

RESOLUTION
Borough of Union Beach
Planning Board
Eric Wokas
Decided on April 27, 2022
Memorialized on May 25, 2022
Bulk Variance Relief

WHEREAS, Eric Wokas (hereinafter the “Applicant”) have made an application to the Borough of Union Beach Planning Board for bulk variances on property located at 924 Sixth Street, also known as Block 39, Lot 20.01 on the Tax Map of the Borough, in the R-8 Residential Zone; and

WHEREAS, a public hearing was conducted in person on April 27, 2022 after the Board determined it had jurisdiction; and

WHEREAS, the Applicant represented himself; and

WHEREAS, the Application was deemed complete and evidence of compliance with the notice requirements was presented establishing that the Board has jurisdiction over the Application.

NOW THEREFORE, the Board makes the following findings of fact, based upon evidence presented at its public hearing, at which a record was made.

The Applicant proposes to construct a single-family home on the existing lot. The existing home would be demolished.

The application requires the following bulk variances, all of which are pre-existing conditions.

- a. Section 13-10.4(f)(1)(a), in that the Ordinance requires a minimum lot area of 7,500 square feet whereas the existing lot has an area of 2,500 square feet;
- b. Section 13-10.4(f)(2)(a), in that the Ordinance requires a minimum lot with of 75

feet whereas the existing lot has a width of 25 feet;

c. Section 13-10.4(f)(3)(a), in that the Ordinance requires a minimum lot frontage of 75 feet whereas the existing frontage is 25 feet;

d. Section 13-10.4(f)(7), in that the Ordinance requires minimum side yard setbacks of 5 feet and 3 feet where 2.4 feet and 6.3 are the pre-existing condition whereas a setback of 8 feet is proposed for the proposed condition; and

e. Section 13-5.5(d), all buildings on a residential lot shall not exceed 25% of the total lot square footage of the lot 850 square feet is proposed where 625 square feet is required the preexisting building is 599 square feet.

The Board had before it a report from the zoning officer originally dated December 21, 2021, revised February 8, 2022. The report noted that all the bulk variance relief being sought by the Applicant was pre-existing in nature.

The first and only expert witness on behalf of the Applicant was Catherine Franco, licensed architect and professional planner who was sworn in and qualified as an expert in her fields. Ms. Franco proceeded to describe the plans depicted in the application submission that had been prepared by her office. She noted the house on the property is approximately 90 years old and has not been raised since Hurricane Sandy. She agreed, as noted in response to comments from the report of the zoning officer, that the property was located in flood zone AE13 as shown on the FEMA maps dated January 20, 2015, and subsequently adopted by ordinance. She noted this would require that the house be elevated to a minimum elevation of 16 feet which is the base flood elevation plus three feet of freeboard. The report also noted that all mechanical equipment servicing the structure including the electric meter are required to be elevated 3 feet above the base flood elevation.

Ms. Franco testified that the property would have a garage where it does not presently. The property would be able to accommodate parking for three vehicles off street. The proposed dwelling is a one family house containing 3 bedrooms and two bathrooms. The need for the bulk variance relief was to attempt to stay within the existing footprint from the from the house that would be demolished. The washer and dryer would be located upstairs. The garage would also have an electric vehicle plug-in specifically at the request of the Applicant, who has two electric vehicles. There were no members of the public expressing an interest in asking any questions of the Applicant, the witness, or members of the Board or the boards professionals.

NOW THEREFORE, the planning board makes the following conclusions of law, based upon the foregoing findings of fact. The Applicant is before this board seeking approval for five bulk variances in order to demolish a 90-year-old residential structure that has not been raised since Superstorm Sandy and replace it with a new single-family home that will be raised to the appropriate level as required by law. The bulk variance relief requested is for pre-existing conditions.

Under the Municipal Land Use Law, N.J.S.A. 40:55D-70(c), the Board has 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 limited 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 have met the requirements of the Municipal Land Use Law, case law and Borough 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 from granting the relief requested clearly outweigh the detriments.

The evidence before the Board indicates that in this particular instance, bulk variance relief can be granted given that the bulk variances are being requested for pre-existing conditions that are not being exacerbated by the proposed new home. The Board hereby finds that granting this relief in this particular instance will not result in any substantial detriment to the public good or interference with the intent and purpose of the Master Plan or Zoning Ordinance. Replacing a 90 year old home is an improvement to the neighborhood.

The Board finds that the proposed bulk variance relief is generally consistent with other lots containing antiquated single-family homes in the Borough. By lifting the proposed new house, the property owner is removing it from potential flooding. It also has the benefit of raising

the house sufficiently to provide three off street parking spaces; There are currently none on the property, this requiring the owner/occupants to park on the street. The evidence before the Board does not indicate that there would be any adverse impact to the use and enjoyment of the adjacent properties by granting the requested bulk variance relief. The proposed single-family dwelling is a permitted use in this zone and the size of the proposed house is generally consistent with the preexisting development in terms of its location on the property in question. The size and scale of this development is generally consistent with the intent and purpose of the master plan and Borough ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Union Beach that the application of Eric Wokas for property located at 924 Sixth Street, also known as Block 39, Lot 20.01 on the Tax Map of the Borough, is determined as follows:

1. Bulk variances as recited herein are approved pursuant to N.J.S.A. 40:55D-70(c).

IT IS FURTHER RESOLVED that the above approval is subject to the following terms and conditions:

1. The implementation of 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.

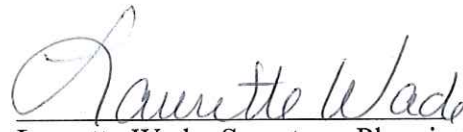
6. A pre-construction meeting shall be held by the Applicant and the Borough officials at least one week prior to the start of construction to ensure all permits, approvals and documents are in order. At least one EV charger shall be installed in the garage.

7. The Applicant shall take all appropriate measures to control any dust, dirt and any vermin during all demolition work as well as all construction of the new home on the property.

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.

9. The Applicant cannot convert the garage into habitable space.

The undersigned secretary certifies the within decision was adopted by this Board on April 27, 2022, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on May 25, 2022.


Laurette Wade, Secretary, Planning Board

FOR:

AGAINST:

ABSTAIN:

Board Member(s) Eligible to Vote:

Sweeney Cavallo Andreuzzi Connors Wells

Coffey Hoadley Devino Hallam Murray