

RESOLUTION
Borough of Union Beach
Planning Board
In the Matter of John Thomson
Application No. ____
Decided on March 18, 2019
Memorialized on April 24, 2019
Approval for Bulk Variance Relief

WHEREAS, John Thomson (hereinafter the “Applicant”) has made an application to the Borough of Union Beach Planning Board for bulk variance relief for a porch on the existing two-story single-family structure at 10 Chomic Place, also known as Block 137, Lot 2 on the Tax Map of the Borough, in the R-8 Zone; and

WHEREAS, a public hearing was conducted on March 18, 2019; and

WHEREAS, Mark Brietman, Esq. appeared on behalf of Applicant;

NOW THEREFORE, the Planning Board makes the following findings of fact, based upon evidence presented at its public hearing, at which a record was made. The Applicant is the owner of the subject property. There is a porch on the existing two-story single-family structure on the property. The porch on the proposed structure is covered. The Applicant is requesting bulk variance relief which is as follows:

1. Section 13-10.4.f.3.(a) – Minimum lot area of +/- 60 feet where 75 feet is required. **this is a pre-existing condition*
2. Section 13-10.4.f.5. – Minimum front setback of 14 feet where 20 feet is required.
3. Section 13-10.4.f.7. – Minimum side yard setback of 6 feet where 8 feet, with two combined side yards of not less than 20 feet is required.
4. Section 13-5.5.c – Unroofed entrance porches, terraces, ADA ramps, stairs and landings which do not rise above the height of the ground floor may extend up to 10 feet into any required front yard.

Mr. Graph, the construction foreman for Thomas Builders testified on behalf of the Applicant. He testified that the Ordinance has an exception that allows an unroofed porch; however, once the roof was built it created the setback nonconformity triggering the need for bulk variance relief. He further testified that the plot plan and original floorplan did not match because the original plot plan did not show the overhang. He stated that the plot plan does not match the floor plan. He also stated that the house is already built, sold and the homeowners are living in the home. Mr. Graff testified that he has built the same house in town on several other properties, but this is the first time that in error on the plot plan it was not set back far enough to permit the overhang. One member of the public, Joe Savi, who resides at 117 Henry Street, spoke in favor of the application. He stated that the application should be approved because this was missed during inspections.

NOW THEREFORE, the Planning Board makes the following conclusions of law, based upon the findings of fact.

The Applicant before the Board seeks approval for bulk variance relief to permit a covered porch on the existing two-story single-family structure at 10 Chomic Place in the R-8 Zone. There is the need for the bulk variance relief as described above.

With respect to the bulk variances, the Municipal Land Use Law, at N.J.S.A. 40:55D-70(c) provides Boards with the power to grant variances from bulk and other non-use related Ordinance requirements when the Applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the Applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An Applicant may show that exceptional topographic conditions; physical features, or other extraordinary circumstances exist

which uniquely affect the specific piece of property and limit its development potential in conformance with Ordinance requirements, such that the strict application of a regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Alternatively, under the (c) (2) criteria, the Applicant has the option of showing that in a particular instance relating to a specific piece of property, the purposes of the Act would be advanced by allowing a deviation from the Zoning Ordinance requirements and that the benefits of any deviation will substantially outweigh any detriment. These tests specifically enumerated above constitute the affirmative proofs necessary in order to obtain "bulk" or (c) variance relief. Finally, an Applicant for these variances must also show that the proposed relief sought will not cause a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. The burden of proof is upon the Applicant to establish that these criteria have been met.

Based upon the application, plans, reports and testimony placed before the Board, the Board finds that in this particular instance, the Applicant has met the requirements of the Municipal Land Use Law, case law and City ordinances so as to grant the relief requested. Pursuant to these criteria, the purposes of the Municipal Land Use Law will be advanced and the benefits of granting the relief requested clearly outweigh any detriments. The use is one that is permitted in the R-8 Zone. As noted in the report of the acting zoning official, one of the four bulk variances that are being sought are pre-existing conditions in nature, and the rest are not being significantly exacerbated. Furthermore, the uncontroverted evidence before this Board indicates there will be no substantial detriment to the public good and no substantial impairment to the intent and purpose of the zoning ordinance or Master Plan.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Union Beach that the application of John Thomson for the property located 10 Chomic Place in the R-8 Zone, also known as Block 137, Lot 2 on the Tax Map of the Borough, is determined as follows:

1. The four bulk variances as recited herein are approved pursuant to N.J.S.A. 40:55D-70(c).


IT IS FURTHER RESOLVED that the above approval is subject to the following terms and conditions:

1. The plan shall be implemented strictly in accordance with the plans submitted and approved by the Board.
2. The Applicant shall comply with all requirements and any subsequent reports with respect to this application or subsequent applications from the Board's professionals.
3. Payment of all fees, costs and escrow due or to become due. Any monies are to be paid within 20 days of said request by the Board Secretary.
4. Certification of taxes have been paid to the date of approval.
5. Prior to the issuance of any construction permit, the Applicant shall file with the Board and Construction Official, an affidavit verifying that the Applicant is in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the application and supply a copy of any approvals received.
6. A pre-construction meeting shall be held by the Applicant and the Borough officials at least one week prior to the start of construction to ensure all permits, approvals and documents are in order.

7. The Applicant shall take all appropriate measures to control any dust, dirt and any vermin during demolition work and construction of the new residential building.

8. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Union Beach, County of Monmouth, State of New Jersey or any other jurisdiction.

The undersigned secretary certifies the within decision was adopted by this Board on March 18, 2019 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on April 24, 2019.


Madeline Russo, Planning Board

FOR: *Frank Wells, moved John Moniz, recorded*
AGAINST: *None*
ABSTAIN: *Deriso, Cornaro, Hadley*

Board Member(s) Eligible to Vote: *Steiner*
 Wells Moniz Farese Andreuzzi Cavallo Wade



