

JOINT LAND USE BOARD OF THE BOROUGH OF DUMONT

RESOLUTION

VARIANCE RELIEF

In the Matter of the Application of:

JOSEPH AND LINDA GALVIN

WHEREAS, JOSEPH AND LINDA GALVIN (the "Applicants") are the owners of the property located at 26 New Milford Avenue, designated as Lot 7 in Block 902 on the Tax Map of the Borough of Dumont (the "Property"); and

WHEREAS, the Property is an undersized lot consisting of 3,000 square feet with an existing home and is located in the RA Zoning District. The Property contains a single family dwelling with a garage that is located "beneath" the home and accessed by a "downhill" driveway; and

WHEREAS, the Applicant seeks to close the existing garage and "fill in" the downhill driveway creating a level lot. Thereafter, a new paver "driveway" would be installed to create a grade level parking area. This parking area would be the same length as the existing driveway (31 feet) and is proposed to be 16 feet wide; and

WHEREAS, Applicant has made application for variance relief pursuant to N.J.S.A. 40:55D-70(c)(1) for variances from the Borough's bulk requirements as they apply to driveway width (16'

proposed and 10' permitted) and the fact that the home would no longer have a garage; and

WHEREAS, public hearing in the within matter was held on July 28, 2015, wherein the Applicant presented evidence and testimony upon proper notice to the public; and

WHEREAS, at said public hearings, the Applicants testified as well as the applicant's contractor, Maple Leaf Construction, who would perform the proposed work; and

WHEREAS, at said public hearings the Applicant presented the following Exhibits:

A-1 Engineering Calculations, prepared by Martin Spence, PE, dated June 15, 2015, including revisions.

WHEREAS, at said public hearings, the Applicant appeared pro se; and

WHEREAS, at public hearing the Board adduced the testimony of the acting Board Engineer and presented the following Exhibits:

B-1 Boswell Engineering, Review Letter, dated July 28, 2015.

NOW, THEREFORE, BE IT RESOLVED that the Joint Land Use Board of the Borough of Dumont makes the following findings of fact with respect to the within Application:

1. The Applicant has resided in the existing home for some years. The Property is undersized and is located on a busy road. Subsequent to the construction of the home, but prior to the Applicant's ownership, a steep driveway was dug and the

foundation of the home was cut to create a garage in the basement of the existing home. Retaining walls were installed on each side of the driveway.

2. During the Applicant's ownership of the Property, it is clear that the driveway is virtually useless. It is too narrow to permit car doors to readily open and it is far too steep to utilize in inclement weather. The garage created is too small to utilize and the applicant has, for many years, utilized a neighbor's property to park their vehicles.
3. In addition to the problems with the driveway, the steep driveway and garage results in significant water in the Applicant's basement. This problem is so significant that the Applicant has lost use of their basement and the recurrent floods have resulted in the home being less usable. The driveway and the garage have proven not to be useful for vehicle parking and have simply resulted in continuous and recurring water damage to the home.
4. In order to rectify the issues surrounding the driveway and the garage, the Applicant seeks to remove the retaining walls that create the existing downhill driveway and rebuild the foundation of the home to eliminate the garage. The front yard of the Property will then be rendered level and a new driveway of 16' in width would be installed. This would effectively be a parking pad that would permit the parking of

two vehicles on the Property in compliance with the Borough's Zoning code. The Code permits a driveway of only 10' wide and a variance is required to provide a driveway that exceeds permitted width. Additionally, a variance may be required because the home would no longer have a garage.

5. The Applicant has testified that they can no longer park on the neighbor's property and they now have no place to park.

CONCLUSIONS AND DETERMINATIONS

1. All findings of fact set forth above are made a part hereof as if set forth herein at length.
2. The proceedings in this matter were voice recorded. The foregoing 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.
3. N.J.S.A. 40:55D-70(c)(1) provides for relief where the Applicant suffers a unique hardship. N.J.S.A. 40:55D-70(2)(2) provides that a variance may be granted where the Board finds that the purposes of the Municipal Land Use Law ("MLUL") would be advanced by a deviation from the zoning requirements and that the benefits of the deviation would substantially outweigh any detriment. The Board finds that the Applicant has met both requirements for the granting of the requested variances. The Applicant suffers a unique hardship with regard to their undersized lot and the construction thereof

with effectively provides no parking while resulting in significant water damage to their home. The Applicant has also demonstrated that the benefits of the proposed improvements substantially outweigh any possible detriment. The Board further finds that the purposes of the MLUL are advanced by this Application by promoting a more desirable visual environment through creative development techniques and the provision of appropriate housing at appropriate densities for the area which it is proposed. The Applicant has also demonstrated the need, and ability, to provide sufficient off-street parking in an area where no such parking is available along a busy street near a heavily traveled intersection. The provision of off street parking - while eliminating a flooding problem that significantly lessens the use of the home - is wholly in accordance with the purposes of zoning.

4. The Board finds that the variances can be granted without detriment to the public good or any neighboring properties. The Board further finds that this approval will not substantially impair the intent and purpose of the Dumont Zone Plan and Zoning Ordinance and is in the furtherance of the purposes set forth in N.J.S.A. 40:55D-2.
5. As such, the granting of the variances requested by the Applicant are appropriate as the purposes of the MLUL are advanced and by so doing, the benefits substantially outweigh

any detriment from the deviations. The hardship demonstrated by the Applicant is clear.

NOW, THEREFORE, BE IT RESOLVED that the application for variance relief is approved by this Board subject to the conditions set forth below.

1. The aforesaid approval is subject to the following conditions:

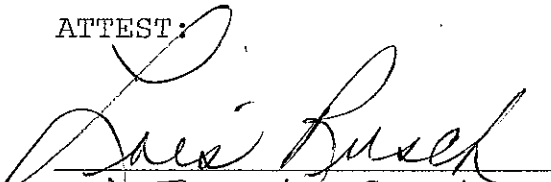
- a. The Applicants shall comply with all of the ordinances of the Borough of Dumont and all applicable county, state, and federal ordinances, rules, statutes and regulations including the payment of real estate taxes.
- b. The Applicants shall comply with all of the stipulations made during the hearing on this Application.
- c. Applicant's engineer and the Applicant shall comply with all of the suggestions and requirements of the Board Engineer and provide all requested information.
- d. Applicant shall provide for a 16' wide driveway.
- e. Applicant shall replace the driveway apron as requested by the Board Engineer.

2. The Applicants' failure to comply with conditions set forth in this Resolution shall constitute a failure of the conditions and may be the cause for the revocation of

either a building permit and/or Certificate of Occupancy of the premises, subject to reasonable notice and the opportunity to cure.

IT IS HEREBY CERTIFIED that this is a true correct copy of a Resolution adopted by the Joint Land Use Board of the Borough of Dumont upon a roll call vote of all members eligible to vote at its regular meeting held on July 28, 2015. A copy of this Resolution shall be given to the Tax Assessor, Applicants, Borough Clerk, Building Department, Zoning Officer and Borough Engineer.

ATTEST:


Lois Rusch, Secretary

SO APPROVED:


WILLIAM BOCHICCHIO, Chairman

Date of Adoption:

8/25/15

BOROUGH OF DUMONT

PUBLIC NOTICE

All interested parties please take notice that on Tues., 7/28/2015 at 7:30 pm Joseph & Linda Galvin will appear before the Joint Land Use Board at 39 Dumont Ave. to seek a variance for the purpose of closing -up unusable garage. The premise in question is located in Block 902, Lot 7, known as 26 New Milford Ave., Dumont, NJ 07628.

Name of Applicants

Joseph Galvin Linda Galvin

Joseph Galvin

Linda Galvin

Notarized by:

Susan Connelly

Date:

7/16/15

Notary Public

State of New Jersey

Susan Connelly

My Com. Expires Aug. 3 2015