal dwelling is 12.58 feet. Currently existing to the garage is 3.6 feet, which is non-conforming. Applicant proposes 3.6 feet, **a variance is required**.
17. The minimum permitted rear yard setback to a second principal dwelling is 27 feet. Currently existing to the garage is 2.5 feet, which is non-conforming. Applicant proposes 2.5 feet, **a variance is required**.
18. The maximum permitted building coverage is 20% for a second principal dwelling. Currently existing for the garage is 18.47%, which conforms. Applicant proposes 26.5% for the second dwelling, **a variance is required**.
19. The maximum permitted impervious coverage for a second principal dwelling is 40%. Currently existing for the garage is 46.12%, which is non-conforming. Applicant proposes no changes.
20. Applicant proposes to add a master suite to the attic of the existing home.
21. Applicant proposes to convert the existing detached garage to a space for recreational purposes. It will not be used as a living space.
22. The Applicant requested that the application be bifurcated and the Board, at this time, only consider the proposal relating to the main house. The Applicant will resubmitted amended plans for the detached garage for later consideration by the Board.

**Motion for bifurcation to only consider the application relating to the main home.**

Moved: Chairman Cummings

Seconded: Mrs. Jannarone

ROLL CALL VOTE

Those in favor: Mrs. Jannarone, Vice-chair Cohen, Chairman Cummings, Commissioner Simhon

Those opposed: None

Those absent: Mr. Antebi, Mrs. M. Cohen, Mrs. N. Cohen, Mrs. Mamiye, Mr. Zeevi

Those not voting: Mr. Kassin, Mayor Cohen

**Motion to approve the application for the main house only.**

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 28<sup>th</sup> day of March 2023 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 March 15, 2023.
- (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: Commissioner Simhon

Seconded by: Chairman Cummings

ROLL CALL VOTE

Those in favor: Mrs. Jannarone, Vice-chair Cohen, Chair Cummings, Commissioner Simhon

Those opposed: None

Those absent: Mr. Antebi, Mrs. M. Cohen, Mrs. N. Cohen, Mrs. Mamiye, Mr. Zeevi

Those not voting: Mr. Kassin, Mayor Cohen

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 25<sup>th</sup> day of April, 2023 that the Resolution of be adopted.

Moved by: Mrs. Jannarone

Seconded by: Vice Chair J. Cohen

## ROLL CALL VOTE

Those in favor: Mrs. Jannarone, Vice Chair J. Cohen, Chairman Cummings, Commissioner Simhon

Those opposed: None

Those absent: Mrs. M. Cohen, Mrs. N. Cohen, Mr. Kassin, Mrs. Mamiye, Mr. Zeevi

Those not voting: Mr. Antebi, Mayor Cohen

The second item on the agenda is the adoption of the Resolution 2023-008, 229 Ocean Avenue, Block 43, Lot 1. Approved at the March 28, 2023 meeting.

### **RESOLUTION 2023-008**

Whereas, Richard Haddad, the record owner of the property has applied to the Planning Board of the Borough of Deal for variances at the premises located at 229 Ocean Avenue, Borough of Deal and known as Block 43, Lot 1 on the official tax map of the Borough of Deal which premises are located in both the R-1 zone.

The Applicant is removing the existing basketball court. The improvements include an addition to the east side of the dwelling and adding a covered porch and balcony to the north side of the dwelling. The Applicant is also proposing a new front porch and walkway along the frontage of Darlington Road. The improvements to the pool area include renovations to the pool house and adding a pergola on the pool patio.

The proposed improvements require Planning Board approval for variances for front and side yard setback to principal dwelling, impervious coverage, driveway width and driveway coverage.

A hearing was held in connection with this matter on March 28, 2023.

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 attorney is Armen McOmber, Esq.
3. The Applicant presented the testimony of Antonio Scalies, a licensed New Jersey architect and Doug Clelland, a licensed New Jersey engineer and Franco Rauseo, the project manager.
4. The Applicant presented the following exhibits:
  - a. A-1 Affidavit of Service.
  - b. A-2 Affidavit of Publication.
  - c. A-3 Application.
  - d. A-4 Checklist
  - e. A-5 Property survey dated 12/2/20
  - f. A-6 Plot plan dated 3/12/21
  - g. A-7 Architectural Drawings dated January 1, 2023.
  - h. A-8 Color rendering
  - i. A-9 Color rendering
  - j. B-1 Leon S. Avakian, Inc. engineer review letter dated 3/23/23.
5. The property has a total area of 22,500 square feet.
6. The existing lot contains a 2 ½ story dwelling, with swimming pool, pool house, patio, basketball court, driveway and other amenities.
7. The Applicant is removing the existing basketball court. The improvements include an addition to the east side of the dwelling and adding a covered porch and balcony

- to the north side of the dwelling. The Applicant is also proposing a new front porch and walkway along the frontage of Darlington Road. The improvements to the pool area include renovations to the pool house and adding a pergola on the pool patio.
8. The minimum permitted lot area is 18,750 square feet. Currently existing is 22,500 which conforms. No changes are proposed.
  9. The minimum permitted lot frontage is 150 feet. Currently existing is 150 feet, which conforms. No changes are proposed.
  10. The minimum permitted lot width is 150 feet. Currently existing is 150 feet, which conforms. No changes are proposed.
  11. The minimum permitted lot depth is 125 feet. Currently existing is 150 feet, which conforms. No changes are proposed.
  12. The minimum permitted front yard setback to a dwelling (Ocean Avenue) is 50 feet. Currently existing is 45.1 feet, which does not conform. Applicant proposes 49.9 feet, **a variance is required.**
  13. The minimum permitted front yard setback to a dwelling (Darlington Road) is 50 feet. Currently existing is 50.1 feet, which conforms. Applicant proposes 48.1 feet, **a variance is required.**
  14. The minimum permitted front yard setback to the porch (Darlington Road) is 40 feet. Currently, existing is 47.4 feet, which conforms. Applicant proposes 41.08 feet, which conforms.
  15. The minimum side yard setback permitted (abutting Ocean Avenue) is 35 feet. Currently existing is 33.9 feet which is non-conforming. Applicant proposes 27.85 feet, **a variance is required.**
  16. The minimum permitted rear yard setback is 30 feet. Currently existing is 43.72 feet, which conforms. No change is proposed.
  17. The maximum permitted building coverage is 20%. Currently existing is 15.5%, which conforms. Applicant proposes 20%, which conforms.
  18. The maximum permitted impervious coverage is 40%. Currently existing is 47.8% which is non-conforming. Applicant originally proposed 54.5% impervious coverage. During the application, Applicant agreed to reduce the total impervious coverage to 50%. **A variance is required.**
  19. The minimum permitted side yard setback to a pool is 30 feet. Currently existing is 28.9 feet, which is non-conforming. No change is proposed.
  20. The minimum permitted rear yard setback to a pool is 30 feet. Currently existing is 29.9 feet, which is non-conforming. No change is proposed.
  21. All front yards must remain open and unoccupied except that a paved driveway not be exceed 20 feet in width shall be permitted provided that it does not cover in excess of 35% of the required front yard area. The Applicant is proposing a driveway width of 47 feet. **A variance is required.**
  22. The Applicant is also proposing a front yard coverage of 51.5%. **A variance is required.**
  23. In order to reduce the impervious coverage to no more than 50%, Applicant has agreed to shrink the driveway and patio by the pool.
  24. The Applicant has agreed to submitted revised plans for review and approval by Borough professionals.
  25. The height of the pergola will be 9 feet 8.5 inches.

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 28<sup>th</sup> day of March 2023 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 March 23, 2023.
- (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: Mrs. Jannarone  
Seconded by: Commissioner Simhon

#### ROLL CALL VOTE

Those in favor: Mrs. Jannarone, Mr. Kassin, Chairman Cummings, Commissioner Simhon, Mayor Cohen

Those opposed: None

Those absent: Mr. Antebi, Mrs. M. Cohen, Mrs. N. Cohen, Mrs. Mamiye, Mrs. Zeevi, Vice J. Chair Cohen

Those not voting: None

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 25<sup>th</sup> day of April, 2023 that the Resolution of be adopted.

Moved by: Mayor Cohen  
Seconded by: Commissioner Simhon

#### ROLL CALL VOTE

Those in favor: Mrs. Jannarone, Chairman Cummings, Commissioner Simhon, Mayor Cohen

Those opposed: None

Those absent: Mrs. M. Cohen, Mrs. N. Cohen, Mr. Kassin, Mrs. Mamiye, Mrs. Zeevi,

Those not voting: Mr. Antebi, Vice Chair J. Cohen

**OLD BUSINESS-** None

**NEW BUSINESS-**

A. Address: 23 Marine Place, Block 56 Lot 6

Applicant: David J. Cohen

Attorney: Ms. Jennifer Krimko

Description: The applicant is removing the detached garage and proposing a swimming pool with a cabana.

Vice Chair J. Cohen recused himself from this application due to conflict.

Attorney for the applicant, Jennifer Krimko, explained they are proposing to remove pavement, add a swimming pool, and build a smaller pool house in the general same location of where the garage is, but with much greater setbacks.

Attorney for the applicant, Jennifer Krimko, entered into evidence:

A-1 Survey by InSite Engineering Dated 10/20/22  
A-2 Plot Plan by InSite Engineering Dated 01/23/23  
A-3 Cabana Plans and Elevation by CDZ Architects LLC Dated 01/25/23  
A-4 Neighborhood Aerial by InSite Engineering  
A-5 Site Rendering by InSite Engineering

Erick Anderson, Planning Board Attorney entered into evidence:

B-1 Avakian Letter Dated 3/15/23

Erik Anderson swore in Patrick Ward in.

Patrick Ward was submitted as an engineering and planning expert by Jennifer S. Krimko, Esq.

Chair Cummings accepted him as an expert.

Patrick Ward explained the applicant is requesting is a 15x30' pool, a patio surrounding the pool that complies with the setbacks in terms of location, and a new cabana. He stated the cabana will have an equal footprint of the garage but will have greater setbacks than the garage.

Jennifer Krimko stated the impervious coverage is just over 49% right now, and with all the proposed requests they are lowering it to 48.8% and regrading it to have positive drainage where it does not have that now. She as well explained the areas they are requesting approval from the Board that do not comply with the setback requirements.

Patrick Ward stated the pool size they are proposing is considered average sized to below average sized in terms of single-family residential properties. He stated for the C2 criteria, this is an appropriate use of development as the pool and cabana are appropriate accessory uses that are permitted in this zone and in the Borough of Deal. Purpose C is all about light air and open space, and this application improves light air and open space to the area in comparison to what is it today.

Chair Cummings asked if they could reduce the pool from 30 to 25'.

Jennifer Krimko stated if the Board is willing to provide the variance for 25' on each side they will reduce it.

Commissioner Simhon commented you can improve the coverage percentage by reducing the cabana.

Chair Cummings opened the session for public comment from the neighbors. There was none.

Jennifer Krimko confirmed the application will be amended so the west side will have a 25' setback and the pool size will be reduced to 15x25'.

Chair Cummings made a motion to approve the application as amended, seconded by Mayor Cohen, and moved unanimously by all members present.

Moved by: Chair Cummings

Seconded by: Mayor Cohen

#### ROLL CALL VOTE

Ayes: Mr. Antebi, Mrs. Jannarone, Mr. Kassin, Chair Cummings, Commissioner Simhon, Mayor Cohen

Nays: None

Absent: Mrs. M Cohen, Mrs. N Cohen, Mrs. Mamiye, Mr. Zeevi

Those Not Voting: Vice Chair J. Cohen

B. Address: 103 Neptune Avenue, Block 78 Lot 8

Applicant: Ely & Sara Levy

Attorney: Ms. Jennifer Krimko

Description: The applicant is proposing a two-story addition to the rear of the dwelling a new front porch. Also, the applicant is proposing an in-ground swimming pool with a cabana and new driveway.

Attorney for the applicant, Jennifer Krimko, entered into evidence:

A-1 Survey by InSite Engineering Dated 05/12/22

A-2 Plot Plan by InSite Engineering Dated 02/02/2023

A-3 Architectural Plans by Zimble Architecture Dated 01/21/23

A-4 Aerial Exhibit by InSite Engineering

Jennifer Krimko explained this is a corner lot with some nonconformities. She stated the proposed cabana fully conforms with the requirements, and the pool requires a side-yard and rear-yard setback variance.

Erick Anderson, Planning Board Attorney entered into evidence:

B-1 Avakian Letter Dated 3/15/23

Erik Anderson swore in Patrick Ward in.

Patrick Ward was submitted as an engineering and planning expert by Jennifer S. Krimko, Esq.

Chair Cummings accepted him as an expert.

Patrick Ward explained what is being proposed is a new circular driveway, a wrap-around front porch, a two-story addition, pool, cabana, patio, landing and stairs, and window well.

Jennifer Krimko went over the setbacks throughout the proposed plans.

Patrick Ward stated this is a C1 hardship due to the property being a corner lot, there are two front yards that require a 50' setback, which then constrains the extent to which a rear yard can be developed. He as well stated it were not for it being a corner lot, they would be able to comply with side yard setbacks for the pool.

Vice Chair J. Cohen asked for the size of the pool.

Patrick Ward stated the pool is 17x33'.

Mrs. Jannarone suggested to reduce the pool size to 25'.

Vice Chair J. Cohen suggested moving the pool 5' to the west.

Jennifer Krimko stated the pool size can be reduced to 28' and move it 3' to the west, so there is a full 30' to the east side yard.

Chair Cummings opened the session for public comment from the neighbors. There was none.

Mayor Cohen made a motion to approve the application as amended, seconded by Vice Chair J. Cohen, and moved unanimously by all members present.

Moved by: Mayor Cohen

Seconded by: Vice Chair J. Cohen



ROLL CALL VOTE

Ayes: Mr. Antebi, Mrs. Jannarone, Mr. Kassin, Vice Chair J. Cohen, Chair Cummings, Commissioner Simhon, Mayor Cohen

Nays: None

Absent: Mrs. M Cohen, Mrs. N Cohen, Mrs. Mamiye, Mr. Zeevi

Those Not Voting: None

There being no further business, a motion to adjourn was made at 8:28 P.M. by Chair Cummings, seconded by Mrs. Jannarone, and moved unanimously by all members present.

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Stephen Carasia  
Board Secretary