

RESOLUTION
Borough of Union Beach
Planning Board
In the Matter of Cheryl Mara
Decided on October 26, 2022
Memorialized on November 30, 2022
Bulk Variance Relief

WHEREAS, Cheryl Mara (hereinafter the “Applicant”) has made an application to the Borough of Union Beach Planning Board for bulk variances on the property located at 611 Poole Avenue, also known as Block 124, Lot 11 on the Tax Map of the Borough, in the R-8 Residential Zone; and

WHEREAS, a public hearing was conducted at Borough Hall Council Chambers on October 26, 2022;

WHEREAS, the Applicant appeared Pro Se; and

WHEREAS, the Application was deemed complete and evidence of compliance with the notice requirements was presented establishing that the Board has jurisdiction over the Application.

NOW THEREFORE, the Board makes the following findings of fact, based upon evidence presented at its public hearing, at which a record was made.

The Applicant propose to renovate the existing detached garage on a non-conforming residential lot. The application requires the following bulk variances:

- a. Section 13-5.8 (b) – Accessory buildings shall not exceed 16 feet in height to the peak of the roof, whereas 20’2” is proposed.
- b. 13-10.4 f.2.(a) – Minimum lot width of 50.06 feet where 75 feet is required.
(*pre-existing condition)
- c. Section 13-10.4 f.3.(a) – Minimum lot frontage of 50.06 feet where 75 feet is

required (*pre-existing condition)

- d. Section 13-10.4 f.7 – Minimum side yard setback of 5.7 feet and 7.4 feet where a minimum of 8 feet with a total of 20 feet is required
- e. Section 13-10.4.f.7(b) – Minimum side yard setback of 1.7 feet where five is required for accessory building (*pre-existing condition)

The Applicant was sworn in and provided a brief synopsis of the application and the bulk variance relief being sought. The Applicant testified that she would like to add an addition on top of her garage for storage. She stated that when the storms come in and out she gets a lot of water. She wants to build up so she can store tools in case of storms. Mr. Denbigh asked if she is just going up, not expanding the existing footprint. The Applicant stated that she not expanding the footprint, she just wants to go up 8 feet. She testified that she has band saws and items that need to be stored there. Mr. Denbigh asked if any utilities would be run. The Applicant stated that probably electric would be run but no heating or air conditioning. Ms. Sweeney asked if the stairs would be interior. The Applicant confirmed that the stairs would be on the interior coming in from the back. Mr. Connors asked about plumbing. The Applicant stated that there would be no plumbing and would not be a residential use at all. Ms. Sweeney asked again about livable space. The Applicant stated that this would not be a livable space. Ms. Sweeney stated she understood that The Applicant would not use it as livable space but asked about the future. Mr. Murray asked if there would be a window on the second floor. The Applicant confirmed that there will be a window on the second floor. Mr. Coffey asked about sliding doors. Ms. Mara stated that there will be no sliding glass doors.

NOW, THEREFORE, the Board makes the following conclusions of law based on the foregoing findings of fact. The Applicant is seeking approval to renovate the existing garage

requiring bulk variance relief as described above.

Under the Municipal Land Use Law, N.J.S.A. 40:55D-70(c), the Board has the power to grant variances from bulk and other non-use related Ordinance requirements when the Applicant satisfy 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. Applicant may show that exceptional topographic conditions, physical features, or other extraordinary circumstances exist which uniquely affect the specific piece of property and limited 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 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, 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 have met the requirements of the Municipal Land Use Law, case law and Borough 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 from granting the

relief requested clearly outweigh the detriments. The use is permitted.

The Applicant has demonstrated that the proposed bulk variance relief is not going to significantly impact in an adverse manner the use and enjoyment of surrounding properties. The Applicant has agreed that the renovation will not create livable space with no plumbing.

The evidence before the Board indicates that in this particular instance, bulk variance relief can be granted given that some of the variances requested are for existing conditions that are not being significantly exacerbated by the proposed renovation. The Board hereby finds that granting this relief will allow for the proposed renovation to be built without any substantial detriment to the public good or in a manner that is contrary to the intent and purpose of the Master Plan or Zoning Ordinance of the Borough.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Union Beach that the application of Cheryl Mara for the property located at 611 Poole Avenue, also known as Block 124, Lot 11 on the Tax Map of the Borough, is determined as follows:

1. 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 implementation of 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. This is an ongoing obligation of the Applicant.

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 seek approval or letter of no interest from the Monmouth County Planning Board.
8. The Applicant shall take all appropriate measures to control any dust, dirt and noise during construction/work conducted on the premises.
9. The construction shall not result in any additional livable space in the garage or at the subject property. No plumbing shall be installed in the garage.
10. 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 October 26, 2022 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on November 30, 2022.

Laurette Wade, Secretary, Planning Board

FOR:

AGAINST:

ABSTAIN:

Board Member(s) Eligible to Vote:

Sweeney Cavallo Andreuzzi Connors Wells

Coffey Hoadley Devino Hallam Murray