

RESOLUTION NO. 23 - 2023
(Cal 7 - 2023)

RESOLUTION OF THE PLANNING BOARD OF THE
BOROUGH OF SPRING LAKE, COUNTY OF
MONMOUTH, STATE OF NEW JERSEY.

WHEREAS, Patrick Conroy & Sheila Conroy, (hereinafter referred to as the "applicants") have applied to the Planning Board of the Borough of Spring Lake (hereinafter the "Board") for variance relief pursuant to N.J.S.A. 40:55D-70(c), from the provisions of the Spring Lake Zoning Ordinances, for permission to construct a new dwelling with a front yard setback encroachment at property located at 319 Tuttle Avenue, Spring Lake, New Jersey, and known as Block 104, Lot 10, on the Spring Lake Tax Map; and,

WHEREAS, public hearings were held at the regularly scheduled meetings of September 7, 2023 and October 11, 2023 in the Municipal Building, and testimony having been presented on behalf of the applicants and objectors to the application and the public in general having been given an opportunity to be heard; and,

WHEREAS, such proof of service as may be required by New Jersey Statutes and Municipal Ordinances has been furnished; and,

WHEREAS, the Board, having considered the application, testimony, and exhibits submitted, makes the following findings:

1. The property is located in a R-2 Zone.
2. The property is rectangular in shape, having 50 feet of frontage along Tuttle Avenue and 150 feet of depth. The property is located on the southerly side of Tuttle Avenue, one property removed from the intersection of Fourth Avenue and Tuttle. The property contains a modest two-story dwelling that hosts a wood deck to the rear and an asphalt driveway to the northerly side. The applicants propose to demolish the existing structures and to construct a new two-and-one-half-story structure on the lot.
3. The applicants appeared before the Board on September 7, 2023, at which time they presented the Architectural Plans prepared by William A. Mathis, A.I.A., dated May 8, 2023; a Variance Plot Plan prepared by Joseph J. Kociuba, P.E., P.P., dated May 12, 2023, a Topographic Plan prepared by Charles Surmonte P.E., P.L.S., dated November 29, 2022, and a Front Yard Setback Plan prepared by Charles

Surmonte P.E., P.L.S. dated November 29, 2022. The applicants subsequently appeared before the Board on October 11, 2023, at which time they provided amended Architectural Plans prepared by William A. Mathis, A.I.A., dated May 8, 2023, last revised September 28, 2023; and an amended Variance Plot Plan prepared by Joseph J. Kociuba, P.E., P.P., dated May 12, 2023, last revised September 28, 2023. It was the amended and revised architectural and variance plans that were ultimately considered by the Board. These amended plans more fully described the applicants' proposal before the Board and these plans were accepted and relied upon by the Board in its deliberations regarding this application.

4. The applicants were represented by Mark R. Aikins, Esq. before the Board. Testimony was provided primarily by the applicants, Patrick and Sheila Conroy; William A. Mathis, A.I.A., and Joseph J. Kociuba, P.E., P.P. Mr. Mathis was accepted as an expert in the field of Architecture and Mr. Kociuba was accepted as an expert in the fields of Engineering and Planning. A significant number of neighbors appeared before the Board. The neighbors were largely supportive of maintaining the existing front yard encroachment.

5. Upon review of the matter by the Board Engineer, and in consultation with him, the Board found that the application required variance relief for the front yard setback where 25 feet is required and 17.5 is proposed to the bulk of the front porch and 15.5 feet is proposed to the steps.

6. The Board finds that the relief requested may be granted. The Board finds that this application presents the Board with a rather unique circumstance. The Board heard testimony and finds as true that the dwelling structures situated along the southerly side of Tuttle Avenue are fairly uniform in that they all encroach into the front yard to a distance of 8 to 12 feet. The Board heard the testimony of the applicants that they would like to respect the uniformity of the neighborhood as to the front yard setback and to also respect the wishes of the neighbors who would like the encroachment to be maintained. The Board heard from many of the neighbors who described the unique quality of the neighborhood that is created by the fairly uniform encroachment. The neighbors were unanimous in their support of the grant of variance relief to maintain, as much as possible, the encroachment so to maintain the charm of the community. The testimony included a reference to a "missing tooth" appearance

that would result should relief not be granted. The Board considered the testimony of the applicants and the neighbors and finds the same to have merit. The Board finds that the variance relief may be granted because allowing an encroachment would support the community design. The Board notes that it is a goal of the Master Plan to maintain the fabric of the Borough's neighborhoods. As such the Board finds that the promotion of the neighborhood is a benefit that may support the grant of the relief as representing a better zoning alternative under N.J.S.A. 40:55D-70(c) and the related finding that the relief may be granted without substantial impairment to the zone plan. The Board finds that the relief requested represents a satisfactory compromise between the competing benefits of maintaining the neighborhood design and supporting the zone plan. The Board notes that while the encroachment may support the neighborhood design, it is entirely possible that a developer could buy a property in the neighborhood, demolish the structure and build a house at the setback, and within the other zone requirements, and therefore not ever need to appear before the Board. In this regard the Board finds that the choice and destiny of the neighborhood is not entirely in the neighborhood's hands and the protection of the neighborhood design cannot be assured. The Board in this regard notes that the zoning ordinances are intended to take the patient and long view of development, so to gradually, over time, erode the nonconformities into compliance notwithstanding the charm that such nonconformities may bestow in the present, because as nonconformities, they are disfavored and the hope of the Zone Plan is that they wither and die. These are the considerations that the Board finds are balanced by the grant of the relief here. The Board finds that the relief will not cause a detriment to the public good. There will be no harm to the neighbors. Any detriment that may result would appear to be the result of a failure to grant greater relief and not the grant of the relief requested. The Board finds that the placement of the house as proposed will allow the streetscape to be relatively uniform, as the area converts to conformity with the setback requirements, while not presently disrupting the streetscape to an extreme degree. The Board finds this to be a decision that best fits the present and future circumstances of the neighborhood. The Board notes that there is room to disagree, however, on balance and after due consideration, the Board finds that the benefits of granting the relief sought outweigh the detriments that may accrue and finds that the relief may be granted under N.J.S.A. 40:55D-70(2)

as presenting a better zoning alternative.

WHEREAS, the Board has determined that the relief requested by the applicants can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinances of the Borough of Spring Lake and that the benefits of this application do substantially outweigh the detriments, and that a certain hardship exists,

NOW THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Spring Lake on this 8th day of November, 2023, that the variance relief sought in this application be and is hereby granted subject to the following conditions.

1. That all existing taxes, water, and sewer assessments be paid current prior to the issuance of a certificate of occupancy.
2. That all construction be completed in accordance with Borough Ordinances, the Building Codes, and Uniform Construction Codes.
3. That all utilities will be placed underground.
4. That all legal fees, engineering fees, inspection fees, or performance bonds set by the Board Engineer be paid by the applicants prior to the issuance of a building permit.
5. That a copy of this Resolution be given to any subsequent owner of this property.
6. That the applicants shall construct the improvements substantially in compliance with the plans approved.
7. That the applicants shall conform their plans in accordance with the Review letter prepared by the Board Engineer dated September 7, 2023, and all conditions and stipulations provided herein or as agreed to on the record at the hearings of this matter.
8. That the applicants shall prepare and provide such new plans as may be required by the Board Engineer to reflect compliance with the changes placed on the record at the hearing or as may be otherwise required.
9. That the applicant shall replace all curbs, aprons and sidewalks as may be required by the Board Engineer.
10. That the porch shall not be enclosed or built above except as provided by

herein or further approval by the Planning Board.

11. That the applicants shall act to save the tree presently existing in the right-of-way and shall plant a new tree in the area if the existing tree cannot be reasonably preserved. The applicants in this regard have agreed to replace the water service to the house if necessary to save the tree.

12. That the placement of mechanical equipment will comply with Borough ordinances.

13. That the stormwater runoff from the house and garage will be discharged into drywells of adequate design and placement.

14. That the applicants shall comply with the Building Coverage requirements of the zone.

CERTIFICATION

I, Kristina Palangi, Secretary of the Planning Board of the Borough of Spring Lake, in the County of Monmouth, State of New Jersey, do hereby CERTIFY that the foregoing is a true copy of a resolution adopted by the Planning Board at its regular meeting held on November 7, 2023.



Kristina Palangi