

**MEMORIALIZING RESOLUTION OF THE
BOROUGH OF SEASIDE PARK PLANNING BOARD
APPLICATION NO. PB 18-14**

WHEREAS, the Borough of Seaside Park Planning Board is a duly constituted Planning Board pursuant to N.J.S.A. 40:55D-23 and 25c, and Borough of Seaside Park Development Ordinance §200-15; and

WHEREAS, **MARIE CLAYTON**, applicant, has applied to the Planning Board of the Borough of Seaside Park to construct a new rear deck on an existing elevated single family dwelling, necessitating bulk variances for premises located at 265 N Street, also known as block 63, lot 27, as designated on the official tax map of the Borough of Seaside Park; and

WHEREAS, the applicants have provided proper notice to all property owners within 200 feet and all other pertinent parties; and

WHEREAS, the applicants have submitted to the Board an Affidavit of Publication in proper form; and

WHEREAS, the applicants are requesting bulk variances; and

WHEREAS, the Planning Board having considered the application and the documents filed by the applicants; having heard the testimony on behalf of the applicant and witnesses, and having examined the exhibits submitted, and having heard the testimony of all interested parties during its meeting of May 22, 2018; and

WHEREAS, the Planning Board after carefully considering all the evidence provided, has made the following findings of fact:

1. All those exhibits contained in the Board file and discussed during the hearing are hereby considered evidence for the purpose of this application.

2. In addition to the exhibits noted above, the following exhibits were also specifically marked into evidence at the hearing:

- A-1 Development Application
- A-2 Tax Collector's Certification
- A-3 Water & Sewer Certification
- A-4 Tax Assessor's Certified List of Property owners
- A-5 Affidavit of service
- A-6 Affidavit of publication
- A-7 Hearing notice.
- A-8 Review letter dated May 8, 2018 prepared by Board Engineer, Douglas Rohmeyer, PE, CME, CFM.
- A-9 Color photograph of shared driveway – view from street.
- A-10 Color photograph of easterly view from backyard depicting various nonconforming rear yards.
- A-11 Color photograph of westerly view from backyard depicting various nonconforming rear yards.
- A-12 Map of Survey with Topography and Plot Plan with Grading for Deck Variance prepared by Ronald W. Post, PLS and TEC Engineering dated March 13, 2018
- A-13 Map of Survey with Topography prepared by Ronald W. Post, PLS dated February 16, 2018.
- A-14 Architectural Plan prepared by Barlo, Governale and Associates, LLC dated February 20, 2018, one sheet.

3. The property is located in the Residential Zone District which permits single family residential uses.

4. The applicant is the owner of the subject property.

5. Dan Governale, AIA, was duly sworn and testified as follows:

A. The home was previously elevated.

B. There are many non-conforming properties with rear yard encroachments in area.

C. The property had an approved paver patio on grade in the area of the proposed deck prior to elevation of the home.

D. The deck provides a traditional rear yard outdoor space easily accessible from the home without climbing a full set of stairs.

E. The proposal eliminates the existing second set of stairs that connect the side entrance and the rear yard. The new deck wraps around the house and connects to the side entrance in lieu of the steps.

6. MARIE CLAYTON, was duly sworn and testified as follows:

A. The home contains three bedrooms and one legal parking space. She was granted all permits necessary to raise the home with only one parking space on the lot. Parking has not been a problem at this site, and two average sized cars can be stacked on the lot.

7. The meeting was opened to the public and thereafter closed as there were no members of the public that wished to be heard in the matter.

8. The Board considered the testimony of the applicant and the witnesses and all the exhibits contained in the Board file and same are hereby incorporated as the findings of fact of the Planning Board.

WHEREAS, the Borough of Seaside Park Planning Board has determined that

- a. the purposes of the Municipal Land Use Law will be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation substantially outweigh any detriment; and
- b. the applicant will suffer undue hardship if the relief is not granted; and
- c. the variances requested by the applicant can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinances of the Borough of Seaside Park for the following reasons:

1. The proposed development does not violate the light, air, or space of any adjacent property owner as the rear yard elevated deck is an open air deck with no roof, columns or walls to block the views from adjacent properties. Further, the house provides a rear yard setback 24.4 feet, well in excess of the 20 feet required by code.

2. Applicant's lot is exceptionally narrow, shallow, and undersized which makes conformance with the setback difficult.

3. The proposed development is consistent with other residential structures and uses in the surrounding neighborhood, many of which have been raised to meet flood elevation requirements, and incorporate rear yard decks.

4. The proposed deck replaces the prior ground level patio that served as the outdoor living space prior to elevation of the home.

5. The development promotes the safety of the site by bringing the property into conformity with the latest FEMA flood elevation standards.

6. Creation of another site in the Borough that conforms to the latest FEMA flood elevations requirements promotes the general welfare of the Borough by securing the neighboring properties from storm debris, and enhancing the NFIP rating of the Borough which tends to lower flood insurance premiums for all residents.

NOW, THEREFORE, be it resolved by the Borough of Seaside Park Planning Board on this 26th day of June 2018, that the application of KEVIN AND BARBARA MCNALLY for bulk variances be and hereby is granted subject, however, to the following conditions:

1. A bulk variance for rear yard setback of 11.9 feet whereas 20 feet is required, shall be granted.

2. The applicant shall strictly comply with the plans and surveys submitted and discussed, as amended, during the hearing. Any deviation from said plans shall be subject to further review and approval by the Planning Board.

3. The proposed deck shall contain only an open air style railing, with no more solid surface than is required by the building code. The deck shall not be further enclosed with a roof, walls, windows, screens, shades, blinds, sashes or any other material or construction that will block the view of the adjacent property owners.

4. The variances granted herein shall be exercised within two years as provided by Borough Code 200-16D.
5. The applicant shall obtain any and all other federal, state, county, and local approvals as required by law, including but not limited to NJDEP/CAFRA (or letter of no interest), NJDOT, FEMA and local flood plain regulations, Ocean County Planning Board, Borough Water and Sewer Department, Ocean County Soil Conservation District, and the local fire official.
6. No building permit shall be issued for any additional construction located on the subject premises, even if said application conforms to all zoning ordinances, with further review and approval by the Planning Board.
7. The applicant shall provide performance bonds and inspection fees in accordance with the Seaside Park Borough Ordinances or any other law or regulation as required.
8. Proof of payment of real estate taxes to date.
9. Proof of payment of all outstanding application fees and professional escrow fees.
10. No building or zoning permit shall be issued until the applicant fully complies with all conditions of this resolution.

Moved by: Anthony DiCaro

Seconded by: Frank Losey

ROLL CALL

Those in Favor: All

Those Opposed: None

Those Abstaining: None

CERTIFICATION

I, Sandra Martin, Secretary of the Borough of Seaside Park Planning Board, hereby certify the above Resolution to be a true and correct copy of a Resolution adopted by the Borough of Seaside

Park Planning Board on June 26, 2018.



Sandra Martin, SECRETARY