

**BOROUGH OF RIVER EDGE
MUNICIPAL LAND USE BOARD**

RESOLUTION

**GRANTING VARIANCES FOR MAXIMUM LOT COVERAGE AND
MAXIMUM IMPROVED LOT COVERAGE
TO SUSAN NG FOR
916 POPLAR AVENUE, RIVER EDGE, NJ
BLOCK 108, LOT 11**

WHEREAS, the Municipal Land Use Board of the Borough of River Edge is a duly constituted body as authorized by statute with responsibility to supervise and be concerned with the orderly development and planning of the Borough, as authorized by the statutes and ordinances made and provided; and

WHEREAS, Susan Ng (the "Applicant") filed an application with the Municipal Land Use Board of the Borough of River Edge (the "Board") for property known as Block 108, Lot 11 on the tax map of the Borough of River Edge, located at 916 Poplar Avenue (the "Property"), for variance relief to develop additions to the existing dwelling on the Property; and

WHEREAS, the Applicant is the owner of the Property; and

WHEREAS, the Board deemed the application complete on January 6, 2021 and a public hearing was also conducted on January 6, 2021 via Zoom video conference; and

WHEREAS, the Applicant was not represented by counsel; and

WHEREAS, Susan Ng ("Ms. Ng"), 141 Newcomb Road, Tenafly, NJ 07670 was present at the virtual meeting and was duly sworn to provide testimony in support of the application; and

WHEREAS, Chris Blake ("Mr. Blake"), the Applicant's architect, 24 New Bridge Road, Bergenfield, NJ 07621, was present at the virtual meeting, was duly sworn and qualified as an expert in architecture and provided testimony in support of the requested relief; and

WHEREAS, the public was given notice of the application and had an opportunity to participate in the hearing and 2 individuals appeared to be heard; and

WHEREAS, the Applicant submitted proof of notification, by mail or personal service at least 10 days prior to the date set forth for public hearing on all persons owning properties within 200 feet from the extreme limits of the subject property of the subject application, as set forth on a certified list of said owners furnished to the Applicant by the Tax Assessor of the Borough of River Edge and provided proof of service of such notice in accordance with the Zoning Ordinance of the Borough of River Edge, as amended and supplemented, and the Municipal Land Use Law (the öMLULö), N.J.S.A. 40:55D-1 to -163; and

WHEREAS, the Applicant submitted proof that a copy of said notifications were published at least 10 days prior to the date set forth for public hearing in the official newspaper of the Borough of River Edge in accordance with the Zoning Ordinance of the Borough of River Edge as amended and supplemented and the MLUL; and

WHEREAS, all jurisdictional requirements of the applicable state statutes and local ordinance have been met; and

WHEREAS, the Applicant submitted an application and the following supporting documents:

1. Survey prepared by James R. Taylor, N.J. P.L.S., Costa Engineering Corporation, 514 Main Street, Fort Lee, NJ 07024, dated February 13, 1995. The survey consisted of one sheet and depicted an existing 1 ½ story masonry dwelling and unattached concrete block garage; and
2. Letter from Chris Blake dated October 23, 2020 advising that the survey is current and accurate to date; and

3. Site Plans prepared by Chris Blake, Architect, 24 New Bridge Road, Bergenfield, NJ 07621, dated September 28, 2020 and revised to November 24, 2020. The site plan consisted of three sheets.

WHEREAS, the Applicant also submitted a Letter of Noncompliance issued by Thomas Behrens, PP, AICP (öMr. Behrensö), the Board Planner, dated December 9, 2020; and

WHEREAS, the Board, after carefully considering the evidence and testimony presented by the Applicant, as well as the December 9, 2020 Letter of Noncompliance issued by Mr. Behrens, has made the following factual findings and conclusions:

The Property

1. The Property contains approximately 5,000 square feet located within the R-1 Zoning District and is improved by a 2 ½ story frame dwelling.

2. The Property has several pre-existing nonconforming conditions with respect to minimum lot size with 5,000 square feet existing and 7,500 square feet required; maximum lot coverage with 31.14% is existing and 25% is permitted; maximum improved lot coverage with 39.28% existing where 38.54% is permitted; and minimum front yard setback with 19.33 feet existing and 30 feet required.

The Proposal

3. The Applicant seeks to construct an addition to the dwelling by extending the first floor to square off the rear of the home and to construct a second floor with 4 bedrooms.

4. The Board reviewed the application and deemed it complete on January 6, 2021 during its work session. The Board conducted a public hearing on the application immediately following the work session.

5. The Board considered the December 9, 2020 Letter of Noncompliance issued by Mr. Behrens. Pursuant to Mr. Behrens' letter, the proposed application triggers the following relief:

§416-14 Maximum Lot Coverage and §416b Schedule of Zoning District Area, Bulk and Yard Requirements, Maximum Lot Coverage. The R-1 Zone wherein the subject property is located permits a maximum lot coverage of 25% where the existing lot coverage is 31.14% and the proposed lot coverage is 31.05%. Variance relief is required.

§416-15 Maximum Improved Lot Coverage and §416b Schedule of Zoning District Area, Bulk and Yard Requirements, Maximum Improved Lot Coverage. The R-1 Zone wherein the property is located permits a maximum improved lot coverage of 35% where the existing improved lot coverage is 39.28% and the proposed lot coverage is approximately 38.54%. Variance relief is required.

Public Hearing

6. Ms. Ng explained that she would like to extend the existing first floor along the rear of the home to square off the house and construct a second floor with 4 bedrooms and 2 bathrooms. The Applicant also intends to decrease the size of the existing deck and upgrade the façade of the home.

7. The Applicant's architect, Mr. Blake, testified that the Property is undersized and narrow. The frontage of the Property is only 50 feet where 75 feet is standard. Mr. Blake explained that the proposed addition would decrease the total amount of lot coverage and improved lot coverage by decreasing the size of the deck and simplifying the stairs and

walkways. Mr. Blake further testified that the non-conforming front yard would not be expanded by the addition.

8. Mr. Behrens explained that the area proposed for the addition is contained within the existing building envelope and the first floor.

9. In response to questions from Mr. Behrens, Mr. Blake explained that no seepage pits were proposed for the project. The Applicant agreed to comply with a review by the Borough Engineer to determine if seepage pits should be required.

10. Mr. Blake further testified that the proposed addition keeps with the look and uniformity of the neighborhood and follows the style of homes found in the Borough. The proposed addition would maintain the same width of the existing dwelling and makes the dwelling more usable while retaining a modest size.

11. Members of the Board discussed that the proposed addition would improve aesthetics, in line with purpose (i) of the MLUL, to promote a desirable visual environment.

12. The Board entertained a motion to open to the public and 2 individuals appeared to be heard.

13. Jen Papantonio (Mrs. Papantonio), 912 Poplar Avenue, River Edge, NJ 07661, asked whether there would be noise abatement during construction; when most of the construction noise would occur; how long would demolition take; and would the Applicant be renting out the Property?

14. In response to questions from Mrs. Papantonio, the Applicant testified that the construction would occur from 8 a.m. to 4 p.m. and in accordance with the Borough's requirements. The most noise would occur for about 2 weeks during demolition and framing.

The Applicant further testified that she intends to move into the Property with her 3 children and does not intend to rent the Property.

15. Anthony Papantonio (öMr. Papantonioö), 912 Poplar Avenue, River Edge, NJ 07661, asked whether there would be a basement on the Property and what it would be used for?

16. In response to questions from Mr. Papantonio, the Applicant testified that the existing basement would remain and would be used for mechanical equipment. The Applicant further testified that the bump out from the addition would be used as a crawl space.

17. The Board then entertained a motion to grant the application requesting a variance for 31.05% maximum lot coverage and a variance for 38.54% maximum improved lot coverage, pursuant to the Borough of River Edge's Zoning Ordinance.

18. A motion to grant the application to build an addition on the Property, as depicted in the drawings submitted with the application, was made by Vice Chairman Mehrman and seconded by Mr. Grasso. A vote was taken and the application was granted to by the Board by a vote of 10 to 0, with 2 alternates voting.

Justification for Relief

19. The Board found good cause to grant the Applicant's request for variances for maximum lot coverage and maximum improved lot coverage.

20. The Board found that the proposed addition would improve the aesthetic of the Property and the neighborhood by bringing the Property more in line with other neighboring properties.

21. The Board found that the proposed addition would advance purpose (i) of the MLUL, by improving aesthetics and maintaining consistency of design in the neighborhood. See N.J.S.A. 40:55D-2(i).

22. The Board found that the proposed addition would have a minimum impact, if any, on adjacent properties because it conforms with or does not expand all other bulk requirements.

23. The Board found that the requested variance relief may be granted pursuant to N.J.S.A. 40:55D-70(c)(2), for the reasons discussed herein. The Board found that the purposes of the MLUL are advanced by the grant of the variances and that the benefits of the deviation substantially outweigh any detriments, and that those variances can be granted without substantially impairing the intent and purpose of the Master Plan and/or Zoning Ordinance and without causing substantial detriment to the public good. The Applicant demonstrated a basis for the grant of the variances pursuant to N.J.S.A. 40:55D-70(c)(2) and Kaufman v. Warren, 110 N.J. 551 (1998). The Applicant met her burden of proof. The grant of the variances is consistent with the neighborhood. As aforesaid, the Board was satisfied the variances could be granted without any substantial detriment to the public good, as well as the zone plan and Zoning Ordinance of the Borough of River Edge. The Board determined the grant of the variances will not impact surrounding properties in the R-1 District.

NOW THEREFORE, BE IT RESOLVED by the Borough of River Edge Municipal Land Use Board, Bergen County, New Jersey, that the Applicant's request for variance relief, as described herein, be and is hereby approved for the reasons set forth herein and subject to the terms and conditions contained in the body of this Resolution, and as follows:

1. The Applicant shall post all required application fees and provide sufficient funds with the Borough to satisfy any deficiency in the Applicant's escrow account. No permits or certificates will be issued, nor will any work be performed by Board professionals or staff at any time that the Applicant's escrow account balance is not paid current, which shall be set forth by

certification by the Board Planner. The Applicant will have a continuing duty to maintain a positive balance in all escrow accounts until all conditions have been satisfied and all charges have been paid.

2. Completion of the proposed addition and subsequent use of the Property shall be consistent with testimony offered at the public hearing, the plans submitted with the application, the findings and conclusions of the Board stated herein, and the conditions set forth in this Resolution.

3. The Board's approval is expressly subject to all State, County and Borough statutes, ordinances, rules, regulations and requirements affecting development in the Borough, County and State.

4. The Applicant's obtaining of approvals from all outside agencies shall be a prerequisite for issuance of a building permit, including but not limited to, obtaining written final approval from the Bergen County Planning Board, Bergen County Soil Conservation District, New Jersey Department of Environmental Protection, and the Borough of River Edge, if applicable.

5. The Applicant shall apply for and obtain a soil movement permit, to the extent same may be required.

6. The Applicant is permitted to a total lot coverage of 31.05% and improved lot coverage of 38.54% for the installation of an addition to the existing dwelling, as set forth in this Resolution.

7. The Applicant shall comply with all requirements of the Board Planner and the Board Engineer, including but not limited to obtaining confirmation that the construction will not

impact runoff onto neighboring properties and that seepage pits are not required on the Property, subject to the reasonable satisfaction and approval of same and the Board.

8. The Borough's Building Department is not authorized to issue a certificate of occupancy until the receiving confirmation from the Borough Engineer regarding runoff and seepage pits.

9. The Applicant shall comply with all comments and conditions imposed by the Board, the Board Planner and the Board Engineer, as stated on the record and as may be stated in this Resolution.

Vote on the Application

<u>MEMBER</u>	<u>M</u>	<u>2D</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>	<u>INELG</u>
Mayor Thomas Papaleo			X				
Councilman Chinigo			X				
James Arakelian			X				
Eileen Boland						X	
Lou Grasso		X	X				
Ryan Gibbons			X				
Michael Krey			X				
Richard Mehrman	X		X				
Chris Caslin			X				
Bruce Feffer [Alternate #1]			X				
Gary Esposito [Alternate #2]			X				

Vote on the Memorialization

<u>MEMBER</u>	<u>M</u>	<u>2D</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>	<u>INELG</u>
Mayor Thomas Papaleo							
Councilman Chinigo							
James Arakelian							
Eileen Boland							X
Lou Grasso							
Ryan Gibbons							
Michael Krey							
Richard Mehrman							
Chris Caslin							
Bruce Feffer [Alternate #1]							
Gary Esposito [Alternate #2]							

BE IT FURTHER RESOLVED that the Resolution adopted on this 20th day of January, 2021 memorialized the action taken by the Board in accordance with N.J.S.A. 40:55D-10.g, as set forth above, at its January 6, 2021 meeting, and that a copy of this Resolution be provided to the Applicant, the Borough Engineer, the Construction Code Official of the Borough of River Edge, and a notice of this decision shall be published in the official newspaper of the Borough of River Edge.

Christopher Caslin, Chairman

CERTIFICATION

I, Louis Grasso, Secretary of the Board, do hereby certify that the above Resolution was adopted by the Board at its meeting held on January 20, 2021. This Resolution memorializes the Board's approval of this matter at its meeting held on January 6, 2021.

Louis Grasso, Secretary
Borough of River Edge
Municipal Land Use Board