

RESOLUTION
Borough of Union Beach
Planning Board
In the Matter of Harry Hoff
Application No. 2287
Decided on November 28, 2018
Memorialized on January 30, 2019
Approval for Bulk Variance Relief

WHEREAS, Harry Hoff (hereinafter the “Applicant”) has made an application to the Borough of Union Beach Planning Board for bulk variance relief to construct a single-family home at 401 Union Avenue, also known as Block 203, Lot 1, on the Tax Map of the Borough, in the R-8 Zone; and

WHEREAS, a public hearing was conducted on November 28, 2018; 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. The Applicant is seeking approval for the construction of a single-family house on a non-conforming corner lot. In a letter dated October 26, 2018, the zoning official issued a denial and referred the Applicant to the Board. The Applicant requires the following bulk variance relief:

1. Section 13-10.4.f.1.(b) – Minimum lot area of $\pm 3,600$ sq. ft. where 10,000 sq. ft. is required. **pre-existing*
2. Section 13-10.4.f.2.(b) – Minimum lot width of 40 feet on Union Avenue and 90.20 feet on Bayview Avenue where 100 feet is required on both fronts. **pre-existing*
3. Section 13-10.4.f.3.(b) – Minimum lot frontage of 40 on Union Avenue and 90.20 feet on Bayview Avenue where 100 feet is required on both fronts. **pre-existing*
4. Section 13-10.4.f.4.(b) – Minimum lot depth of 90.20 feet on Union Avenue and 40 feet on Bayview Avenue where 100 feet is required on both fronts. **pre-existing*

5. Section 13-10.4.f.7 – Minimum front setback of 6 feet on Bayview Avenue where 20 feet is required.
6. Section 13-5.5c – Unroofed entrance porches, terraces, ADA ramps, stairs and landings which do not rise above the height of the floor level of the ground floor may extend up to 10 feet into any required front yard.

The Applicant was the sole witness appearing without benefit of counsel. He testified that the new home would be approximately 30 square feet smaller than the old house. The roof would extend slightly over the front deck. There would be no overhang. The house would have vinyl siding. There were no objections to the bulk variances in the report from the zoning officer.

There were no members of the public who spoke in favor or against the subject application.

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 described above to construct a new single-family home at 401 Union Avenue in the R-8 Zone. The use is permitted in the zone.

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 outweighs any detriments. The use is one that is permitted in the R-8 Zone. As noted in the report of the zoning official, 4 of the 6 bulk variances that are being sought are for pre-existing conditions which are not being significantly exacerbated. Furthermore, the evidence before this Board indicates that the bulk variance relief needed for the proposed single-family residence will not cause a substantial detriment to the public good and no substantial impairment to the intent and purpose of the zoning ordinance or Master Plan of the Borough.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Union Beach that the application of Harry Hoff for property located at 401 Union Avenue, known as Block 203, Lot 1 on the Tax Map of the Borough is determined as follows:

1. The requested bulk variances as recited herein for the construction of a new single-family dwelling 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 plan shall be implemented strictly in accordance with the plans submitted and approved by the Board from Thomas C. Finnegan dated October 15, 2018 and Chris J. Porrino dated September 9, 2018.

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.

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 meeting shall be held at least one week prior to the start of construction work by the Applicant and the Borough officials to ensure all permits, approvals and documents are in order.

7. 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 November 28, 2018 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on December 17, 2018.

Madeline Russo, Planning Board

FOR:

AGAINST: 0

ABSTAIN: 0

Board Member(s) Eligible to Vote:

____ Steiner ____ Wells ____ Moniz ____ Devino ____ Farese ____ Andreuzzi ____ Cavallo
____ Wade ____ Coffey ____ Connors ____ Hoadely