

APPLICATION OF WALTER AND STACY SZYNALSKI
CASE NO. ZBE 1448

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- B. For side yard setbacks for the principal structure of 29.06 feet and 30 feet, whereas 35 feet is required.
 - C. For a building height of 38 feet, whereas a maximum of 35 feet is permitted.
3. Based upon the sworn testimony of the applicants, Walter and Stacy Szynalski, the Board made the following findings of fact:
- A. The subject property is irregularly-shaped and narrower than other properties in the area and in the zone. The lot has a large frontage but becomes narrower towards the rear.
 - B. The setbacks for the subject property would restrict a house to being approximately 55 feet wide, while most houses in the neighborhood are 70-80 feet wide. The house was designed in the location shown on the map in order to conform to the character of the neighborhood and the prevailing front setback.
 - C. The house maintains the same distance from the road as the other houses in the neighborhood. To conform to the zoning ordinance would leave the proposed house well behind the prevailing setback for the neighborhood.
 - D. Applicants could build a house that conformed to the zoning ordinance, but such a house would be out of character for the neighborhood and would result in an awkward and inconvenient design.
 - E. To build a house with the front façade parallel to the road would result in the applicant's rear yard facing their neighbor's side yard.
 - F. Applicants intend to build a passive house, including environmentally-sensitive features regulating the heating and cooling of the house, such as super-efficient windows and extra-fortified insulation.
 - G. The applicants believe the proposed house can be built at 35 feet, which would conform to the zoning

ordinance. However, the extra insulation needed for the passive housing component could raise the proposed house to a height of no more than 38 feet.

- H. A deed restriction for the subject property requires any house built on the lot be at least 2,750 square feet. The house proposed will be approximately 3,200 square feet.
 - I. Various engineering tests and determinations must still be done on the subject property.
 - J. The subject property was clear cut approximately twenty years ago, but currently it is entirely covered with trees.
 - K. Applicant toured the subject property with a representative of the Shade Tree Office. Most of the trees on the subject property are invasive species, except for a few oaks and other trees. A significant amount of the invasive species will be removed, but a few oaks and other trees will be maintained.
- 4. The Board found that the subject property was irregularly-shaped and that erecting a conforming house on this property would be difficult.
 - 5. The Board determined that the location of the proposed house on the subject property represented the best place for it in terms of balancing the need to be consistent with the prevailing setback and orientation of the properties to the street along with the encroachment into the front and side setbacks.
 - 6. The Board recognized that the passive housing component of the proposed house represented a beneficial feature even though it might necessitate a small increase in the height of the building.
 - 7. The benefits of this proposal outweigh its detriments.

CONCLUSIONS OF LAW:

WHEREAS, the Board has determined that the applicant has met the requirements of N.J.S.A. 40:55D-70(c)(1) because the applicants have a hardship owing to the unusual shape of the subject property, which is

roughly boot-shaped, being wider at its frontage and becoming narrower towards the rear of the subject property; and

WHEREAS, the Board has determined that the applicant has met the requirements of N.J.S.A. 40:55D-70(c)(2) because the passive housing component of the proposed house would advance the purposes of zoning, particularly "to encourage utilization of renewable energy resources," articulated in N.J.S.A. 40:55D-2(n), and the benefit of this deviation would substantially outweigh the minimal increase in height; and

WHEREAS, the location of the proposed house will match the overall design, placement, and orientation of other houses in the neighborhood, thereby advancing one of the purposes of zoning, "to encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare," as articulated in N.J.S.A. 40:55D-2(a); and

WHEREAS, the Board has determined that the deviations from the zoning ordinance are minimal enough that relief sought can be granted without substantial detriment to the light, air, or privacy of surrounding property owners; and

WHEREAS, the Board has determined that the relief sought would not impair the intent and purpose of the Master Plan or Zoning Ordinance of the Township of Manalapan.

NOW, THEREFORE BE IT RESOLVED, by the Board of Adjustment of the Township of Manalapan, in the County of Monmouth, and State of New Jersey, on the 5th day of February, 2015, upon a motion made by Ms. Zucker-Strauss and seconded by Mr. Fisher that the application of Walter and Stacy Szynalski is APPROVED, subject to the following conditions:

1. The applicants shall be bound by all exhibits introduced, all representations made, and all testimony given before the Board at its meeting of February 5, 2015.
2. The applicants shall pay, in a timely manner, all outstanding and future fees, and escrow charges and shall post all performance guarantees in connections with the review of this application prior and subsequent to the approval of this application.

3. The applicants shall provide all required Site Performance Bond and Inspection Fees in accordance with the Municipal Ordinance.
4. The applicants shall be responsible for obtaining any other approvals or permits from other governmental agencies, as may be required by law, including but not limited to the Municipality's and State's affordable housing regulations; and the applicant shall comply with any requirements or conditions of such approvals or permits.
5. The applicants must comply with the Development Fee Ordinance of the Township of Manalapan, if applicable, which Ordinance is intended to generate revenue to facilitate the provision of affordable housing.
6. The applicants are to comply with the reports issued by the Board's professionals.
7. The septic and water systems shall be approved by the Health Department prior to the issuance of any building permits.
8. The applicants shall receive a tree removal permit from the Township Forester prior to any construction or clearing of the property.
9. The house shall not be taller than 38 feet. Should, for any reason, the top elevation of the building exceed 38 feet, then the applicants shall return to the Board to seek additional variance relief.
10. Applicants shall comply with the groundwater and grading requirements of City Code § 95-8.3.
11. Notice of this decision shall be published in an official newspaper of the municipality at the cost of the applicants, and proof of such publication shall be provided to the Board Secretary.

ADOPTED this 5th day of February, 2015

ROLL CALL VOTE	YES	NO	ABSTAIN	ABSENT	NOT ELIGIBLE
Mr. Cooper				X	
Mr. Fisher	X				
Mr. Rosenthal	X				
Ms. Siminerio	X				
Ms. Trifon				X	
Ms. Zucker-Strauss	X				
Mr. Budai	X				
Mr. Leviton(Alt. #1)				X	
Mr. Rappaport(Alt. #2)	X				

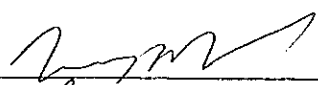
This Resolution is hereby adopted and memorialized by the following vote:

ROLL CALL VOTE	YES	NO	ABSTAIN	ABSENT	NOT ELIGIBLE
Mr. Cooper					X
Mr. Fisher	✓				
Mr. Rosenthal	✓				
Ms. Siminerio	✓				
Ms. Trifon					X
Ms. Zucker-Strauss	✓				
Mr. Budai	✓				
Mr. Leviton(Alt. #1)					X
Mr. Rappaport(Alt. #2)				✓	

CERTIFICATION

I, PATRICIA REISER, Secretary of the Zoning Board of Adjustment of the Township of Manalapan, County of Monmouth, State of New Jersey, do hereby certify the attached is a true copy of the Resolution for Application No. ZBE 1448 approved by the Board of Adjustment at its regular meeting on February 5, 2015 and memorialized on February 19, 2015.


 PATRICIA REISER, SECRETARY
 Manalapan Board of Adjustment


 Terrence Rosenthal - VICE CHAIR