

RESOLUTION
Borough of Union Beach
Planning Board
In the Matter of Reno Real Estate and Investment, LLC
Application No. 1960
Decided on January 30, 2019
Memorialized on February 27, 2019
Approval for Bulk Variance Relief

WHEREAS, Reno Real Estate and Investment, LLC (hereinafter the “Applicant”) has made an application to the Borough of Union Beach Planning Board for bulk variance relief tied to the construction of a new single family dwelling at 902 Lorillard Avenue, also known as Block 215, Lot 2 on the Tax Map of the Borough, in the R-8 Zone; and

WHEREAS, a public hearing was conducted on January 30, 2019; and

WHEREAS, Jeffrey Gale, Esq., appeared on behalf of the 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. He testified that he built a new residence on the existing property; but in so doing created a two foot overhang on the second floor, thus triggering the need for bulk variance relief for two feet exceedance of 20 feet where 18 feet is permitted.

There was one member of the public, Mr. William Scott of 36 Lake Drive, Ocean Township, who spoke in favor of the application.

Several members of the Board spoke in favor of the application, noting that the proposed development is consistent with the new Master Plan, and is seen as a positive development for the neighborhood.

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 for an overhang off the second floor of two feet associated with a single family

home on 902 Lorillard Avenue in the R-8 Zone. The use is permitted in the zone. There is the need for the bulk variance relief triggered by the roof overhang 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 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, the bulk variance sought was an inadvertent error in nature. The Board finds that the bulk variance requested is for a condition which is not significantly exceeding Borough Ordinance. The benefits of the redevelopment of the property and the re-occupation of this single family home outweigh any minimal detriments from granting this relief. 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 this one particular variance.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Union Beach that the application of Desktop Alert, Inc. for property located at 507 Bay Avenue in the R-8 Zone, requesting six bulk variances as listed above is determined as follows:

1. The bulk variance for the second floor overhang, as recited herein, 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.
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 approval, if required.

6. 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 January 30, 2019 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on February 27, 2019.



Madeline Russo, Planning Board