

ZONING BOARD OF ADJUSTMENT

September 27, 2018

PRESENT: John Hutchinson, Michelle Casserly, Mark Fitzgerald, John Lisko, Judy Young (arrived 7:26 p.m.), Robert Cupoli (arrived 7:20 p.m.), Phil Greig, and Chuck Ross

ABSENT: Manny Fowler

ALSO, PRESENT: Board Attorney Kevin Kennedy Esq., Board Secretary April Claudio and Zoning Official Ted Bianchi

The secretary stated that adequate notice of this meeting of the Zoning Board of Adjustment was sent by email to our official newspapers, the Coast Star and the Asbury Park Press on December 18, 2017 and by posting a copy of said notice at the Municipal Complex on the same date.

Mr. Greig made a motion to waive the reading and approve the minutes of the August 23, 2018 meeting, which was seconded by Mr. Fitzgerald and approved by the following vote:

AYES: Mr. Hutchinson, Mr. Fitzgerald, Mr. Lisko, Mr. Greig and Mr. Ross

ABSTAIN: Ms. Casserly

Mr. Lisko and Mr. Kennedy announced the application for the 405 14th Avenue townhomes has been tentatively postponed to January 2019.

MICHAEL FRADKIN – 80 INLET TERRACE

Appearing for the application was Michael and Debra Fradkin. Mr. Kennedy explained the applicants were before the Board in April 2017 for a new single-family home. Mr. Fradkin stated their original plan did not show the location of the a/c condenser units and generator. Requesting a variance to have them at a 7 ft setback rather than the required 10 ft. Construction of the house is near completion.

Mr. Greig asked about an alternate location. Mr. Fradkin stated they have a shared driveway on the other side of the property. Mr. Greig suggested they set the test time during an appropriate time so to not affect the neighbor. Mr. Fradkin stated they will also be elevated out of the flood zone.

Mr. Fitzgerald thought they should be able to put it in a compliant area. Mr. Fradkin stated they can't. Mr. Fitzgerald asked if this was addressed with the architect. Mr. Fradkin did speak to him but also had some issues with initial contractor. Mr. Fitzgerald asked if he spoke to the neighbor. Mr. Fradkin stated the house is vacant.

Ms. Casserly pointed out the photos show a lot of landscaping which would be an additional buffer.

Mr. Ross asked if the generator location will be code compliant. Mr. Fradkin replied yes.

Mr. Bianchi stated he will review the permits for those.

Mr. Lisko would like exact measurements to explain location of a./c and generator.

No public comments.

Mr. Greig stated he has no issue with the request as long as it fits within the building codes. Mr. Cupoli also did not have any problems with it. Mr. Fitzgerald agreed the exact location must be specified. Ms. Casserly and Mr. Ross were in favor of the application. Mr. Lisko stated he is in favor of the application.

Ms. Casserly made a motion to approve the application, which was seconded by Mr. Greig and approved by the following vote:

AYES: Mr. Hutchinson, Ms. Casserly, Mr. Fitzgerald, Mr. Lisko, Mr. Ross, and Mr. Greig

ZONING BOARD OF ADJUSTMENT

September 27, 2018

NLR MANAGEMENT LLC (CAESAR & LAURA REVANO)– 1264 BRIARWOOD ROAD

Appearing for this application was Caesar Revano and his architect Mark Marcille. Mr. Revano stated he purchased the home in July 2018. It is an unoccupied single-family home that has been neglected. Mr. Marcille submitted some Google earth photos of the site and illustrated architectural plans. The proposal is to build a second story. The footprint of the home will not be expanded. The existing sunroom on the front of the house would open to an actual porch. The existing home has two bedrooms and one and a half bathrooms. The proposal is to add a stair tower in the front of the house to access the new second floor. The proposal would have a total of three bathrooms and four bedrooms. The a/c condenser will conform to the rear yard setback requirement. He submitted an average front yard setback calculation. The average is 15.36 ft. The existing front yard setback which will not change is 12.3 ft.

Mr. Ross asked about parking. Mr. Marcille stated the existing driveway only has enough space for two cars. Mr. Ross and Mr. Bianchi stated that technically those are not permitted parking spaces because they are in the front yard. Mr. Marcille agreed. There is no other location for parking.

Ms. Casserly asked about the intentions of the home. Mr. Revano stated he would sell it. She asked about a generator. There would be no generator. She asked about the utility wires. Mr. Revano stated they will be moved closer to 16th so they will not cross over the house.

Mr. Marcille explained the variances: building coverage, front, rear and side yard setbacks, parking, and the second-floor porch. Comply with height, floor area ratio and impervious coverage. The increase in building coverage is due to the front porches and a covered rear entry.

Mr. Fitzgerald asked if the utility wires would be placed underground. Mr. Revano stated they would be relocated to come from 16th Avenue. Mr. Fitzgerald asked that they make a good faith effort to try to run it underground. He asked about water runoff. Mr. Marcille stated they have a storm drain right at the corner that the gutters and leaders will drain to.

Mr. Cupoli asked if the existing footings can support the addition. Mr. Marcille stated some of them can be and some will need some help. Mr. Cupoli stated they discuss window alignment with the neighbor on the north side. Mr. Bianchi stated the north wall cannot have windows per the building code.

Mr. Greig asked about a variance for the porches. Mr. Bianchi stated the second-floor porch has a roof over it which requires a variance. Mr. Greig asked if they would consider a three-bedroom house instead of four to alleviate congestion in the neighborhood. Mr. Revano would prefer not to remove a bedroom.

Mr. Ross asked if the foundation could be moved because it is only half a foot from the north property line. Mr. Marcille stated they would be using the existing foundation.

Public: Ron Jacobson, 1253 Briarwood Road, was confused about the parking. Mr. Marcille stated the existing driveway can fit two cars. Mr. Jacobson felt if he lived next-door he would be concerned about setbacks. He had a concern about impervious coverage.

Mr. Fitzgerald asked if they could move the house a foot on the north side. Mr. Marcille stated they could move the whole north wall one foot to the south. This makes the setback 1.47 feet. To further clarify they will shorten the house a foot not move the entire structure over.

Mr. Lisko asked if the driveway would be redone that they use pervious pavers. Mr. Revano agreed.

Mr. Ross stated he is familiar with the house and it is in bad shape. He was conflicted about granting a parking variance when they could easily make it a three-bedroom house. But is also surprised the neighbor affected by this the most isn't here.

ZONING BOARD OF ADJUSTMENT

September 27, 2018

Ms. Casserly stated she understands the need to make the changes to the house for the investment they have made. She was also torn because of how close the house is to the property line.

Mr. Fitzgerald stated it is a difficult neighborhood. Is confident a nice house will be built and improve the neighborhood. Agrees three bedrooms would be nice but doesn't feel that he could ask that requirement and would be in favor of the application.

Ms. Young asked if a bedroom is removed would that reduce the size of the house. Mr. Marcille replied no it would just remove the parking variance. Ms. Young is in favor of the application.

Mr. Cupoli stated he agrees the number of bedrooms should be reduced.

Mr. Greig stated the house needs work and this would look great but is concerned about the density. Only problem is with the number of bedrooms. Four bedrooms is more desirable to make money but doesn't see a hardship. It is a densely populated neighborhood. He added that by removing the bedroom on the first floor they could expand the living space which might be more favorable to a buyer.

Mr. Revano agreed to remove the first-floor bedroom. Mr. Lisko stated that this eliminates the need for 3 parking spaces.

Ms. Young made a motion to approve the application, which was seconded by Mr. Fitzgerald and approved by the following vote:

AYES: Mr. Hutchinson, Ms. Casserly, Mr. Fitzgerald, Mr. Lisko, Ms. Young, Mr. Cupoli, and Mr. Greig

At approximately 8:25 p.m. the Board took a recess. The Board reconvened at 8:30 p.m. All were still present.

NOEL CHAMPAN – 97 13TH AVENUE

Appearing for this application was Noel Chapman, his attorney Brad Batcha and planner Patrick Ward.

Mr. Kennedy gave a brief history of the application. Elatar LLC obtained approvals for a subdivision and construction of four homes from the Zoning Board in 2007. Part of the approvals was for a driveway easement running through the four lots. The four homes were built. Mr. Chapman purchased the home at 97 13th Avenue. At some point Mr. Chapman submitted a zoning permit and construction permit to install a pool at the site which was approved. However, after the fact, the Borough realized the installation of the pool removed one parking space. It appeared that the pool approvals should not have been granted without approval from the Board. Because of this the Construction Office did not issue a Certificate of Occupancy. Mr. Chapman had wanted to occupy the home in 2017 and to work with him, Mr. Chapman and Mr. Bianchi worked with Mr. Kennedy to prepare an agreement to allow a Temporary Certificate of Occupancy to be issued. The agreement stated that Mr. Chapman would speak to the other two property owners to determine if they would agree to amend the driveway easement agreement and that Mr. Chapman would prepare an application before the Zoning Board and so forth. The neighbor at 99 13th Avenue had submitted a letter through her attorney objecting to the creating of one parking space in the driveway easement but did not object to the rest of the application. Mr. Batcha, after receiving the letter, agreed to remove that from his application.

Mr. Batcha stated he did file a revised application to reflect the correct ownership of the property is 97 13th Avenue LLC which Mr. Chapman is the only member of.

Attorney William Shippers was present representing David and Janine Lonski of 98 13th Avenue and Vincent Falcone (100-106 13th Avenue vacant lots) who object to the application.

Mr. Batcha stated his client built a house and built a pool not realizing the pool created a parking variance. His client has spent a lot of time and money on this issue which has been very difficult for him. He submitted a plot plan showing the existing conditions. Was surprised the pool

ZONING BOARD OF ADJUSTMENT

September 27, 2018

created a noncompliant parking situation. The property is unusual as it has a shared driveway. Had wanted to put a parking space in the driveway easement but the one neighbor objected so therefore asking for a variance for parking on the site. It is an investment property and will suffer for this because it will not be ideal for someone to purchase this property without parking.

Mr. Shipers stated he and his clients were present at the hearings when the subdivision application was presented. He gave a history of the property as he recalled. The resolutions approved by the Board stated the homes would be built in compliance with the variances approved by the Board, that each lot would have three parking spaces, and the resolutions be

recorded with the County. Mr. Chapman bought two of the four lots and one is an investment property. He obtained copies of the resolutions when he obtained ownership of the properties. He used the same engineer Elatar used for the subdivision application. It's not as simple as being a mistake or being blind to the zoning. He built a beautiful home on Ocean Avenue for himself that was compliant. He bought the home around the corner and built a house that wasn't in compliance with the approvals. There was no garage, there was an installation of a fire pit and pool, and therefore no parking on the site. The house was also used as a summer rental home. Felt he pulled a fast one on Mr. Bianchi and shouldn't benefit from it. He can mitigate it by removing the fire pit or the pool.

Mr. Chapman stated the property was vacant when he purchased it. He hired professionals to build a home and a pool. He did not read the 2007 resolutions when he purchased the home. None of his professionals advised him that the pool would need a variance. They did not advise him that the pool would create a lack of parking. Mr. Bianchi had contacted him during the construction of the pool to advise there was an issue which led to the signing of an agreement to allow for a TCO to be issued. Understood a mistake was made and thought the agreement was an amicable way to address it. It was an oversight that is now a detriment to the property. It is inconvenient and is embarrassed.

Mr. Ward stated the subdivision approvals required three parking spaces on site however the property was developed with no parking spaces. The home was built in compliance with the variances granted by the board and the ordinances. There is no obstruction to light, air and open space. The home promotes a desirable look for the neighborhood. It is a substantial upgrade compared to what was there. The three parking spaces that should be there would have a deminimus impact on parking in the neighborhood given the proximity to the beach and the increased parking problems in the summer. There is significant parking on the street during the winter months. Feels there is no detriment to the neighborhood specifically since a zoning permit was issued. It is a "c2" variance they are requesting and feels the benefits of the application outweigh any detriments that may exist.

Mr. Shipers felt they couldn't ask for a "c1" variance because it is a self-imposed variance. He asked what the positives are to grant the "c2" variance. Mr. Ward stated positive criteria has to do with the planning and zoning of the application, not the positive impact on a specific neighbor. Mr. Shipers asked how this is an appropriate use. Mr. Ward stated it is a single-family home in a single-family zone. Mr. Shipers asked Mr. Ward if he would recommend building a five bedroom home so close to the ocean without parking. Mr. Ward replied no but he was not part of the original subdivision application. Mr. Shipers asked how Mr. Chapman is the most impacted. Mr. Ward stated it is an investment property that was going to be rented which is difficult to do without parking. Mr. Shipers asked Mr. Ward to look at the plan Mr. Batcha submitted and determine if parking spaces could be added to the property by removing the cabana and fire pit. Mr. Ward didn't think four spaces could fit there but possibly one, by ordinance, but could fit more from a practical use.

Mr. Greig asked Mr. Chapman if he really didn't read the resolutions. Mr. Chapman stated he did not; he relied on his attorney who focused more on the variances that were approved for the size of the house. He always wanted to build a smaller house with a pool on this lot. None of his professionals pointed out to him that he couldn't do this. Couldn't have predicted that this would happen and did not try to sneak anything by. Would have preferred this been caught earlier to avoid this situation. Mr. Greig asked how he feels this should be rectified. Mr. Chapman stated he would have liked parking in the shared driveway but understands that is not feasible and therefore wants to ask for the variance for no parking. Mr. Greig asked for another solution other

ZONING BOARD OF ADJUSTMENT

September 27, 2018

than granting a variance for no parking. Mr. Chapman stated the idea of removing the pool and everything else isn't ideal because those were put in because he built a smaller house. Can't think of a practical way to fix it. Mr. Greig stated they could put one legal parking space by removing some portion of the cabana and fire pit area. Mr. Chapman stated it could be done but doesn't think it is practical.

Mr. Cupoli stated there are two ways to fix this and both aren't good. One would be to remove the pool and the other to add one parking space. A mistake was made, nobody is at fault, nothing was done intentionally, but need to come up with a way to fix it. Wants to work with them to find a reasonable way to fix this. Removing or moving some things to get one parking space isn't the easiest solution but is a step in the right direction.

Ms. Young stated this puts us in a bad spot because they constantly talk about creating bad parking situations. Understands he feels he shouldn't have to defend doing what he thought was correct but now there are permanent or semi-permanent objects on the property taking up parking spaces. So, we are trying to come up with a smart compromise.

Mr. Fitzgerald asked how a house this big could be built without someone saying where am I going to park my cars. Mr. Chapman stated it wasn't something he was thinking about at that time. Has lived in several areas where there is no parking. Mr. Fitzgerald stated when you build new homes parking is a big thing that is taken into consideration. Doesn't see removing the cabana to allow for one parking space as being a hardship. He also asked what harm there would be to grant the variance because what harm would it be on the neighbors to have a pool vs a parking lot behind the house. Who gets harmed by this other than the greater parking issue in the town. If they remove the cabana and create one parking space, they probably won't use it because it will be difficult to access and therefore would probably park on the street anyways.

Mr. Shipers stated it is a summer rental with no parking and they have photos of trash. He stated he hasn't presented his full case yet.

Ms. Casserly asked when the TCO was issued and when the summer tenants moved in. Mr. Chapman stated in 2017. She asked about the occupancy of the rental. Mr. Chapman stated sometimes its weeks at a time and has been rented to families. Hasn't had any negative impact from the lack of parking. Ms. Casserly asked if getting any complaints from the neighbors about the tenants. Mr. Chapman replied no.

Mr. Lisko stated the Board would like to take a break but before that we need to decide on the application that has not been heard yet. The Board decided to carry the application for 112 14th Avenue to October 25th. Ms. Casserly made a motion to adjourn that application, which was seconded by Ms. Young and approved unanimously.

The board discussed several meeting dates to try to determine when to carry the Chapman application to, given the late hour (10:18 p.m.).

Public: NONE

Ms. Young made a motion to carry the application to December 20th, which was seconded by Ms. Casserly and approved unanimously.

Mr. Kennedy stated he would like both attorneys to speak in the meantime to see if there is a way to work this out.

Mary Hearn, from the public, suggested amending the minor land use application to allow a space for parking and mechanicals.

Mr. Kennedy asked to go into executive session. Mr. Hutchinson made the motion, which was seconded by Mr. Grieg and approved unanimously at 10:23 p.m.

After the executive session, Ms. Casserly made a motion to adjourn the meeting, which was seconded by Mr. Cupoli and approved unanimously.