

**RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT
OF THE BOROUGH OF BRADLEY BEACH**

RESOLUTION NO.

WHEREAS, Marlene Rajput and Barbara Riola (hereinafter referred to as the “Applicant”), are the owners of property known as Block 25, Lot 19 as shown on the Borough of Bradley Beach Municipal Tax map, more commonly known as 110 Ocean Park Avenue, Bradley Beach, New Jersey; and

WHEREAS, the Applicant, being represented by Thomas Hirsch, Esquire, appeared before the Borough of Bradley Beach Zoning Board of Adjustment (hereinafter referred to as the “Board”) on October 20, 2016 and December 8, 2016 for bulk variances; and

1. The property in question is a 4,375 square foot parcel located at 110 Ocean Park Avenue. This location is within the Residential Beachfront (RB) Zone. The applicant is proposing to demolish the existing two-family dwelling and construct a new two-family dwelling.
2. In accordance with Section 450-13, permitted yard encroachments, the following variances or existing non-conformities are noted below:
 - a. In accordance with Section 405-13.B, the unroofed deck leading to the second floor, directly above the open, unscreened porch is not permitted to project more than 8 feet into the required front yard. The permitted setback for this property is 17 feet. The Applicant is proposing a setback of 17.3 feet, which conforms.

The Applicant is also proposing the porch leading to the second floor to be covered, which is not permitted. A variance is required.

- b. In this Section 405-13, permitted front yard encroachments does not identify third floor covered porch is permitted. The Applicant is proposing a third floor covered porch, which encroaches into the front yard. A variance is required.
3. In accordance with Section 450-28.D.(1)(a), area, yard and building requirements for a two- family dwelling are subject to the requirements and limitations in Section 450-26.D. The following variances or existing non-conformities are noted below:
- a. In accordance with Section 450.26.D(1)(a), the minimum lot area permitted is 5,000 square feet. The existing lot area is 4,375 square feet, which represents an existing non-conformity.
 - b. In accordance with Section 450-26.D(1)(b), the minimum lot width permitted is 50 feet. The existing lot width is 35 feet, which represents an existing non-conformity.
 - c. In accordance with Section 450-26.D(1)(e), the minimum side yard setback permitted is 5 feet and 10 feet, but for lots not meeting the minimum lot width requirement, shall be 10% (3.5 feet) and 20% (7 feet) of the lot. The Applicant is proposing an east side yard setback of 3.5 feet, which conforms. The proposed west side yard setback is 5.1 feet, which a variance is required.
 - d. In accordance with Section 450-26.D(1)(g), the maximum building height is 35 feet (2 ½ stories). The Applicant is proposing a building height of 35 feet and 3-stories. A variance is required for the third story.
 - e. In accordance with Section 450-26.D(1)(h), the maximum building coverage permitted is 35%. The Applicant is proposing a building coverage of 43.7%. A variance is required.

4. In accordance with Section 450-41.A, Residential parking and driveway requirements for one- and two-family uses, the following variances of existing non-conformities are noted below:

- a. In accordance with Section 450-41.A(1), driveways and parking areas installed for one- and two-family dwellings shall be a minimum of eight feet in width inside the property lines and shall be located a minimum of three feet from a side lot line. A variance has been eliminated for minimum driveway width.

Also the Applicant is proposing a side driveway setback of 0 feet on the east side and 5.1 feet on the west side. A variance is required for the east side setback.

- b. In accordance with Section 450-41.A.(2), curb cuts shall be a maximum of 12 feet in width. Driveway aprons shall be a maximum of 10 feet in width at the property line and 12 feet in width at the curbline. The portion of a sidewalk forming part of a driveway and the driveway apron shall be constructed of concrete, six inches thick, reinforced with six by six 10/10 WWM. Each lot shall have no more than one driveway and curb cut. The Applicant has eliminated the second driveway apron by combining the aprons together to create one (1) large apron. The Applicant is proposing a curb cut of 36.5 feet and a driveway apron width at the property line of 29.9 feet. A variance is required.

- c. In accordance with Section 450-41.A.(3), driveways and parking areas located in the front yard shall not exceed a width of 12 feet, which area shall consist

of impervious pavement to be used for off-street parking. The Applicant is proposing a driveway width of 29.9 feet. A variance is required.

5. The following general comments should be addressed:

- a. In order to promote groundwater recharge, we recommend all roof leaders be connected in an underground recharge system or drywell structure.
- b. The Applicant should provide drainage calculations, soil log, and a permeability test if any underground system or drywell structure is proposed.
- c. The Applicant should provide information that taxes are currently paid.
- d. The Applicant shall secure any and all construction permits needed for the project.
- e. The Applicant should provide a driveway apron and sidewalk detail.

WHEREAS, notifications as required by the Statutes of the State of New Jersey as well as the Borough of Bradley Beach pertaining to the public hearings on this matter have been satisfactorily perfected; and

WHEREAS, the Board did conduct public hearings on October 20, 2016 and December 8, 2016 to evaluate and consider the application as set forth above; and

WHEREAS, the Board considered the various exhibits, thereafter marked into evidence and introduced as follows:

A-1 Application of Marlene Rajput & Barbara Riola to demolish an existing house and to construct a new two-family home, dated 08/02/2016 and signed by Thomas J. Hirsch, Esquire.

A-2 Architectural plan prepared by Robert H. Weinstein of RW Architecture, LLC, dated July 21, 2016, with no revisions (signed, sealed).

A-3 Survey of property prepared by Charles E. Saladin, Jr., P.L.S. dated November 24, 2015, and revised June 28, 2016 (signed, sealed).

A-4 Affidavit of Service signed by Barbara McArthur and dated 10/08/2016.

A-5 Copy of Notice to Property Owners signed by Thomas J. Hirsch, Esq.

A-6 Original certified receipts of mailing to property owners dated 10/07/2016.

A-7 Affidavit of Publication of Asbury Park Press dated October 7, 2016.

A-8 Photoboard of similar older homes that had been renovated in terms of characteristics and features of homes in the beach area and general neighborhood, including similar porches and balconies.

A-9 Photoboard of seven newer homes that had been renovated and similar to what is being proposed at this time and what's going on in the community, including third stories.

A-10 Illustration showing first floor parking and driveway area and end of garage, indicating the car encroachment; second floor – first unit; and third floor – second unit.

A-11 3D rendering of proposed structure illustrating how it would fit on the block.

A-12 Architectural Plot Plan (page 1) including zoning variances and calculations, revised November 16, 2016 (signed, sealed).

A-13 Architectural plans (page 2) illustrating floor plans, revised November 16, 2016 – signed, sealed and prepared by Robert H. Weinstein.

A-14 Architectural plans (page 3) illustrating second and third floor elevations, revised November 16, 2016 (signed, sealed).

A-15 Packet of computer generated color photos illustrating parking, driveway, and curb cut to be closed in.

B-1 Letter of Gerald Freda, Board Engineer, dated 09/13/2016.

B-2 Letter of Gerald J. Freda, Board Engineer, dated 09/13/2016 and revised 11/29/2016.

WHEREAS, based upon the testimony presented, the exhibits offered by the Applicant, the following findings of fact have been made by the Board, to wit:

1. The Board has jurisdiction to herein consider the application pursuant to N.J.S.A. 40-55D-1, et seq.
2. The Applicant has satisfied the notice requirements of the State and Municipal Ordinances, and, therefore, the Board has authority and jurisdiction to consider the application.
3. The Applicant is the owner of premises known as 110 Ocean Park Avenue, Bradley Beach, New Jersey and further known as Block 25, Lot 19 and shown on the Tax Map of the Borough of Bradley Beach.
4. The property in question is a 4,375 square foot parcel located on Ocean Park Avenue. This location is within the Borough's Residential Beachfront (RB) Zone.
5. Robert Weinstein, AIA Architect, testified on behalf of the applicant as an expert in architecture. He testified at the initial hearing and after hearing comments from the Board and public he returned for the second hearing and reviewed the changes and revisions made to the original plans to address concerns from the initial hearing, including lot coverage to accommodate the continuing paver walkway; rear yard setback for more open space; addition of more curb to close in a curb cut to create an additional parking space without blocking the neighbor's driveway; and elimination of a variance for a minimum driveway width. Based on input from public and Board of Adjustment members, an extra room that was to be a study has been eliminated to reduce the footprint with the depth of the building by 10 feet. The footprint is reduced to provide for 1922 square feet of building coverage.

Mr. Weinstein stated that the original application required nine variances, and the revised application requires eight, eliminating two variances with one proposed additional variance. The proposed garage will provide two (2) parking spaces. The second floor porch will be covered, as will the porch on the third floor.

6. The following members of the public testified during the public portion of the hearing:

- a. Rich Despina, 3rd Avenue, asked about ceiling height on each floor and the distance to the top ridge. Mr. Despina also asked about the necessity of a first floor powder room.
- b. Thomas Coan, 3rd Avenue, asked if any structures depicted in the photoboard are three stories, as well as expressed concerns over the appearance of bulk under dormers. Mr. Coan objects to 43% building coverage, and stated the Applicant provided no hardship for building coverage for three stories, and the project impeded light and air. Mr. Coan requested the Board deny the application.
- c. Al Gubitosi, 4th Avenue, requested clarification for the curb cut and added curb providing on-street parking on the west side of the property. Mr. Gubitosi expressed concerns about density in borough being impacted by this potential approval.

NOW, THEREFORE, be it resolved by the Board that it adopts the aforesaid findings of fact, and specifically makes the following conclusions:

1. Based upon the aforesaid findings of fact, the Board concludes that the Applicant has demonstrated that the purposes of the Municipal Land Use Law and the Land

Use Ordinances of the Borough of Bradley Beach, would be advanced by a deviation from the zoning ordinance requirements at issue, and further that the benefits of any such deviation would substantially outweigh any detriment resulting from approval of the application.

2. Based upon the aforesaid findings of fact, the Board further concludes that granting the approvals set forth herein will not cause substantial detriment to the public good, will not substantially impair the intent and purpose of the zoning ordinance and master plan of the Borough of Bradley Beach, does promote the safety and welfare of the residents of the municipality and that the positive and negative criteria have been satisfied and accordingly the Applicant satisfied the requirements of obtaining the said Variance(s).
3. The Board has determined the Applicant has satisfied the criteria for approval for both C(1) and C(2) variances pursuant to municipal Land Use law.
4. The Board has concluded that the proposed application would not adversely impact upon the master plan of the Borough of Bradley Beach and does promote the safety and welfare of the residents of the municipality and accordingly has satisfied the requirements of obtaining the said Variance(s).
5. The Board has concluded that this development is not out of character with the neighborhood, provides no detriment to neighbors, and improves the parking in the neighborhood.
6. The Board further determined the development improves the existing site without creating air, space and light issues.

IT IS FURTHER RESOLVED, by the Borough of Bradley Beach Zoning Board of Adjustment that the variances requested are hereby **granted** subject to the following:

1. The Applicant shall cause notice of the decision to be published on one occasion in the official newspaper of the Borough of Bradley Beach and return proof of publication to the administrative office of the Board of Adjustment.
2. The Applicant shall pay any application fees and taxes, which may be due to the Board or the municipality.
3. The approval is subject to the posting of any and all required guaranties or other escrows, which may be required by the appropriate Borough officers or professionals to secure performances of this approval.
4. The approval is subject to compliance with all federal, state, and local rules, regulations, laws and/or ordinances and the procurement of any required governmental approval or permits required in connection with this application.
5. The Applicant shall comply with all the provisions of the engineering review letter of Gerald J. Freda, P.E., P.P., dated September 13, 2016 and revised November 29, 2016 unless modified herein.
6. Construction shall commence within two (2) years of the adoption of the Resolution or the Applicant shall appear before the Zoning Board of Adjustment within two (2) years of the Adoption of the Resolution and request an extension.
7. The Applicant's request for variances is therefore granted.
8. Drainage calculations and a drywell is required with design to be provided to the Board Engineer for approval.

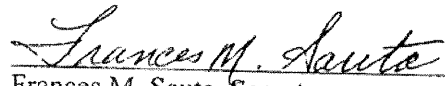
9. The Applicant shall provide a new sidewalk and driveway as noted and will provide one (1) curb cut.
10. The building height shall not exceed 35 feet.

IT IS FURTHER RESOLVED that a copy of this Resolution certified by the secretary of the Borough of Bradley Beach Zoning Board of Adjustment to be true shall be forwarded to the Construction Code Officer, Borough Clerk, Board Engineer, Borough Assessor and within ten (10) days of the date hereof to the Applicant herein.

BE IT FURTHER RESOLVED that the notification of this Resolution shall be published in the Asbury Park Press within ten (10) days of its passage.

CERTIFICATION

I hereby certify that I, the undersigned, am the Secretary of the Board of Adjustment of the Borough of Bradley Beach, and I hereby certify that the foregoing Resolution was adopted by the Board of Adjustment at regular meeting held on the 19th day of January 2017.



Frances M. Sauta, Secretary
Borough of Bradley Beach Board of Adjustment