

**RESOLUTION**  
**Borough of Union Beach**  
**Planning Board**  
**In the Matter of Dale and Judith Barszewski**  
**Zoning Permit No. 2806**  
**Decided on July 29, 2020**  
**Memorialized on August 26, 2020**  
**Approval for Bulk Variance Relief**

**WHEREAS**, Dale and Judith Barszewski (hereinafter the “Applicants”) have made an application to the Borough of Union Beach Planning Board for bulk variance relief tied to the above ground swimming pool of an existing residential dwelling at 139 Campbell Street, also known as Block 61, Lot 21 on the Tax Map of the Borough, in the R-8 Residential Zone; and

**WHEREAS**, a public hearing was conducted on July 29, 2020; and

**WHEREAS**, the Applicants 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 application before the Board is seeking approval to grant bulk variance relief for an above ground pool at 139 Campbell Street in the R-8 Residential Zone. The applicant will require bulk variance relief as follows:

1. Section 13-10.4 f.1.(a) – Minimum lot area of 5,000 sqft were 7,500 sqft 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 feet is required \*pre-existing
4. Section 13-10.4 f.5.(a) – Minimum front setback of 12 feet where 20 feet is required

5. Section 13-10.4 f.7.(a) – Minimum side yard setback of 2.9 and 12.7, where eight feet, with two combined side yards of not less than 20 feet for the principal structure

6. Section 13-10.4 – Minimum side and rear yard setback of five (5) feet for an accessory structure. The setback for the existing pool deck is unclear, however its is less than five (5) feet.

7. Section 13-8.21 (f) – a wall for an outdoor private swimming pool shall not be located less than six (6) feet from any rear or side property line or ten (10) feet from any street property line, nor closer than six (6) feet from the side or rear of the residence on a building lot. The setback for the pool is unclear, however it is less than six (6) feet.

8. Section 13-8.21 (g) – The pump of a filtration or pumping station of a private swimming pool shall be located not less then ten (10) feet from any side or rear property line.

9. 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 25.7%  
\*pre-existing

The bulk variance relief sought was reflected in the June 3, 2020 letter from Dennis Dayback, Zoning Official, that is part of the administrative record before the Board.

The witnesses were the Applicants, who own the subject property. The Applicants represented to the Board that notice was given to the neighbors and they do not object to the location of the pool. The Applicants agreed to a condition that the pool be inspected by the requisite code enforcement officials for their approval. They also agreed to a condition that if the pool is replaced at some subsequent point in time that they would secure a permit for the installation of any new pool as a replacement.

No members of the public spoke concerning the application.

Several members of the Board spoke in favor of the application with the conditions as agreed to by the Applicants.

**NOW THEREFORE**, the Planning Board makes the following conclusions of law, based upon the findings of fact. The Applicants before the Board seeking approval for bulk variance relief to permit an above ground pool to remain in its current location at 139 Campbell Street in the R-8 Residential Zone. The use is permitted in the zone. There is the need for the bulk variance relief as described previously.

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 Applicants satisfy certain specific proofs which are enunciated in the Statute. Specifically, the Applicants may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. Applicants 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 Applicants have 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, Applicants 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 Applicants 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 Applicants have 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 Residential Zone. As noted, the bulk variance relief sought will permit the above ground pool to remain in its current location. Based on the record before the Board, the benefits outweigh the minimal detriments from granting this relief. Furthermore, the evidence before this Board indicates there will be no detriment to the public good and no substantial impairment to the intent and purpose of the zoning ordinance or Master Plan by granting this particular bulk variance relief in this particular case.

**NOW, THEREFORE, BE IT RESOLVED**, by the Planning Board of the Borough of Union Beach that the application of Dale and Judith Barszewski for property located at 139 Campbell Street in the R-8 Residential Zone, requesting nine (9) bulk variances as listed above is determined as follows:

1. The nine (9) bulk variances, as recited herein, are 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 strictly 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. Any relocation of the pool, or replacement, shall require the Applicants to get all new permits and approvals.

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. The Applicants will arrange for the pool to be inspected by Borough Code Officials. Copies of all Municipal sub-code permits are to be provided to the Board Attorney.

6. The location of this above ground pool shall remain strictly in its present location in accordance with the plans submitted to the Planning Board and its professionals and approved by the Borough Engineer.

7. The Applicants shall comply with all directives of all Borough Code Officials.

8. The Applicant must post performance guarantees and inspection fees with the Borough, as requested.

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 July 29, 2020 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on August 26, 2020.

  
Madeline Russo, Planning Board

FOR: 17  
AGAINST: 0

ABSTAIN: 03

Board Member(s) Eligible to Vote:

*Connors, Devino, Hoedley, Andreuzzi,  
Cavalli, Wade and Hallom*