

IN THE MATTER OF THE APPLICATION OF HEIDI MULLEN	ROCHELLE PARK ZONING BOARD OF ADJUSTMENT
25 CRESCENT STREET	RESOLUTION OF FINDINGS AND CONCLUSIONS OF THE ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF ROCHELLE PARK
BLOCK 78 - LOT 15	
RESIDENTIAL DISTRICT	

WHEREAS, the Applicant is Heidi Mullen whose address is 25 Crescent Street, Rochelle Park, New Jersey 07662; and

WHEREAS, the Applicant is the owner of the property at 25 Crescent Street, Rochelle Park, New Jersey situated in the Residential District and located on Lot 15 of Block 78 as set forth on the Tax Assessment Map of the Township of Rochelle Park as delineated in Section 185-98 of the Land Use and Development Regulations of the Township of Rochelle Park (hereinafter referred to as "Zoning Ordinance"); and

WHEREAS, the Applicant has made application to the Zoning Board of Adjustment for the Township of Rochelle Park for Variance(s) or other relief so as to connect the two-separate structures on the lot which is an existing non-conforming use/structure to create a larger single-family dwelling; and

WHEREAS, the Applicant is seeking a variance in accordance to N.J.S.A. 40:55D-70(d) (2) from the strict application of Section 186-107, Schedule B, of the Zoning Ordinance as the Applicant's proposed use of the property is not anticipated under the prevailing Residential District; and

WHEREAS, the Applicant is also seeking "Bulk Variances", pursuant to N.J.S.A. 40:55D-(c)(2) from the provisions of Section 185-105, Schedule A, of the Zoning Ordinance for expansion of non-conforming; maximum building coverage; and maximum improved lot coverage; and

WHEREAS, Jurisdiction lies with the Zoning Board of Adjustment as to the requested Final Minor Site Plan Approval, pursuant to N.J.S.A. 40:55D-76(b); and

WHEREAS, the application was the subject of a public hearing on December 5, 2019, at which hearings the Applicant through counsel Thomas DiBiasi, Esq. presented testimony and documents into evidence in favor of the Board granting the requested relief; and

WHEREAS, the c(2) variance(s) are more specifically described in the following chart:

Bulk Requirements in B-A Zone Pertaining to Existing Structure			
Standard	Required	Existing	Proposed
Max Bldg. Cover	1892.50	3187.85	3349.08
Max Improved Coverage	50%	49.6%	51.2%

WHEREAS, the Board found that the Applicant did provide sufficient proofs to meet its burden for the variance relief requested under the Municipal Land Use Law and applicable case law; and

WHEREAS, the Board reviewed the testimony and evidence presented during the hearing and made the following findings of fact; and

WHEREAS, at the hearing held on December 5, 2019, the Board of Adjustment **APPROVED** the application; and

WHEREAS, the Board now wishes to set forth its findings, conclusions, and conditions with respect to the application.

NOW THEREFORE BE IT RESOLVED by the Zoning Board of Adjustment for the Township of Rochelle Park, that the following Findings of Fact and Conclusions of Law are hereby made and determined:

FINDINGS OF FACT

1. All persons required to be served with notice of the hearing were duly served as required by law. Proof thereof has been filed with this Board. Publication of notice of the hearing was also made as required by law, and proof thereof has been filed with this Board.

2. Jurisdiction lies with the Zoning Board of Adjustment as to the requested Final Site Plan Approval, pursuant to N.J.S.A. 40:55D-76(b).

3. The proceedings in this matter were recorded. The facts in this Resolution are not intended to be all-inclusive, but merely a summary and highlight of the complete record made

before the Board.

4. The Property is located at 25 Crescent Street in the Township of Rochelle Park, County of Bergen and State of New Jersey, being known as Block 78, Lot 15, as set forth on the Tax Assessment Map of the Township of Rochelle Park.

5. The Applicant Heidi Mullen presently owns and resides in the Property.

6. The Property in the "Residential District" as delineated in Section 185-98 of the Land Use and Development Regulations of the Township of Rochelle Park (hereinafter referred to as "Zoning Ordinance").

7. The following documents offered by the Applicant and the Objectors were marked into evidence:

APPLICANT'S EXHIBITS

- A-1 Architectural plans (two sheets) prepared by Daniel Dressel, Architect and dated April 7, 2019.
- A-2 Letter of denial from zoning officer
- A-3 Application

8. The Applicant's presentation and testimony at the public hearings are summarized as follows:

December 5, 2019

9. Thomas DiBiasi, Esq., attorney for the Applicant gave an opening statement.

10. Daniel Dressel was sworn in and accepted as an expert in the field of architecture. The architectural plans were labeled A-1. Mr. Dressel explained how the two (2) existing structures will be connected. They will connect the rear building to the front house with an addition of a hallway.

11. Paul Bauman was duly sworn and accepted as an expert in the field of planning. He testified that the prior application was a D-1 variance. This application is a new application as it is substantially different from the former application. This application requires a D2 variance. Unlike the prior D-1 application, this is a connection not two separate structures.

12. Member Cirello made a motion, second by Member Daubner that this application is substantially different and the application can be heard. Motion passed with all members voting yes.

13. Mr. Bauman testified as to the variances needed and the positive and negative criteria of the application. He further testified that the hallway is narrow so that it does not look out of character and avoids more variances. The D2 variance is particularly suited for what is proposed. This unifies two structures into one structure. The applicant is not intensifying the use, just utilizing the second structure to conform to the residential neighborhood. This is the only practical way to make this site conform to the ordinance. This is a residential zone. Mr. Bauman also testified that there is no substantial detriment to the public good. The applicant is making it much better to comply with the ordinance, and will not impair the zone plan. The master plan and ordinance required residential. This application cannot impair the zone plan or the master plan but rather brings the site into conformity with same. The building coverage and lot coverage are increasing; however, the benefit outweighs the detriment.

14. Mr. Bauman testified that N.J.S.A 40:55D-2e applies because this application promotes the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment. He testified that the property is oddly shaped and unique for the Township. There are no detriments and it is aesthetically pleasing and incorporates sound planning principles.

15. Heidi Mullen, owner and applicant, was sworn in and testified that the back structure has a dishwasher, microwave, refrigerator and sink. There is no stove or oven. Ms. Mullen testified that she received one bill from PSE&G, but does not know if there are one or two meters. It was suggested that if there are two meters, they should be combined into one.

16. When questioned by Board Member Trawinski, Mr. Dressel testified that there are smoke detectors that are up to code and hard wired. Neighbors are close and the access to the property is difficult. Member Trawinski asked for some conditions if the application is approved.

17. Ms. Higgins was sworn in. She is a broker working with the Applicant and a close friend.

WHEREAS, the hearing was opened to the public. No member of the public came forward to testify or question the Applicant.

WHEREAS, the testimonial portion of the hearing was concluded on December 5, 2019.

WHEREAS, a motion was made and seconded to approve the Application. The motion carried by a roll-call vote of seven (7) to zero (0).

NOW THEREFORE BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Rochelle Park, that the following Findings of Fact and Conclusions of Law are hereby made:

1. All of the recitals herein set forth are incorporated by reference. All of the exhibits and documents marked into evidence by the Applicant and the Board are herein incorporated by reference.

2. The Applicant is Heidi Mullen, who is the owner of property located at 25 Crescent Street, in the Township of Rochelle Park, County of Bergen and State of New Jersey, being known as Block 78, Lot 15, as set forth on the Tax Assessment Map of the Township of Rochelle Park and being located in a "Residential District", as delineated in *Section 185-98* of the Land Use and Development Regulations of the Township of Rochelle Park (hereinafter referred to as "Zoning Ordinance").

3. This matter was set down for public hearing on December 5, 2019 before the Zoning Board of Adjustment.

4. The requested relief can be granted without substantial detriment to the public good and the requested variances will not substantially impair the intent and the purpose of the Zone Plan and Zoning Ordinance. In balancing the zoning benefits with the zoning harms, the Board finds that the zoning benefits from the requested variance outweighs the zoning detriments. The zoning benefits from the application are that the proposed design provides adequate light, air and open space. There is no detriment to the public good and the proposed improvements will not impair the character of the neighborhood. The Applicant has not sought the requested Bulk Variances based on hardship.

THEREFORE BE IT FURTHER RESOLVED by the Zoning Board of Adjustment of the Township of Rochelle Park that the application for a "Bulk Variance", pursuant to N.J.S.A. 40:55D-70(d)(2) and

N.J.S.A. 40:55D-70(c)(2), for Expansion of Non-Conforming Use, Maximum Building Coverage and Maximum Lot Coverage, subject to those conditions set forth more fully in this memorializing resolution and subject to those Findings of Fact and Conclusions of Law set forth more fully here-in-above, be and the same is hereby **GRANTED**.

BE IT FURTHER RESOLVED that the foregoing relief is granted subject to the following terms and conditions:

1. The Applicant has agreed to keep the kitchen in the rear structure "AS IS". There are to be no further additions to the kitchen such as a stove or oven. The dishwasher, microwave, refrigerator and sink will remain. The Applicant is requested to combine the two meters into one meter, subject to PSE&G approval. There shall be passive locks in the hallway. The Applicant acknowledges that this is a ONE family residence and is prohibited from utilizing it as a TWO family residence.

2. This approval is granted strictly in accordance with Site Plan entitled "Mullen Residence Addition and Renovations, 25 Crescent Street, Rochelle Park, NJ", drawn by Daniel Dressel, Architect, dated April 7, 2019 and consisting of two (2) sheets.

3. The Applicant shall execute a Certification, prior to obtaining building permits that certifies as follows: "This is to certify that the plans for which a building permit is being sought are the same plans which have been approved by the Township of Rochelle Park Zoning Board of Adjustment".

4. All taxes shall be paid as a condition of this approval.

5. The Applicant shall post all fees and deposits as required by the Township Code, including any outstanding deficiencies in any escrow accounts. Payment of all fees, costs and escrows due or which shall become due are to be paid within twenty (20) days of said request by the Board Secretary.

6. All representations and stipulations made under oath by the Applicant or its representatives shall be deemed conditions of approval and any representations and stipulations by the Applicant or its representatives contrary to the representations and stipulations made before the Board shall be deemed a violation of this approval.

7. Pursuant to *Section 185-49* of the Code of the Township of Rochelle Park, the Applicant shall be responsible for all professional fees incurred as a result of this application, including but not limited to, the fees of the Township Planner, Township Engineer and Board Attorney, if applicable.

8. This approval is subject to receipt of all necessary governmental approvals, if required. If any governmental agency requires any substantial changes to the Site Plan, as determined by the Construction Code Official and/or Township Engineer, this Board reserves the right to review and approve of such additional changes. No building permits shall be issued until authorized by the Construction Code Official and/or Township Engineer.

9. The action of the Zoning Board of Adjustment in approving this application shall not relieve the Applicant of responsibility for any damages caused by this project nor does the Zoning Board of Adjustment, Township of Rochelle Park or its reviewing professionals and agencies accept any responsibility for the structural design for the proposed improvements or any damages which may be caused by the development of the approved structure.

10. The Applicant shall comply with all requirements and directives of the Township of Rochelle Park Police and Fire Departments, if applicable.

11. The Applicant shall comply with all requirements and directives of the Township's Shade Tree Commission, if applicable.

12. The Applicant shall comply with all laws, codes, ordinances and regulations of the State of New Jersey, County of Bergen and the Township of Rochelle Park, including but not limited to *Section 185-142* (Nonresidential Development Fees); *Section 185-143(B)* (Affordable Housing Development Fee) and *Section 185-144* (Collection of Fees) of the Land Use and Development Regulations for the Township of Rochelle Park, if applicable.

13. The Applicant shall comply with any and all building code requirements of the State of New Jersey and/or Township of Rochelle Park.

14. The variance(s) granted herein shall expire in accord with the provisions of *Section 185-26* of the Zoning Ordinance, as

amended.

15. The Applicant shall cause to be published a notice of the final decision of the Zoning Board of Adjustment as set forth herein in accord with the provisions of Section 185-38 of the Zoning Ordinance.

16. In the event that any conditions are held to be invalid, unenforceable or unlawful, by a court of competent jurisdiction, then in said event, the entire approval granted herein shall be unenforceable. It is the intent of the Board that the approval granted herein shall not be approved if any condition is declared invalid and the remaining conditions are not severable from the approvals granted herein.

BE IT FURTHER RESOLVED that the Chairman and the Secretary of the Zoning Board are hereby authorized to affix their signatures to this resolution. This resolution is a memorializing resolution adopted pursuant to N.J.S.A. 40:55D-10(g)(2), memorializing the action taken by the Zoning Board at the meeting held on December 5, 2019.

This application was **APPROVED** by the Zoning Board of Adjustment of the Township of Rochelle Park at its meeting of December 5, 2019 upon the motion of Sal Antista and seconded by Guy Cirello and upon the roll call as follows:

MEMBER	YES	NO	ABSTAIN	ABSENT
Scott Den Bleyker (Chairman)	X			
Matt Trawinski	X			
James Daubner	X			
Adib Abboud	X			
Sal Antista	X			
Guy Cirello	X			
M. Agatone	X			
K. Dudhia				
A. Santiago				

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the Applicant, Borough Clerk, Tax Assessor, Construction Code Official, the Zoning Officer of the Township of Rochelle Park and Board Engineer.

Adopted this 16th day of January 2020 by a majority of the members of the Board present at such meeting who voted for the

action taken on the 5th day of December, 2019.

Decided: December 5, 2019

Memorialized: January 16, 2020

Scott DenBleyker, Board Chairman
Zoning Board of Adjustment
Township of Rochelle Park

I do certify that this is a true and correct copy of the Resolution as adopted by the Board of Adjustment of the Township of Rochelle Park, County of Bergen, State of New Jersey, in the within application.

ANNEMARIE WELLS, Board Secretary
Zoning Board of Adjustment
Township of Rochelle Park