

**RESOLUTION**  
**Borough of Union Beach**  
**Planning Board**  
**In the Matter of Juliya Bogdonova and Derek Cannon**  
**Zoning Permit No. 3050**  
**Decided on March 31, 2021**  
**Memorialized on April 28, 2021**  
**Approval for Minor Subdivision and Bulk Variance Relief**

**WHEREAS**, Juliya Bogdonova and Derek Cannon (hereinafter the “Applicants”) have made an application to the Borough of Union Beach Planning Board for minor subdivision and bulk variance relief to permit the rehab of an existing house on Lot 4 and construction of a new single-family home on Lot 5, at 1209 Patterson Avenue, in the R-8 Residential Zone; and

**WHEREAS**, a public hearing was conducted on March 31, 2021; and

**WHEREAS**, the Applicants appeared without legal counsel;

**NOW THEREFORE**, the Planning Board makes the following findings of fact, based upon evidence presented at its public hearing which was conducted remotely in accordance with DCA/DLGS guidelines, at which a record was made. The Applicant before the Board is seeking minor subdivision bulk variance relief to rehab an existing house and construct one new houses on separate lots that would be 75 feet by 100 feet in the R-8 Residential Zone. The current Lot 4 is 100 feet by 100 feet; Lot 5 is currently 50 feet by 100 feet. The applicant requires bulk variance relief for Lot 5 as follows:

1. Section 13-10.4 f.1.(a) – Minimum lot area of 7,500 sq. ft. where 10,000 sq. ft. is required.
2. Section 13-10.4 f.2.(a) – Minimum lot width of 75 feet where 100 feet is required.
3. Section 13-10.4 f.3.(a) – Minimum lot frontage of 75 feet along Patterson Avenue where 100 feet is required.

Ms. Bogdonova was sworn in and testified on behalf of herself and Mr. Cannon; they both appeared virtually in accordance with DCA regulations. Ms. Bogdonova was sworn in and gave testimony as to the ownership of the two Lots, Lot 4 which is 100 x 100, and Lot 5 which is 50 x 100. The Applicants are proposing to take 25 feet away from Lot 4 and increase Lot 5 with that 25 feet. The witness introduced a color-coded map of the area showing the number of undersized lots; there were 12 Lots that were 50 x 100 and 3 Lots that were 75 x 100. Most of the Lots in the area were 50 x 100. The Applicants propose to rehabilitate the existing house on Lot 4 and build a new house on Lot 5. Variance relief all applies to Lot 5.

Several members of the Board asked questions with regard to the ownership of the property and to confirm that they were indeed two separate tax lots. The witness responded that there had been two lots for many years and they had been verified by the surveyor and the County as two separate tax lots. The witness was not able to confirm whether there had been a prior house on Lot 5 of the property; to the best of her knowledge there had not. The Applicant also stated that they would not be living in either residences. As noted by several members of the Board, the proposed re-drawing of the subdivision as proposed is atypical from a minor subdivision; in this case the lot lines being relocated to make one of the lots more conforming than at present.

There were no members of the public appearing virtually or in person wishing to ask any questions of the Applicants or of the Board and its professionals.

The bulk variance relief sought was reflected in the letters from Dennis Dayback, Zoning Official, that are part of the administrative record before the Board.

**NOW THEREFORE**, the Planning Board makes the following conclusions of law, based upon the findings of fact. The Applicant before the Board seeking approval for minor

subdivision and bulk variance relief to permit the rehab of an existing house on Lot 4 and construction of a new single-family home on Lot 5 at 1209 Patterson Avenue in the R-8 Residential Zone. The use is permitted in the zone. There is the need for the 3 bulk variances as described above for Lot 5.

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 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. The 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, 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 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 Residential Zone. As noted, the bulk variance relief sought will permit the rehab of the house on Lot 4 and a home to be constructed on Lot 5 in a suitable location. The proposed lot sizes are consistent with the area. 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 substantial detriment to the public good and no substantial impairment to the intent and purpose of the zoning ordinance or Master Plan by granting this minor subdivision and 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 Juliya Bogdonova and Derek Cannon for property located at 1209 Patterson Avenue in the R-8 Residential Zone, requesting minor subdivision and three (3) bulk variances as listed above is determined as follows:

1. Minor subdivision is approved pursuant to N.J.S.A. 55-D-47;
2. The three (3) 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 Applicants shall comply with all requirements and any subsequent reports with respect to this application or subsequent applications. Any relocation of either residence 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 rehab of the existing house on Lot 4 and the construction of the home to be inspected and permits issued by Borough Code Officials.

6. The location of the home on Lot 5 shall be 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 Applicants must post performance guarantees and inspection fees with the Borough, as requested.

9. The Applicants shall take all appropriate dust and vermin control during the construction of each.

10. Monmouth County Planning Board approval (if necessary).

11. The Applicant shall comply with the recommendations in the reports from Borough departments and the reports from T&M Associates, to the extent that said recommendations were not already addressed through testimony; the conditions included in these reports are incorporated herein by reference.

12. Municipal sub-code approvals.

13. Prior to the issuance of any construction permit, the Applicants shall file with the Board and with the City construction official an affidavit verifying the Applicants are 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.

14. The Applicants shall prepare and submit to the Planning Board for the Borough Engineer's review and approval legal metes and bounds descriptions of any dedications, utility easements and drainage easement grants that are necessitated by this approval.


15. At least seven days before any construction, a pre-construction meeting shall be held including municipal representatives, the Applicants, its engineers and contractors. The meeting shall be held only after the engineer's opinion of probable cost has been submitted to the municipality for computation of engineering and inspection fees, the form of which is to be approved by the Zoning Officer.

16. The Applicants shall comply with all directives of the Borough Fire Official.

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

18. 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 March 31, 2021 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on April 28, 2021.

  
Madeline Russo, Planning Board

FOR:

AGAINST:

ABSTAIN:

Board Member(s) Eligible to Vote: *Coxsors, Wells, Coffey, Wade,  
Deriso, Sweeney, Andruzzi & Castello*