



**BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH**

**LAND USE BOARD RESOLUTION 2019-07
RESOLUTION APPROVING BULK VARIANCES
FOR ARJIKA PROPERTY INC AT 12 FOURTH STREET**

**RESOLUTION APPROVING BULK VARIANCES
FOR ARJIKA PROPERTIES, INC. AT 12 FOURTH STREET**

WHEREAS, the applicant, ARJIKA PROPERTIES, INC. is the owner of a lot at 12 Fourth Street, Highlands, New Jersey (Block 57, Lot 14) on which a single-family home is under construction. The applicant filed an application to complete construction of a new 2-story elevated single family home with a covered front porch; and

WHEREAS, all jurisdictional requirements have been met, and proper notice has been given pursuant to the Municipal Land Use Law and Borough Ordinances, and the Board has jurisdiction to hear this application; and

WHEREAS, the Board considered the application at a public hearing on January 2, 2020; and

WHEREAS, the Board heard testimony from the applicant's builder, CHRIS RUBY; and three neighbors (WILLIAM CAIZZA, JOE MESSINA and CHARLES LEROUX). Each of the neighbors asked questions, with Mr. Caizza and Mr. Messina objecting to parts of the application; and

WHEREAS, the applicant submitted the following documents in evidence:

- A-1 Variance application (2 pages)
- A-2 Zoning Officer's denial letter dated 8/15/19
- A-3 Owner's consent form dated 9/12/19
- A-4 Topographical Location Survey by Thomas Finnegan dated 3/29/19
- A-5 same survey as A-4, revised on 1/2/20
- A-6 picture of subject home under construction
- A-7 picture of 15 and 17 Fourth Street homes, across the street, built by Mr. Ruby
- A-8 picture of façade of house built by Mr. Ruby at 25 Fourth Street

AND, WHEREAS, the following exhibit was also marked into evidence:

- B-1 Board engineer (in) completeness letter by Edward Herrman dated 8/29/19
- B-2 Board engineer completeness letter by Edward Herrman dated 9/18/19
- B-3 Board engineer review letter by Edward Herrman dated 10/28/19 (3 pages)

WHEREAS, the Board, after considering the evidence, has made the following factual findings and conclusions:

1. The applicant is the owner of a lot where a single-family home is under construction, located in the R-2.02 Zone.

2. The existing/proposed use for a single-family home is in conformance with the R-2.02 Zone requirements.

3. No variance relief is required for building height, as it conforms to the Borough's ordinances.

4. The applicant requests the following variances for preexisting conditions: lot area of 2,500 square feet, where 4,000 square feet are required; and lot frontage of 40 feet, where 50 feet are required; and lot depth of 61.50 feet, where 75 feet are required.

5. The applicant also seeks variances for the following: front yard setback of 11.1 feet where 20 feet are required; rear yard setback of 16.4 feet, where 20 feet are required; side yard setbacks of 5/7 feet, where 6/8 feet are required; and building coverage of 38.7%, where 33% is permitted.

6. No parking variance is required, since the off-street parking requirements of the ordinance have been met.

7. Prior to the hearing, the applicant amended his application to eliminate the enhanced side yard incursions. The setback for the stairs and air conditioning unit shown on the original plan were no longer needed, as the unit was moved to the rear of the house. The access to the utility meter was also removed as a variance issue because the meter was moved to the front of the home.

8. On the right of the home there is a 5 ft. easement which runs in favor of the lot to the rear of

the subject. There is also a 5 ft. easement on the neighboring property (Fitzgerald, Lot 8, 8 Fourth Street), resulting in a 10 foot wide easement access to the rear lot owned by Mr. Caizza. He uses that for vehicular access to his lot. Much testimony was taken from the applicant and the objectors regarding the easement. Since the applicant currently has a fence on the right side of the home, and is removing that fence, and proposing to install a new fence, no less than 5.5 feet from the right side property line, the access easement to the rear lot will be preserved on the subject property.

9. The builder, Mr. Ruby, has built several homes in the Borough, perhaps eight (8) or more, and Board members were familiar with his construction. The general comments were that he builds a nice home, which is visually appealing.

10. The issue here is the covering of the front porch which, when covered, impacts the front yard setback and the building coverage requirements in the ordinance.

11. Mr. Ruby testified that the adding of the front porch gives the home better curb appeal and is visually appealing in the neighborhood. Exhibit A-7 illustrates what the home would look like with a

covered porch, since those homes, constructed by Mr. Ruby across the street, are very similar to this proposed application.

12. The applicant testified that the front stairs will be at least 3 feet from the curb line.

13. In answer to a Board member's question, the applicant testified that he could construct an interior staircase, but that would not solve the problem of having the electric meter being accessible to the utility company.

14. The neighboring home to the left has stairs on the outside, together with a covered porch.

15. The applicant's proposal is for an 18 foot wide driveway. As a result, he will have to redo the depressed curb and sidewalk.

16. The applicant testified there will be no underground utilities in the easement area, though there will be underground utilities on the easement side of the home. The applicant further testified that the construction of this home will not disturb the utilities to the rear property.

18. The only deck with a covered porch will be on the front of the home.

19. As to the rear deck, the plans show that it will be 4.4 feet from the property line. The Board

was concerned that the deck be no closer than 4.4 feet to the rear property line, which the applicant represented and consented to.

20. There was further discussion regarding the potential of enclosing the front porch at a later date. The applicant testified that it is not his intent to do so, and that he would agree to a restriction that any attempt to enclose that porch would require variance approval.

21. The purpose of adding a covered deck is so that anyone standing outside, to enter the home, would be able to get out of the rain. The adding of the covered deck will also add charm and character to the home, and be consistent with the neighborhood.

22. The adding of the covered deck will not have any negative impact, visually or otherwise, on the neighborhood or the community.

23. This application was necessitated by the proposal to place a roof over the front deck, which relief the board finds to be de minimus.

24. The applicant meets the requirements of N.J.S.A. 40:55D-70c(2) in that the applicant has minimized the deviations from the zoning ordinance and the relief requested will promote a public purpose and thereby provide improved community planning that

benefits the public, and the benefits of the variance substantially outweigh any detriment. In fact, the board finds no detriment.

25. The granting of this variance is done without substantial detriment to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. There will be no adverse impact on surrounding properties, and there will be no damage to the character of the neighborhood, nor any substantial detriment to the public good.

WHEREAS, the application was heard by the Board at its meeting on January 2, 2020, and this resolution shall memorialize the Board's action taken at that meeting;

NOW, THEREFORE, BE IT RESOLVED by the Highlands Land Use Board of the Borough of Highlands that the application of ARJIKA PROPERTIES, INC. to complete construction of the single family home by adding a covered deck in the front, as shown on the applicant's application and exhibits, be and the same is hereby approved; and variances are hereby granted for the pre-existing conditions set forth in paragraph 4 above, and for the additional conditions set forth in paragraph 5 above;

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

A. The applicant shall reconstruct the sidewalk and curb in conformance with the requirements of the borough engineer. Any damage to any existing pavement, sidewalk, or curb by this project shall be repaired or replaced by the applicant, to the satisfaction of the Borough.

B. The front stairs leading down towards the street, shall be, where the stairs meet grade, at least 3 feet from the sidewalk.

C. The 5 ft. easement on the right side of the home shall be kept open for access to the rear lot.

D. The existing fence on the right side of the home shall be removed. Its replacement shall be no less than 5.5 feet from the right side property line.

E. No utility service to the rear home shall be disturbed.

F. The rear deck shall be no closer to the rear property line than 4.4. feet.

G. The front porch with roof shall not be enclosed without an application being made for variance approval to the appropriate Board, and approval being granted.

H. The applicant shall obtain outside agency approvals, as required, from the following:

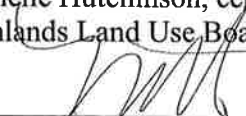
(1) Construction Official

(2) Fire Official

(3) All other departments and agencies having jurisdiction.

Member and Class	Name:	Intro	2nd	Aye	Nay	Abstain	Absent
Mayor – Class I	Mayor Broullon				X		
Borough Official – Class II	Chief Burton		X	X			
Councilmember – Class III	Councilmember Mazzola						X
Member – Class IV	Mr. Stockton			X			
Member - Class IV	Mr. Kutosh			X			
Member – Class IV	Mr. Lee				X		
Member – Class IV	Mr. Knox	X		X			
Member – Class IV	Mr. Colby				X		
Member – Class IV	Ms. Larussa						X
Alternative 1	Ms. Walsh			X			
Alternative 2	Mr. Montecalvo						X
Alternative 3	Ms. Nash			X			
Alternative 4	Ms. Tierney						

I, Michelle Hutchinson, certify that this is a true and correct record of the actions of the Borough of Highlands Land Use Board on January 2, 2020 on LUBR Resolution 2019-07.


Michelle Hutchinson, Land Use Secretary

