

RESOLUTION
Borough of Union Beach
Planning Board
In the Matter of 814 Park Avenue Corporation
Application No. 2090
Decided on October 31, 2018
Memorialized on November 28, 2018
Approval for Bulk Variance Relief

WHEREAS, 814 Park Avenue Corporation (hereinafter the “Applicant”) has made an application to the Borough of Union Beach Planning Board for bulk variance relief to construct a new single-family dwelling at 920 Eighth Street, also known as Block 41, Lot 6, on the Tax Map of the Borough, in the R-8 Zone; and

WHEREAS, a public hearing was conducted on October 31, 2018; and

WHEREAS, the Applicant was represented by Jeffrey Gale, Esq.

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 proposes to build a new residence to be constructed on the pre-existing non-conforming residential lot located in the R-8 Zone. The pre-existing home was damaged beyond repair by Superstorm Sandy and was demolished. The Applicant is requesting bulk variance relief as follows:

1. Section 13-10.4 f.1.(a) — Minimum lot area of 2,500 square feet where 7,500 square feet is required **this is a pre-existing condition*
2. Section 13-10.4 f.2.(a) — Minimum lot width of 25 feet where 75 feet is required **this is a pre-existing condition*
3. Section 13-10.4 f.3.(a) — Minimum lot frontage of 25 feet where 75 feet is required **this is a pre-existing condition*
4. Section 13-10.4 f.3a — Minimum rear setback of 29 feet where 30 feet is required

5. Section 13-10.4 f.7 — Minimum side yard setback of 3/3 feet where two combined side yards of not less than 20 feet is required **pre-existing setback*
6. Section 13-5.5 d. — All buildings on a residential lot shall not exceed 25 percent of the total lot square footage of the lot, 38.76 lot coverage proposed

The first witness for the applicant was Mr. Richard Heuser, licensed surveyor, planner and engineer, who was sworn in and accepted as an expert in all 3 fields. He proceeded to testify with regard to the proposed new residential dwelling. He testified that he had surveyed the area and noted the number of similar dwellings on lots of this size. He stated that there were adequate grounds under both the (c)(1) and (c) (2) criteria of Section 70 of the Municipal Land Use Law to grant the requested bulk variance relief. He saw no detriment to the use and enjoyment of surrounding properties since this was a permitted use. He testified that in his opinion the relief sought was not contrary to existing development in the area. He noted that there would be 2 parking spaces off street, one in the garage and one in the driveway.

The next witness was Jeffrey Dunn who is with JSD properties and will be the developer of the new home. He stated that the ground level would be used only for parking and storage, and not as residential space. As to the one side of the home with no windows, the applicant has to confirm that this complies with the fire code, and if not, install windows as necessary.

Two residents, Elizabeth Sweeney and Peter Zelinski, spoke against the project as being too big for the lot and the area as a whole. One other resident, Joe Savi, spoke in favor of it.

The Board, after addressing the concerns raised by the residents, conducted a short discussion with the applicant, who agreed to a slight reduction in the building footprint to 48 by 17 feet, thus eliminating the need for the rear setback bulk variance, and the requested side yard

variances have been amended to be four (4) feet on either side, as opposed to three (3) feet on either side, where the two combined side yards of not less than twenty (20) feet is required.

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 construct a new single-family home on 920 Eighth Street in the R-8 Zone. The use is permitted in the zone. There is the need for the five bulk variances 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 in the report of the zoning official, the five bulk variances that are being sought are pre-existing conditions in nature. The Board finds that the bulk variances requested are for pre-existing conditions which are not being significantly exacerbated. The benefits of the redevelopment of the property and the construction of a new 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.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Union Beach that the application of 814 Park Avenue Corporation for property located at 920 Eighth Street, known as Block 41, Lot 6 on the Tax Map of the Borough is determined as follows:

1. The applicant, having withdrawn the request for the rear set back variance, the five (5) remaining bulk variances as set forth above 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 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.

4. Certification of taxes have been paid to the date of approval.

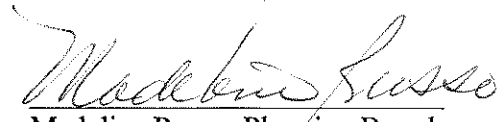
5. Prior to the issuance of any construction permit, the Applicant shall file with the Board and Construction Official, an affidavit verifying that the Applicant is in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the application and supply 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 take all appropriate measures to control any dust, dirt and any vermin during construction of the building in question.

8. 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 31, 2018 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on November 28, 2018.


Madeline Russo, Planning Board

FOR: *Councilman Andreuzzi Seconded: Mrs Wade*
AGAINST: 0
ABSTAIN:

Board Member(s) Eligible to Vote:

Y Steiner Y Wells AP Moniz Y Devino ✓ Farese Y Andreuzzi ✓ Cavallo
Y Wade ✓ Coffey Y Connors Y Hoadely