

**RESOLUTION**  
**Borough of Union Beach**  
**Planning Board**  
**In the Matter of Robert Bergen**  
**Application No. 2393**  
**Decided on May 29, 2019**  
**Memorialized on June 26, 2019**  
**Approval for Bulk Variance Relief**

**WHEREAS**, Robert Bergen (hereinafter the “Applicant”) has made an application to the Borough of Union Beach Planning Board for bulk variance relief in order to construct a new single-family dwelling on property located at 309 Pine Street, also known as Block 19, Lot 10.1 on the Tax Map of the Borough, in the R-8 Residential Zone; and

**WHEREAS**, a public hearing was conducted on May 29, 2019; and

**WHEREAS**, the Applicant appeared pro se;

**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. He is seeking to build a new single-family dwelling on the lot. The Applicant needs the following bulk variance relief:

1. Section 13-10.4.f.1.(a) – Minimum lot area of 2,500 sq. ft where 7,500 sq. ft is required. *\*pre-existing*
2. Section 13-10.4.f.2.(a) – Minimum lot width of 50 feet where 75 feet is required.  
*\*pre-existing*
3. Section 13-10.4 f.3.(a) – Minimum lot frontage of 50 feet where 75 is required.  
*\*pre-existing*
4. Section 13-10.4.f.4.(a) – Minimum lot depth of 50 feet where 100 feet is required.  
*\*pre-existing*

5. Section 13-10.4.f.5 – Minimum front yard setback of 11 feet where 20 feet is required.
6. Section 13-10.4 f.6 – Minimum rear yard setback of 9.5 feet where 30 feet is required. This setback includes the rear cantilever.
7. Section 13-10.4 f.6.(b) – Minimum rear yard of 4.5 feet where 5 feet is required for the proposed uncovered rear deck.
8. Section 13-10.4 f.7 – Minimum side yard setback of 6.4 feet where 8 feet is required, with two combined side yards of not less than 20 feet are required.

*\*pre-existing*

9. Section 13-5.5 c – Unroofed entrance porches, terraces, ADA ramps, stairs and landing which do not rise above the height of the floor level of the ground floor may extend up to ten (10) feet into any required front yard.
10. Section 13-5.5 d – The total lot coverage of the square footage of the ground floors of all buildings located on a lot in any residential zone shall not exceed 25% of the total square footage of the lot as shown on the survey provided. The proposed lot coverage is  $\pm 34\%$ .

Mr. Robert Bergen was sworn in and proceeded to testify with regard to his proposal to construct a new single-family dwelling on the property in question. As noted in the April 2, 2019 report from the Zoning Official, because of the nature of the lot, there are a total of ten (10) bulk variances that are needed as part of this application. Also noted in Mr. Dayback's report, as shown on the plans provided, the uncovered front deck, entrance stairs and landings and uncovered rear deck do not meet the setback requirements as outlined in the Borough Ordinance. As a result from questions from the Board, the applicant agreed move the building footprint two

feet further away from the driveway so that it would be an 8 foot-wide side setback from the dwelling to the property line.

One member of the public, Ms. Jennifer Schlemmer, of 833 Fourth Street spoke against the application. She opposed the decks on the side facing her house.

**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 as set forth above to allow him to build a new single-family dwelling in the R-8 Residential Zone. The use is permitted in the zone. There is the need for ten (10) bulk variances 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 the Applicant has met the requirements of the Municipal Land Use Law, case law and Borough ordinances so as to grant the relief requested. The intent and purpose of the Municipal Land Use Law will be advanced and the benefits of granting the relief requested outweigh any detriments. The use is one that is permitted in the R-8 Residential Zone. As noted, five of the variances sought are for conditions that are pre-existing in nature. The benefits of the redevelopment of the property with this single-family home outweigh any minimal detriments from granting this relief. The house has been designed for this type and size of lot. Furthermore, the 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 by granting the particular bulk variance relief sought by the Applicant.

**NOW, THEREFORE, BE IT RESOLVED**, by the Planning Board of the Borough of Union Beach that the application of Robert Bergen for the property located at 309 Pine Street in the R-8 Residential Zone, requesting ten (10) bulk variances as listed above is determined as follows:

1. The bulk variance relief, as recited above, is approved pursuant to N.J.S.A. 40:55D-70(c)(1) and (2).

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

1. The development of this parcel shall be implemented in accordance with the plans submitted and approved, which show that the porch shall not be enclosed.

2. The Applicant shall comply with all requirements and any subsequent reports with respect to this application or subsequent applications.

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. Municipal Board of Health and Fire Sub Code approval, if required.


6. Prior to the issuance of any construction permit, the Applicant shall file with the Borough 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.

7. At least one week prior to the start of construction the Applicant shall meet with Borough code officials to insure all necessary permits and approvals have been secured and bonds are posted, and all fees are paid.

8. The Applicant shall take all necessary dust, vermin and noise controls during construction work on the property.

9. 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 May 29, 2019 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on June 26, 2019.

  
Madeline Russo, Planning Board

FOR:

AGAINST:

ABSTAIN:

Board Member(s) Eligible to Vote:  Steiner  Hoadley  Devino  
 Wells  Moniz  Farese  Andreuzzi  Coffey  Wade  Connors