

RESOLUTION
Borough of Union Beach
Planning Board
Zoning Permit No. 3149
In the Matter of John and Nancy Curtis
Decided on February 23, 2022
Memorialized on March 30, 2022
Approval for Bulk Variance Relief

WHEREAS, John and Nancy Curtis (hereinafter the “Applicant”) have made an application to the Borough of Union Beach Planning Board for bulk variance relief to permit the construction of an enclosed breezeway, to permit the renovation of the kitchen and downstairs bathroom and to allow for the installation of a bathroom on the second-floor on the property located at 1129 Florence Avenue, also known as Block 60, Lot 19 on the Tax Map of the Borough, in the R-8 Residential Zone; and

WHEREAS, a public hearing was conducted on February 23, 2022 and via Zoom; 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 before the Board seeking bulk variance relief to permit the construction of an enclosed breezeway, to permit the renovation of the kitchen and downstairs bathroom and to allow for the installation of a bathroom on the second-floor on the property located at 1129 Florence Avenue in the R-8 Residential Zone.

The Applicant requires three bulk variances as follows:

1. Section 13-10.4(f) .5. (a) minimum front setback at 15 feet where 20 feet is required;
2. Section 13-10.4(f) .6. minimum side yard setback of 2.8 feet and 18.7 where a minimum of 8 feet and a total of 20 feet is required *pre-existing; and

3. Section 13-4.1 no nonconforming building shall be enlarged, extended, or increased.

The bulk variance relief sought was reflected in a letter from Dennis Dayback, Zoning Official, dated April 27, 2021, that is part of the administrative record before the Board.

A hearing was held on this application at the February 23, 2022 meeting of the Board. John Curtis, Nancy Curtis and their contractor, Curtis Reilly, appeared on behalf of the Applicant before the Board without counsel and were sworn in. The Applicant is requesting a variance to construct an enclosed breezeway, to renovate the kitchen and downstairs bathroom and to install a bathroom on the second-floor at the property located at 1129 Florence Avenue in the R-8 Residential Zone. A bulk variance required is for minimal front setback where 15-foot plus or minus is proposed and 20-feet is required; for minimum side yard setback of 2.8 feet and 18.7 where a minimum of 8 feet and a total of 20 feet is required *pre-existing; and because no nonconforming building shall be enlarged, extended, or increased. Mr. Reilly stated that a dormer will be built to accommodate the 2nd floor bathroom. The breezeway will contain the washer and dryer and maybe some shelving. Mr. Reilly testified that there will be no increase in size for the deck but they will be updating it. Mr. Connors asked if the garage staying a garage. Mr. Curtis, Mrs. Curtis and Mr. Reilly all stated that it will remain as a garage. Councilman Andreuzzi asked if the garage will have heat. Mr. Reilly stated that the garage will not have heat and Mrs. Curtis testified that there are no plans to make the garage a room.

There were no members of the public at this hearing wishing to ask any questions or expressing an opinion for or against the application.

NOW THEREFORE, the Planning Board makes the following conclusions of law, based upon the findings of fact. The Applicants are before the Board seeking approval for bulk variance

relief to permit the construction of an enclosed breezeway, the renovation of the kitchen and downstairs bathroom and to allow for the installation of a bathroom on the second-floor of a single-family house on the property located at 1129 Florence Avenue in the R-8 Residential Zone. The use is permitted in the zone. There is the need for three (3) bulk variances as described previously.

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 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 detriment. The use is one that is permitted in the zone. 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.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Union Beach that the application of John and Nancy Curtis, for property located at 1129 Florence Avenue in the R-8 Residential Zone, requesting three (3) bulk variance as listed above is determined as follows:

1. 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 construction of an enclosed breezeway, the renovation of the kitchen and downstairs bathroom and the installation of a bathroom on the second-floor of a single-family house 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 or expansion of the proposed construction 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 construction to be inspected and permits issued by Borough Code Officials. No work shall be done without permits.
6. The location of this construction 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 and dust control measures during the construction at the 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 February 22, 2022 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on March 30, 2022.

, Planning Board

FOR: Connors, Wells, Coffey, Sweeney, Councilman Andreuzzi, Councilman Cavallo and Murray.

AGAINST: None

ABSTAIN: Devino and Hoadley

Board Member(s) Eligible to Vote: