

RESOLUTION
Borough of Union Beach
Planning Board
In the Matter of Richard and Elizabeth Randolph
Zoning Permit No. 2768
Decided on May 27, 2020
Memorialized on June 24, 2020
Approval for Bulk Variance Relief

WHEREAS, Richard and Elizabeth Randolph (hereinafter the “Applicants”) have made an application to the Borough of Union Beach Planning Board for bulk variance relief tied to the proposed addition of a deck on the upper floor of an existing residential dwelling at 911 Second Street, also known as Block 23, Lot 16 on the Tax Map of the Borough, in the R-8 Residential Zone; and

WHEREAS, a public hearing was conducted on May 27, 2020; 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 application before the Board is seeking approval to install a deck onto the second story of an existing structure located at 911 Second Street in the R-8 Residential Zone. The applicant will require bulk variance relief as follows:

1. Section 13-10.4 f.5.(a) – Minimum front setback of 9.76 feet where 20 feet is required; this is a pre-existing condition;

2. Section 13.10.4 f.7.(a) – Minimum side yard setback of 3.14 and 51.80 where 8 feet with two combined side yards not less than 20 feet is required; this is a pre-existing condition; and

3. Section 13-4.1(b) – Any nonconforming residential and accessory buildings now existing can be enlarged, extended or increased in size as long as the enlargement does not

violate front, side, rear yard, height and total lot coverage regulations for the zone in which the building(s) exist(s) and does not continue an existing violation of front, side or rear yard setback(s), or height limitation(s), further in the direction where the extension does not violate the setback regulation.

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

The first and only witness was Elizabeth Randolph, who owns the subject property with her husband. She proceeded to describe the proposed installation of the deck which would extend from the second floor of the residential dwelling. She testified that it does not compromise the structure of the house. She agreed to a condition that there would be no stairs to interconnect this deck to the lower deck, since such a connection would not be permitted. The deck dimensions are strictly limited to the six feet by twelve feet area as described in the application and as testified to by Mrs. Randolph. Any deck which exceeds the dimensions will be considered illegal and would require the Applicants to remove any section of the deck exceeding these dimensions. There were no objections raised in the report from Mr. Dayback or from the Board's professionals.

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 Mrs. Randolph.

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 install a second story deck onto an existing structure at 911 Second 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 three 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 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 facilitate the installation of the deck on the second floor of the building. 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.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Union Beach that the application of Richard and Elizabeth Randolph for property located at 911 Second Street in the R-8 Residential Zone, requesting three bulk variances as listed above is determined as follows:

1. The three 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.
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 sub-code and Board of Health approval.

6. Monmouth County Soil Conservation District approval. (If necessary.)

7. The development of this parcel shall be implemented strictly in accordance with the plans submitted to the Planning Board and its professionals and approved by the Borough Engineer.

8. Prior to the issuance of any construction permit, the Applicant shall file with the Borough construction official an affidavit verifying the applicant is in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the application and supply copy of any approvals received.

9. At least seven days before any construction, a pre-construction meeting shall be held including municipal representatives, the Applicant, and their contractors. The meeting shall be held only after the engineer's opinion of probable cost has been submitted to the Borough for computation of engineering and inspection fees, the form of which is to be approved by the Borough Engineer.

10. The Applicant shall comply with all directives of the Borough Fire Official.

11. The Applicant must post performance guarantees and inspection fees with the Borough, as requested, prior to the beginning of any on site-construction activities.

12. 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 27, 2020 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on June 25, 2020.

Madeline Russo
Madeline Russo, Planning Board

FOR: *Ms. Hoadley moved Mr. Moriz, seconded motion*

AGAINST: 0

ABSTAIN: 0

Board Member(s) Eligible to Vote: *Coxner, Moriz, Deriso, Hoadley and
Coyallo*