

BOROUGH OF AVON-BY-THE SEA PLANNING BOARD

RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF AVON-BY-THE-SEA, COUNTY OF MONMOUTH, STATE OF NEW JERSEY GRANTING USE VARIANCE AND BULK VARIANCES APPROVAL FOR ROBERT AND LYNN BELLETIER WITH RESPECT TO 24 POOLE AVENUE, DESIGNATED AS BLOCK 43.02, LOT 4

WHEREAS, Robert and Lynn Belletier (the "Applicants") filed a development application with respect to property identified as Block 43.02, Lot 4 with a street address of 24 Poole Avenue, (the "Property") which calls for the reconstruction of a two-story dwelling which will be attached to the existing garage and apartment above (the "Application"); and

WHEREAS, such proof of publication of notice of hearing as may be required by New Jersey statutes and municipal ordinance requirements has been furnished; and

WHEREAS, public hearings were held concerning the Application on November 14, 2013, in the elementary school in the Borough of Avon-By-The-Sea and testimony and exhibits were presented on behalf of the Applicant and all interested parties were afforded an opportunity to be heard; and

WHEREAS, the Borough of Avon-By-The-Sea having considered said application, testimony of the Applicant and exhibits submitted, and after having received information and consultation from its professional staff, the Borough of Avon-By-The-Sea Planning Board does hereby make the following findings of fact and law;

- A. The property known as 24 Poole Avenue (Block 43.02, Lot 4) with a total area of 4,000 square feet. The existing lot had a two-story dwelling with an attached garage and apartment above it. The dwelling was destroyed in Superstorm Sandy and was demolished in June of 2013. The only part of the structure to remain is the garage and apartment above.
- B. The applicant proposes to reconstruct the two-story dwelling, which will be attached to the existing garage and apartment above.
- C. The property is located in the R Single-Family Residential District. The applicant is reconstructing the two-story dwelling in a smaller footprint than the original dwelling. The construction of a single family dwelling is a permitted use.

D. The following variances are required:

- (a) In accordance with Section 113.11.B.(2), the minimum rear yard setback permitted per the district is 25 feet. The applicant is proposing a rear yard setback of 18.1 feet. A variance is required.
- (b) In accordance with Section 113.11.B.(2), the minimum side yard setback permitted per the district is 5 feet on one side and the aggregate of the two side yards shall be 25% (10 feet) of the lot width. The existing side yard setback to the existing garage is 2.52 feet on one side and the formerly existing aggregate of the two side yards is 5.52 feet, which represents an existing non-conformity. The proposed part of the dwelling is 3.00 feet on one side and the proposed aggregate of the two side yards is 5.52 feet. A variance is required for both side yard setbacks.
- (c) In accordance with Section 113.11.C.(3), the maximum building coverage (for lots 5,000 square feet or less) permitted per the district is 35%. The applicant is proposing building lot coverage of 44.0%. A variance is required.
- (d) In accordance with Section 113.11.C.(3), the maximum impervious lot coverage permitted per the district is 50%. The applicant is proposing impervious lot coverage of 64.3%. A variance is required.
- (e) In accordance with Section 113.11.C.(4), the maximum permitted building height of a principal building is 28 feet. The applicant's proposed building is 32.45 feet. Since the principal structure exceeds the maximum allowable building height by 10 feet or 10%, a D variance or use variance will be required, in accordance with N.J.S.A. 40:55D-70d of the Municipal Land Use Law.

E. The following exhibits were marked for identification:

- 1. Photograph of house from south, marked as A-1.
- 2. Substantial Determination Form, marked as A-2.
- 3. Zoning approval (later disapproved), marked as A-3.

4. Photograph showing where base floor would begin, marked as A-4.
5. Photograph of garage, marked as A-5.
6. Photograph of garage and room above it, marked as A-6.
7. Photograph of condominiums located on Main Street, marked as A-7.
8. Photograph of residence at 20 Poole Avenue, marked as A-8.
9. Photograph of residence at 23 Poole Avenue, marked as A-9.
10. Photograph of residence at 26 Poole Avenue, marked as A-10.
11. Flood Elevation Certified (projected on screen), marked as A-11.
12. Color rendering of proposed house (projected on screen), marked as A-12.

F. Robert Ferricola, Esquire represented the applicant. Mr. Ferricola advised that the home was 100 years old and had 4 feet of water from Superstorm Sandy. He further stated it did not make sense economically or structurally to raise the home.

G. Lynn Belletier, the applicant, spoke in support of her application. She stated that the property has been in her husband's family for 41 years. She lives there with her husband, nine year old daughter and mother-in-law. She said an elevator would be installed to accommodate her mother-in-law. She further stated that the proposed house will be functional and aesthetically pleasing to the neighborhood.

H. Michele DelVecchio, AIA, testified as an expert in the field of architecture in support of the application. Ms. DelVecchio stated there is a decorative turret that triggers the 32 foot height. The design of the house is typical seashore design and will be cohesive with the neighborhood. She further stated that the proposed finished floor elevation will be 12 feet and therefore is 2 feet above the 10 feet FEMA requirement.

I. During the public portion of the meeting, Mary Reilly of 507 Jefferson Avenue spoke in favor of the application. She feels the house would fit in the neighborhood. Linda Henderson of 108 Second Avenue stated she is hopeful that the Board would approve the application.

J. Based on these findings the Board has balanced the positives of the application against any negatives and finds, by an enhanced standard of proof, that the positives are not substantially outweighed by any negative aspects of the Application and further that the use variance, as well as the bulk variances, may be granted without substantial detriment to the public good or impairment of the intent and purpose of zone plan.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Avon-By-The-Sea, on the 12th day of December 2013, that the applicant's request for a use variance pursuant to NJSA 40:55D-70(d) as well as bulk variances pursuant to NJSA 40:55D-70(c) be approved subject to the conditions as set forth below; and,

BE IT FURTHER RESOLVED, that a copy of the Resolution be forwarded by the Planning Board Secretary, to the Applicant, the Borough Clerk and the Building Department.

BE IT FURTHER RESOLVED, that notification of this favorable approval be published in an official newspaper of the Borough of Avon-By-The Sea by the Clerk.

BE IT FURTHER RESOLVED, that this approval is subject to the following conditions:

1. The applicant shall comply with all representations made before the Land Use Board, by its attorney and its expert.
2. If required, applicant shall obtain certification by the Local Soil Conservation District of a plan for soil erosion and sediment control in accordance with N.J.S.A. 4:24-39 et seq., commonly known as the "Soil Erosion and Sediment Control Act."
3. All materials, methods of construction and detail shall be in conformance with the current engineering and building requirements of the Borough of

Avon-By-The-Sea, which are on file in the office of the Borough Construction Official.

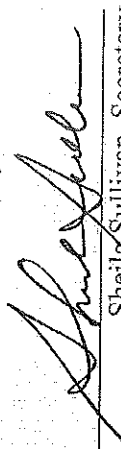
4. Applicant shall obtain all approvals required by any Federal, State, County or Municipal agency having regulatory jurisdiction of this development. Upon receipt of such approval(s), the applicant shall supply a copy of the permit(s) to the Board. In the event that any other agency requires a change in the plans approved by this Board, the applicant must reapply to the Borough of Avon-By-The-Sea Planning Board for approval of that change.
5. Applicant shall resubmit this entire proposal for re-approval should there be any deviation from the terms and conditions of this resolution or the documents submitted as part of this application, all of which are made a part hereof and shall be binding upon the applicant.
6. Applicant shall provide a statement from the Borough of Avon-By-The-Sea Tax Collector that all taxes are paid in full as of the date of this Resolution and as of the date of the fulfillment of any condition(s) of this Resolution.
7. If applicable, prior to the issuance of a construction permit, the applicant shall furnish the Borough Clerk with a cash bond and performance guarantee in an amount to be determined by the Borough Engineer.
8. If applicable, applicant shall post an inspection fund with the Borough Clerk in an amount to be determined by the Borough Engineer.
9. No soil shall be removed from the site without the written approval of the Borough Commission.
10. If applicable, applicant must comply with the new COAH ordinance for the building improvements in question.
11. Unless specifically modified herein, the applicant shall comply with all terms and conditions of all prior resolutions of the Avon-By-The-Sea Planning Board regarding this application.
12. The applicant shall reimburse the Borough of Avon-By-The-Sea Planning Board for all professional fees extended or expended with regard to this application.

13. The applicant shall comply with all the provisions of the engineering review letters of Peter Avakian, P.E., dated October 31, 2013 and November 13, 2013 unless modified herein.
14. The building height of the principal building shall not exceed 32.45 feet.
15. Applicant shall comply with all generally applicable Borough ordinances.

CERTIFICATION

I hereby certify that I, the undersigned, am the secretary of the Planning Board of the Borough of Avon-By-The-Sea, and I hereby certify that the foregoing Resolution was unanimously adopted by the Planning Board at a meeting held on the 12th day of December 2013.


Richard Maloney, Chairman


Sheila Sullivan, Secretary

BOROUGH OF AVON-BY-THE SEA PLANNING BOARD

**REVISED RESOLUTION OF THE PLANNING BOARD OF THE
BOROUGH OF AVON-BY-THE-SEA, COUNTY OF MONMOUTH,
STATE OF NEW JERSEY GRANTING USE VARIANCE AND BULK
VARIANCES APPROVAL FOR ROBERT AND LYNN BELLETIER
WITH RESPECT TO 24 POOLE AVENUE, DESIGNATED AS BLOCK
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WHEREAS, public hearings were held concerning the Application on November 14, 2013, in the elementary school in the Borough of Avon-By-The-Sea and testimony and exhibits were presented on behalf of the Applicant and all interested parties were afforded an opportunity to be heard; and

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NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Avon-By-The-Sea, on the 12th day of December 2013, that the applicant's request for a use variance pursuant to N.J.S.A. 40:55D-70(d) as well as bulk variances pursuant to N.J.S.A. 40:55D-70(c) be approved subject to the conditions as set forth below; and,

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CERTIFICATION

I hereby certify that I, the undersigned, am the secretary of the Planning Board of the Borough of Avon-By-The-Sea, and I hereby certify that the foregoing Resolution was unanimously adopted by the Planning Board at a meeting held on the 13th day of February 2014.

Richard Maloney, Chairman

Sheila Sullivan, Secretary