

**Bradley Beach Land Use Board  
Regular Meeting Minutes  
Meeting Held In Person – Borough Hall  
Thursday, August 18, 2022 at 6:30 PM**

Meeting is called to order at 6:30 PM. The Board and the public recite the Pledge of Allegiance.

Open public meeting announcement is made by the Board Secretary.

**Roll Call:**

Present: Mayor Larry Fox, Paul Murphy, Councilman Timothy Sexsmith, Meredith DeMarco, Kelly Reilly-Ierardi, Robert Mehnert, William Psiuk, Lauren Saracene, Harvey Rosenberg, and Dennis Mayer

Absent: JohnEric Advento, Arianna Bocco, Deborah Bruynell (arrived after 1<sup>st</sup> application)

Also Present: Jillian McLeer, Esq.; Gerald Freda, PE, PP; and Christine Bell, PP, AICP

**Chair Mayer advises the public of the Board's policies and procedures with regard to this hearing.**

**Approval and Adoption of Meeting Minutes from the Special Meeting of July 21, 2022 –**

Motion to adopt offered by Dennis Mayer, Seconded by Harvey Rosenberg, all eligible members present in favor.

**Approval and Adoption of Meeting Minutes from the Regular Meeting of July 28, 2022 –**

Motion to adopt offered by Dennis Mayer, Seconded by William Psiuk, all eligible members present in favor.

**Resolutions Memorialized:**

1. **Resolution 2022-15** – (Approval of 1-year Extension of Time) – Coastal Custom Builders – Block 32, Lots 17 & 18 – 803 & 811 Main Street
2. **Resolution 2022-16** – (Approval of Bulk Variance for Rear Yard Setback) – John Bardis – Block 80, Lot 24 – 26 Pacific Avenue
3. **Resolution 2022-17** – (Approval of Use Variance for 9 A/C Condensers & Pads) – 506 Brinley Avenue, LLC – Block 43, Lot 17 – 506 Brinley Avenue
4. **Resolution 2022-18** – (Approval of Use & Bulk Variances for Proposed Addition) – Karen & Steve Petrucelli – Block 57, Lot 25 – 614 Fourth Avenue

### **Applications Considered:**

**\*\*Mayor Fox and Councilman Sexsmith are Recused from the following application.\*\***

**LUB22/01 – (Use & Bulk Variances for Proposed Addition) – John Durando – Block 48, Lot 16 – 408 Fifth Avenue** – Applicant is proposing an addition to the rear of the front single-family dwelling on this lot located in the R-1 Residential Single Family Zone where two (2) principal dwellings on one (1) lot are not permitted. The proposed improvements require Board approval for variances on use, balcony size, balcony location, side yard setback, and number of stories. Applicant is represented by Sean F. Byrnes, Esq.

Dan O'Hearn, Esq. on behalf of Sean Byrnes, Esq. for the applicant.

It is indicated there are two (2) existing structures on this lot where only one (1) is permitted in the zone.

There are three (3) witnesses proposed this evening – John Durando, Matt Cronin, and Andrew Janiw. All witnesses are sworn in with the Board Professionals.

John Durando – applicant/owner – indicates that 408 Fifth Avenue will be his legal full-time residence effective Saturday. He moved to New Jersey in 1996 and in the early 2000's began looking for a vacation home. Had originally purchased in 2007 on Fletcher Lake Avenue and then 408 Fifth Avenue in 2014 in order to stay full-time. They wish to add a bathroom onto the 2<sup>nd</sup> story and access to the attic area as it is currently not useable. They wish to add an office/den in this attic area. The driveway currently fits 3 cars.

Thomas J. Coan – asks if they are aware that 4 cars are required to fit in the driveway? Mr. Durando indicates they can easily park 4 cars as the back house is currently not being rented and it is used strictly as a guest house and they will be utilizing it themselves during construction of the front house.

Matthew Cronin, AIA – 129 Shrewsbury Avenue – qualified and accepted in the field of architecture – Mr. Cronin proceeds to describe Exhibit A-1 which is 3 color photos of the existing structures. He proceeds to describe the proposal and indicates what is being proposed is consistent with other homes in the area. The west side yard setback variance is requested in order to continue the existing line up to the attic floor. The roof deck proposed in the rear is over the square footage permitted for ½ story. They are 163.5 s.f. over the permitted area for a ½ story.

It is indicated the Board would like to get the ½ story down to the 50% of the 2<sup>nd</sup> floor below it. The Board also indicates the 3<sup>rd</sup> level rear balcony is a non-starter and it is not permitted.

Jerry Freda indicates the ball is in the applicant's court – no balcony at all and get down to the 50% floor area then you are only dealing with a side yard setback.

Per Mr. Cronin – they will remove the balcony and reduce the 3<sup>rd</sup> floor to 50% of the floor below to make a true ½ story.

Thomas J. Coan – questions the back house and how many square feet it is? It is indicated it is 854 s.f. He asks in terms of side yard setback, could you step it back? It is indicated it would not be visually pleasing.

Andrew Janiw, PE, PP, AICP – Beach Planning – qualified and accepted by the Board. Indicates this property is in an R-1 Zone and he describes the surrounding sites. There is no plan to alter the view of the home from the street. This is considered an Expansion of a Non-Conforming Use because there are 2 structures on 1 lot where only 1 is permitted. Testimony has been provided regarding side yard setback justification as it is an existing condition. Mr. Janiw indicates they are honoring the character of the neighborhood and not increase the number of bedrooms so they are not intensifying the use and it will continue as it has for many years. He does not believe there are any substantial encroachments onto neighboring properties as they are under on permitted coverage and the project could be much larger and disruptive. Special reasons are provided for the granting of the Use Variance. It is indicated the site can accommodate the proposed improvements with no substantial impact as they are not over-improving the lot and he does not feel there is any negative impact to the surrounding neighborhood or the Zone Plan.

Thomas J. Coan – asks about the back structure and it being over the square footage permitted – it is indicated the property is not over developed.

**Based upon the comments received from the Board and its Professionals, the applicant has decided to amend their original proposal and revise their plans. At this time the Board agrees to carry this matter to the September 15, 2022 meeting with no further notice being required in order for the Applicant to submit revised plans for further review and hearing.**

**LUB22/14 – (Bulk Variances for Proposed Addition) – Gregory C. Fehrenbach – Block 87, Lot 9 – 408 Bradley Boulevard** – Applicant is proposing renovations to the first floor and a full second story addition with an attic above. The applicant is seeking a variance for front yard setback of 21.25 feet where 25 feet is required.

**\*\*Deborah Bruynell arrives, Mayor Fox and Councilman Sexsmith return\*\***

Gregory C. Fehrenbach – sworn in – Mr. Fehrenbach indicates he resides at 408 Bradley Boulevard. He is requesting to improve his home. He originally thought there were 2 variances required; however, it has been determined by the Board Engineer that only 1 variance is required. He asks whether or not the attic level balcony is an issue for consideration. It is indicated it is not.

Mr. Fehrenbach describes the front yard setback variance being requested as it is an existing condition. The justification for the variance request is that the proposed construction is within the existing building footprint and there is a severe angle in the right-of-way that effects the property and the setback. The southwest corner of the dwelling is in excess of that which is required while the southeast corner does not meet the setback requirement.

The proposed attic balcony is 5.5 feet x 8.5 feet and therefore it is less than 50 s.f.

Michael Moss – 429 Monmouth Ave – reads the definition of a balcony. The Board and its Professionals concur. He calls attention to page 2 of 5 of the Avakian report #3 variances/waivers – each balcony cannot exceed 80 s.f. and references the denial of the application regarding “porch”.

A discussion takes place and an assumption is made there was a misunderstanding because the plans call out a “porch” when by definition it is a front yard balcony.

Thomas J. Coan – 612 Third Avenue – sworn in – indicates he is in favor of this application as this is clearly a hardship.

Michael Moss – 419 Monmouth Avenue – sworn in – indicates he is confused as to what a balcony is and is not.

**Based upon the testimony and the reasons provided supporting the request for variance, Dennis Mayer makes a motion to approve the application for front yard setback as presented, seconded by Harvey Rosenberg.**

**Those in Favor:** Meredith DeMarco, Robert Mehnert, Paul Murphy, Kelly Reilly-Ierardi, Lauren Saracene, Councilman Timothy Sexsmith, Mayor Larry Fox, Harvey Rosenberg, and Dennis Mayer

**Those Absent:** Arianna Bocco, and JohnEric Advento

**Those in Opposition:** None.

**Those Recused:** None.

**\*\*Paul Murphy, Councilman Sexsmith, and Robert Mehnert are recused from the following application.\*\***

**LUB22/12 – (Bulk Variances for Fence Height & Side Yard Setback) – Bradley Investors, LLC (Speedy Mart) – Block 19, Lot 15 – 1004-1006 Main Street** – Applicant is seeking relief to maintain the existing dumpster location and fence enclosure which requires variances for the existing fence height and the location of the dumpster structure.

Applicant is represented by Michael J. Wenning, Esq. who provides a brief historic of the purchase of the current business from Quick Chek. Some photos were presented that show that the fence was existing prior to the purchase.

Mr. Patel of 1000 Main Street – indicates he purchased the property in May 2021 which has been in existence for almost 50 years. In 2008 the google images indicated the dumpsters were there. The fence was erected somewhere between 2017-2018. There are two (2) dumpsters to the left behind the fence which are collected twice a week – it is asked if they can increase pick-up to three times a week if necessary.

Exhibit A-1 – newly introduced Google Photo dated October 2008.

Heidi Modjeski – 611 Newark Avenue – questions the pick-up days and how often the dumpster area is cleaned. Mr. Patel indicates here and there. Ms. Modjeski asks if they ever change out the dumpsters and if there is pest control in place? It is indicated that pest control is every month. Ms. Modjeski asks who supplied the “before photo”? Google.

Heidi Modjeski – 611 Newark Avenue & 614 Newark Avenue – Asks how long have the dumpsters been there? Since 2006. The yellow diagonal lines are described.

Exhibit O-1 – existing condition photo provided by Ms. Modjeski

Exhibit O-2 – Photo of a dumpster on Newark Avenue provided by Ms. Modjeski

A discussion takes place with regard to existing hardships, current location of the dumpsters, proper dumpster enclosures, possible locations for the dumpsters and enclosures, etc.

Exhibit O-3 – Photo taken on August 18, 2022 of rodents caught and droppings found.

**Based upon the testimony and the discussions which took place it is agreed to by the Applicant and the Board to carry this matter to the September 15, 2022 meeting with no further notice being required in an effort to come up with a revised plan.**

**Adjournment:**

Next scheduled meeting will be our **Regular Meeting on Thursday, September 15, 2022 at 6:30 PM** which will take place here in the Municipal Complex Meeting Room located at 701 Main Street, Borough of Bradley Beach. Please check our website for any updates regarding meeting location and/or access.

With no further business before the Board a motion to adjourn was offered by Meredith DeMarco moved and seconded by Harvey Rosenberg. All in favor. Meeting closed at 8:49 PM.

**Minutes submitted by Kristie Dickert, Board Secretary**