

BOROUGH OF NEW PROVIDENCE

BOARD OF ADJUSTMENT

RESOLUTION

WHEREAS, Jeremy Siegel and Joyce Bartle are the owners of 35 Whitewood Drive, New Providence, New Jersey (the "Applicants"), and have applied to the Zoning Board of Adjustment of the Borough of New Providence (the "Board") for variance relief pursuant to N.J.S.A. 40:55D-70(c) for relief from the Borough's zoning ordinance to permit the construction of an addition. The proposed front-yard setback along Whitewood Drive to the second-floor addition is 39.93 feet, whereas 40 feet is the minimum required. The proposed front yard setback along Acorn Drive to the second-floor addition is 20.97 feet, whereas 40 feet is the minimum required. The property is designated as Block 255, Lot 1 on the Borough Tax Map, and lies in the R-2 Single Family Residential Zone; and

WHEREAS, the Board has reviewed the application, testimony and exhibits presented by the Applicant at the hearing conducted on March 18, 2013; and

WHEREAS, the Board has made the following findings of fact and drawn the following conclusions of law:

FINDINGS OF FACT

1. The Applicants, Jeremy Siegel and Joyce Bartle, are the owners of 35 Whitewood Drive, New Providence, New Jersey. The property is designated as Block 255, Lot 1 on the Borough Tax Map, and lies in the R-2 Single Family Residential District.

2. The Applicants propose to construct an addition on their lot. The proposed front-yard setback along Whitewood Drive to the second-floor addition is 39.93 feet, whereas 40 feet is the minimum required. The proposed front yard setback along Acorn Drive to the second-floor addition is 20.97 feet, whereas 40 feet is the minimum required.

3. Jeremy Siegel and Miguel Martin, architect for the Applicant, were sworn in. Mr. Martin was accepted as an expert. Mr. Siegel testified that he would like to add a master suite and correct deficiencies in the house. There is a step down on the first floor and two steps down on the second floor and a post in the middle of the kitchen that supports the two steps. The front-yard variance is requested because the house is a corner lot.

4. Mr. Martin stated that the addition will correct the interior steps on the first and second floors. The addition would go over the existing house in the front. The second floor would be stepped down two steps to raise the ceilings to seven feet. The enlargement to the rear is in line with the existing exterior wall on Acorn Drive. Mr. Martin looked at putting the addition in the back, but it would not provide the functional space required. The exterior on Acorn Drive is stepped down to break up the elevation. The new addition will match the existing cedar shingle and will be a neutral color. The HVAC system will be re-done and the condenser which is now at the rear of the house will be relocated behind the addition closer to Acorn Drive. All of the variances requested are existing non-conformances except for the front-yard setback.

5. Photographs and elevations of the proposed addition were marked as Exhibit A-1. The photographs from Acorn and Whitewood Drive show the extent of the neighborhood. The house is far from the corner and tucked in behind trees. The new addition is still smaller than other houses in the neighborhood. The elevations on the exhibit do not show lattice under the deck, but the Applicants are comfortable adding latticework. There are five steps to the deck

which is three to four feet off the ground.

6. Mr. Siegel answered questions from the Board. The closing for the house was postponed at the time of the hearing until the following week because of an issue with the title. The deck will not have flood lights but wall-mounted lights. The condensers for the air conditioning are two feet off the rear of the house to the left of the chimney to keep them as far as possible from the neighbor, but Mr. Siegel is willing to move them if necessary.

7. The Board believes the addition is reasonable and that it fits in the neighborhood and corrects existing undesirable conditions.

8. Mr. Allan Morris, 42 Acorn Drive, and asked if the exterior wall on the addition will extend farther than the existing house. Mr. Martin responded that it does not. No one else appeared to testify in favor of or in opposition to the application.

CONCLUSIONS OF LAW

1. The proposed addition does not comply with the requirements for this lot as established by Chapter 310, Article IV, Section 310-10, Schedule II. The request to permit the construction of the addition and the pre-existing non-conformities requires the granting of a "c" variances pursuant to N.J.S.A. 40:55D-70(c).

2. Through the testimony and exhibits presented, the Applicants have established that the application:

- (a) relates to a specific piece of property, namely the Applicants' premises;
- (b) that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, namely the promotion of the public health, safety, morals and general welfare and the preservation of neighborhood character and conservation of neighborhood values;

(c) that the variances can be granted without substantial detriment to the public good;

(d) that the benefits of the deviation would substantially outweigh any detriment and that the variances will not substantially impair the intent and purpose of the zone plan and ordinance.

NOW, THEREFORE, BE IT RESOLVED, on this 18th day of March, 2013, that Jeremy Siegel's and Joyce Bartle's application for "c" variances be and hereby is **GRANTED**, subject to the following conditions:

1. The addition shall be constructed in accordance with the plans and testimony presented to the Board and the porch shall not be enclosed; and

2. The approval is subject to all other governmental approvals, including but not limited to compliance with the Borough's lot grading ordinance; and

3. The variances granted herein shall not constitute authority to engage in any construction which is not authorized by the Zoning Ordinance of the Borough of New Providence, except as expressly stated herein.

ROLL CALL VOTE

Those in Favor: Mr. Ammitzboll, Mr. Grob, Ms. Polesak, Mr. Hoefling
and Mr. Nadelberg

Those Opposed: -----

The foregoing is a Resolution duly adopted by the Zoning Board of Adjustment of the Borough of New Providence at its meeting on May 20, 2013.

ATTEST:

Margaret Koontz
Secretary, Board of Adjustment

William B. Prohelly
Chairman, Board of Adjustment