

**RESOLUTION**  
**Borough of Union Beach**  
**Planning Board**  
**In the Matter of Harry Hoff**  
**Zoning Application No. 3494**  
**Decided on July 27, 2022**  
**Memorialized on August 31, 2022**  
**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 permit the construction of a single-family home at 340 Park Avenue, also known as Block 148, Lot 10 on the Tax Map of the Borough, in the R-8 Residential Zone; and

**WHEREAS**, a public hearing was conducted on July 27, 2022 at the Borough Hall Council Chambers after the Board determined it had jurisdiction; 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 which was conducted in person, at which a record was made. The Applicant is before the Board seeking bulk variance relief to build a single-family four-bedroom home on property at 304 Park Street in the R-8 Residential Zone. The use is permitted.

The Applicants require six (6) bulk variances as follows:

1. Section 13-10.4 f.1.(a) -Minimum lot area of 2,500 sqft where 7,500 sqft is required (pre-existing condition)
2. Section 13-10 .4 f.2.(a)-Minimum lot width of 25 feet where 75 feet is required (pre-existing condition)
3. Section 13-10.4 f.3.(a) -Minimum lot frontage of 25 feet where 75 feet is required (pre-existing condition)

4. Section 13-10.4 f.7 -Minimum side yard setback of 5 feet and 3 feet where 8 feet with two combined yards of not less than 20 feet is required. pre-existing setback of 2.4 feet and 6.3 feet.
5. 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, 835 square feet proposed where 625 square feet is required. pre-existing building is 673 square feet.
6. Section 13-5.5 (c) - Unroofed entrances, 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 the front yard. The proposed front stairs extend 16 feet into the front yard.

The bulk variance relief sought was reflected in a letter from Dennis Dayback, Zoning Official, dated March 10, 2022 that is part of the administrative record before the Board.

Mr. Hoff appeared without legal counsel and served as the only witness to this application. Mr. Hoff was sworn in. He stated there the existing house is a single-story, single-family home that had been damaged by Hurricane Sandy. It was his intention to demolish the existing structure and build a new and more conforming elevated home. The first rendering he put before the board proposed a house with four bedrooms and four bathrooms. It would have a 20-foot set front set back a rear setback of 30 feet right side set back of four feet and the left side of four feet with a combined side set back of eight feet where 20 feet is required. There would also be two off street parking spaces. He stated that bulk variance was not needed for the front steps since they were pulled back to being compliance. He also testified the proposed lot coverage would be 33.2% were 25% is permitted. He described the proposed structure as being a four-bedroom, four bathroom house with one bedroom on the bottom and an office on the first floor of the structure, and upstairs

three bedrooms and two bathrooms. Mr. Dayback, Board Zoning Officer who was sworn in at the outset of the hearing, noted that the house is significantly larger than the existing one and that the lot coverage exceeds what is allowed. Concerns were raised by members of the Board as to the ability of a firefighter to gain access to the rear of the property when the side yards were only four feet in nature. Mr. Hoff responded to the request to consider doing the side yards at five feet and three feet and felt that narrowing the house to 16 feet in width would not be practical.

At this point the Board opened the hearing to members of the public. Miss Robin Lowery, of 317 Central Avenue, was sworn in. She expressed concerns about the location of the proposed deck because it is close to her property. She noted the size of the proposed structure is longer than what is currently present. Mr. Hoff offered a way of reducing the impact by changing the steps to the deck. Kendra Lelie, Board planner, who was sworn in and qualified, also raise questions with regard to the percentage of coverage by comparing the existing to the proposed, which was significantly greater. Miss Sweeney asked questions to the Applicant about the size of houses in the surrounding area. Mr. Hoff responded there were only three lots of this size and dimension, and that all the houses in the area are two stories high, some have been raised some have not.

At this point the Applicant presented an alternative design to the one that had been presented. The revised design down scaled the building to a three-bedroom, three-bath home with a 28-foot front set back. Upon request to the Board Planner Mr. Hoff agreed to move the house to a 20-foot front set back. It would still leave a single car driveway with a one car garage. He also agreed to increase the rear yard setback to 38 feet with the steps 20 feet from the rear line and with a four foot side yard setback on each side. Several members of the Board spoke favorably with regard to the alternative design. It was ultimately decided to keep the four feet side yard setbacks on each side of the proposed residence.

Noting that it is a permitted use in the R-8 Zone. Mr. Hoff testified that he did not believe it would impair the intent and purpose of the Master Plan of the Borough. As it pertains to the bulk variances, he said that the Board had the latitude to grant either as a C-1 or C-2, variance, arguing that, under C-2 the sites specific use would be advanced by the deviation since it was a permitted use in the zone. Otherwise, in his opinion the land could not be utilized and would result in inverse condemnation. He agreed to have the plans changed to reflect 30 foot to the collar tie. There were no other members of the public wishing to speak regarding the testimony proffered by the Applicant, or to address the Board for or against the application.

**NOW THEREFORE**, the Planning Board makes the following conclusions of law, based upon the findings of fact. The Applicant is before the Board seeking approval for bulk variance relief to allow the construction of a new single-family house at 340 Park Avenue in the R-8 Residential Zone. The use is permitted in the zone. There is the need for five (5) bulk variances as described above. A bulk variance for the outside stairs is not required due to the change in the size of the house and the stair location.

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. 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 in this particular case 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 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 proposed house to be constructed in a suitable location on the Lot in question. Based on the record before the Board, the benefits outweigh the detriments from granting this relief. Three bulk variances are for pre-existing conditions that cannot be acclimated. 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 bulk variance relief in this particular case. By downscaling the proposed house the Applicant has brought it closer in size to numerous other houses in the immediate area and lessened any potential impact on the use and enjoyment of surrounding properties. The reduced helps address the concerns raised with the original design and

still provides a new home that is more compatible to the existing homes and reduces the amount and scope of variance relief.

**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 340 Park Avenue in the R-8 Residential Zone, requesting five (5) bulk variances as listed above is determined as follows:

1. The five (5) 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. Any relocation of the proposed residence shall require the Applicant to return to this Board for amended bulk variance approval.
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 Applicant will arrange for the proposed dwelling to be inspected and permits issued by Borough Code Officials.
6. The location of this dwelling shall be in accordance with the plans submitted to the Planning Board and its professionals and approved by the Borough Engineer.
7. The Applicant shall comply with all directives of all Borough Code Officials.

8. The Applicant must post performance guarantees and inspection fees with the Borough, as requested, before starting construction on the dwelling.

9. The Applicant shall take all appropriate noise, vermin and dust control measures during the demolition of the existing home and construction of the new dwelling.

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 July 27, 2022, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on August 31, 2022.

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Laurette Wade, Secretary, Planning Board

FOR:

AGAINST:

ABSTAIN:

Board Member(s) Eligible to Vote:

Sweeney  Cavallo  Andreuzzi  Connors  Wells

Coffey  Hoadley  Devino  Hallam  Murray