



**BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH**

**LAND USE BOARD RESOLUTION 2019-08
RESOLUTION APPROVING BULK VARIANCES
FOR ARJIKA PROPERTY INC AT 40 OCEAN AVE**

**RESOLUTION APPROVING BULK VARIANCES
FOR ARJIKA PROPERTIES, INC. AT 40 OCEAN AVENUE**

WHEREAS, the applicant, ARJIKA PROPERTIES, INC. is the owner of a home at 40 Ocean Avenue, Highlands, New Jersey (Block 100, Lot 3). 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

WHEREAS, no members of the public appeared to ask questions or comment on the application; and

WHEREAS, the applicant submitted the following documents in evidence:

A-1 Variance application (2 pages)

- A-2 Owner's letter of consent dated 9/12/19
- A-3 Topographical Location Survey by Thomas Finnegan dated 1/3/19
- A-4 same survey as A-3, revised on 9/10/19
- A-5 same survey as A-3 and A-4, revised 1/2/20
- There is no A-6
- 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
- A-9 picture of subject property/house at 40 Ocean Avenue

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

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

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

1. The applicant is the owner of a pre-existing non-conforming lot where a single-family home is under construction, located in the R-2.03 Zone.

2. The existing/proposed use for a single-family home is in conformance with the R-2.03 Zone requirements.

3. No variance relief is required for rear yard setback, building height or lot coverage, and, as a result of the amendment to the application and plans, no relief is now required for side yard setbacks for the entry stairs, platform and A/C unit, as they all conform to the Borough's ordinances.

4. The applicant requests the following variances for preexisting conditions: lot area of 2,375 square feet, where 4,000 square feet are required; lot frontage of 25 feet, where 50 feet are required; and lot depth of 95 feet, where 100 feet are required.

5. The applicant also seeks variances for the following: front yard setback of 15 feet where 20 feet are required; rear yard setback of 16.4 feet, where 20 feet are required; side yard setbacks of 3/4 feet, where 6/8 feet are required; and building coverage of 37.5%, where 30% 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. 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.

9. 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.

10. 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-9 depicts the home without the front covered porch. Exhibits A-7 and A-8 depict other homes built by Mr. Ruby and what the home will look like with a covered front porch. All are very similar to this proposed application, albeit on lots with slightly smaller frontage.

11. The applicant testified that the front deck will be no larger than 18' X 6'.

12. The applicant testified that the front stairs, towards the street, will be no closer to the front property line than 3 feet.

13. The applicant testified that the coverage variance is needed because of the small lot size.

14. The A/C unit has now been moved to the rear

deck, which is an improvement to the originally proposed plan.

15. The utility meter has now been moved to the front of the home, accessible on the front deck. This is also an improvement to the original plan.

16. The structure already exceeds the ordinance requirement as to coverage (32.9%, where 30% is permitted). The request for building coverage of 37.5% is deemed de minimus, in consideration of the small lot size.

17. 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.

18. 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.

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

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

21. 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.

22. 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, no less than 3 feet from the front property line.

C. 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.

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

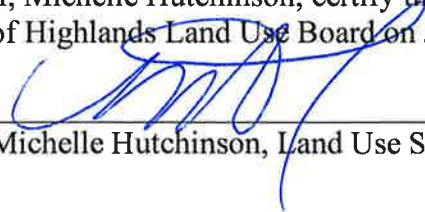
(1) Construction Official

(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			
Councilmember – Class III	Councilmember Mazzola						X
Member – Class IV	Mr. Stockton			X			
Member - Class IV	Mr. Kutosh			X			
Member – Class IV	Mr. Lee	X		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 2019-08.



 Michelle Hutchinson, Land Use Secretary