

**BOROUGH OF POINT PLEASANT  
ZONING BOARD OF ADJUSTMENT**

**September 13, 2023**

The regular meeting of the Point Pleasant Zoning Board of Adjustment was called to Order by Chairman Coleman at 7:00PM. Mr. Coleman led the Salute to the Flag. He proceeded to open the meeting in compliance with the “Open Public Meetings Act.”

**Roll Call Vote**

Members Present:    Mr. Nikola       Mrs. Masterson       Mrs. Schlapfer  
Mr. Guetzlaff       Mr. Frisina       Mr. Coppelino       Mr. Giordano       Mr.  
Veni    Mr. Coleman  
Members Absent:    Mr. Shrewsbury  
Attorney: Mr. Zabarsky  
Engineer: Mr. Savacool

**Minutes**

**07/26/2023**

A motion to approve was made by Mr. Nikola, seconded by Mrs. Masterson.

**Roll Call Vote**

Mr. Nikola- Yes       Mrs. Masterson- Yes       Mrs. Schlapfer- Yes       Mr. Guetzlaff- Yes  
Mr. Frisina- Yes       Mr. Coppelino-Yes       Mr. Coleman- Yes

Mr. Veni stepped down from the first application.

**Unfinished Business/ New Business**

**08-23 - Resident- Block 279 Lot 73- 1717 Bay Blvd- Habitable Attic (7:05-7:51)**

Mr. Wauters, the attorney for the applicant, explained the applicant is looking to construct a 467sq ft habitable attic.

A-1 Application

A-2- revised plan from John Gilchrist

A-3 Proposed habitable attic plan, Mr. Burdick

A-4 Letter from Mr. Savacool’s review letter.

Mr. Wauters stated the homeowner has lived in the home for thirty years. The building is no longer in compliance in a few areas. His client would be able to build a habitable attic.

Mr. Savacool stated the ordinance allows for a habitable attic of 500 sf ft or less, by lowering the ceiling heights they are under 500Sq ft. It presents itself as a three-story home, not a half story. The house is non-flood compliant, therefore the improvements cannot be over 50% of the value.

Mr. Burdick, Planner, was sworn in. See below testimony.

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TESTIMONY  
1717 BAY BLVD.  
LOT 73, BLOCK 279  
POINT PLEASANT BOROUGH  
PROJECT NO. 23-4875  
SEPTEMBER 2023

This project is for the construction of an addition to the top floor of the existing single-family home at 1717 Bay Blvd. The property is located next to the Bay Head Shores club house and adjacent to the Bay. It is within the R-1A zone. Currently the home is a 2-story dwelling with an attic. The applicant intends to raise a portion of the roof and add a habitable attic space which will include a new bedroom and balcony. The expanded area was initially 587 sf, but the architect reduced it to 466 sf to bring it into compliance with the ordinance.

The property currently has several preexisting nonconformities:

- a) Lot width is supposed to be 75' but only 50' exists.
- b) The side yard setback on the west side of the property adjacent to the Bay Shores club house property line is 6.4' vs. 7.5' required and that will not be altered.
- c) The existing AC platform is setback 2.3' from the west property line adjacent to the Bay Shores club house and will not be altered.
- d) The side yard setback on the east side of the property is 7.2' where 7.5' is required. This is important since the new construction will be in line with northeast side of the building, so it represents a vertical expansion within the side yard setback area and a variance appears required for that.

The preexisting variances which we are seeking are:

- a) Continuation of the lot width, side yard and ac equipment side yard variances.

The lot width is a preexisting condition for which the owner cannot acquire additional property to bring the lot into conformance since all adjacent lots are fully developed.

Regarding the setback variances, the board should also be aware that when the home was constructed in 1997 it was within the R2 zone which allowed for 50' width and 5' side yard setbacks. The home was fully approved and a co issued for it. The air conditioning was likely on the surface at that time. But since Sandy they have been required to be raised and since they were raised, the ac is now a mechanical platform subject to 5' setbacks where only 3.4' exists. So as the board can see, the owner didn't create those variances, they were created through changes in the rules.

Clearly these are preexisting nonconformities that cannot be altered as the adjacent properties are both developed, and the owner cannot acquire additional property to bring the lot to conformance or increase setbacks. It would be an extreme hardship for the applicant to have to alter the house to bring it into conformity with current requirements.

The continuation of the AC and west side principal building setback as the utilities and the building will not change in that area.

We believe that we will require a variance for the proposed construction being within 7.2' of the side yard setback vs. 7.5' required. The applicant wishes to go up along the existing exterior wall to make sure that the structure is stable and fully supported. However, since the existing building is in the setback area a variance appears necessary.

Regarding the variance, we believe that it is a di minimums expansion to the structure that will enable the applicant to better construct the building. Trying to move the wall 4" inward would create structural issues with the building and since the existing wall can fully support the construction, we believe it is better construction to align it with the existing wall.

**I understand that the Zoning officer has also deemed these improvements to be a third story rather than a habitable attic. That was based on the finding that the existing construction doesn't comply with current ordinance, so is not entitled to the rights normally granted in the R-1A zone. If that is the case, we request the variance for 3 stories and note that the construction is within the building height limits and within the existing footprint of the applicant's home.**

**We also point out that one of the quirks of the R-1A zone is that it allows 50' lots and 5' setbacks for lots existing since prior to 2006 provided that the lot is no larger than 9,000 sf. The lot is 11,012 sf which triggers the upgraded width and side setback requirements. However, if this lot were smaller, both the existing and the proposed construction would be in accordance with the ordinance and essentially NO variances would be needed. So essentially an argument can be made that because this lot has more area than normal somehow a habitable attic is now a third story. While we understand the logic involved in the decision, it seems counter intuitive that the applicant can't have a conforming habitable attic because the lot is bigger than normal lots in the zone.**

**As such we believe that the variance for a third story, if needed, would have virtually no impact on the zoning ordinance, master plan or the neighborhood.**

The applicant also looked at other areas of the property where he could expand. The most obvious being out the back. However, he realized that that would block the neighbors' views of the Bay and although it could be designed to meet ordinance requirements, the upper floor expansion appears to be a better option and better zoning alternative for this construction.

The expansion will turn this four-bedroom home into a 5-bedroom home and will allow more room for Mr. DeMatteo's family. Parking for a 5-bedroom home requires 3 parking spaces and the property provides a two-car driveway and a garage thus meeting RSIS requirements.

When looking at a variance request the board needs to weigh the advantages of allowing the deviations against the disadvantages. For this project we believe that the disadvantages are minimal. There is no real loss of views for adjacent buildings since the neighbors are both lower than the existing home and the home will not violate the building height requirements. The neighbor to the west is the Bay Head Shores Club house and the subject home is along the side of the club house and fenced off from their property.

The addition will be in the northeast but will not adversely affect that adjacent neighbor since it is within borough height requirements and is entirely over the existing structure.

The advantages of allowing the deviations are that this construction will enhance the appropriate use of the property by continuing and efficiently using a single-family home. The extension will architecturally match the existing home and will be an aesthetically pleasing addition to the property. The work will also allow for a balcony off the bedroom allowing the owner to take full advantage of the unique sightlines along Barnegat Bay. The

advantages of aesthetic improvement and appropriate use are consistent with the goals of MLUL. The extension will also be consistent with the borough master plan by enhancing residential opportunities in a residential zone.

Based on this we believe that the advantages of allowing the deviation far to exceed any disadvantages and that the plan complies with the MLUL and Borough master plan and will not affect the neighborhood or public. If required to comply with the 7.5' side yard setback, the applicant would also experience a hardship by having to cantilever the side of the extension resulting in a less structurally sound building. We also believe that the construction is a better zoning alternative than an expansion to the rear which could be designed to meet all borough requirements.

For these reasons we request a variance to allow the preexisting nonconformities and to allow construction within the side yard setback.

Regarding Mr. Savacool's memo of 9/12/23 we provide:

- 1) Factual
- 2) The applicant has reviewed the plan with the borough construction code official and the plan does not meet the FEMA "substantial improvement" standard which would trigger the need to bring the entire structure into compliance with FEMA standards. An updated Flood elevation certificate will be required for building permit actions and will be provided.
- 3) We believe that the proposed construction meets the ordinance definition of a habitable attic as it has ceilings over 7' of less than 500 sf and less than 1/3 of the story below. Based on this we do not believe that the structure is a 3-story structure.
- 4) Lists the variances
- 5) a) As stated, the habitable attic will be over the northeast side of the dwelling and will have a side yard setback of 7.2'. The existing condition setback to the southwest is 6.4' but the habitable attic is about 13' from that side property line.  
b) Since the expansion meets the ordinance requirements of habitable attic, we do not believe it is a story and believe that the home is a 2-story structure with a habitable attic.
- 6) As stated, the habitable attic is less than 500 sf over 7' height and less than 1/3 of the lower level. Therefore, we believe it to be a habitable attic and not a story.
- 7) As stated, the applicant has reviewed the plan with the borough construction code official and the plan does not meet the FEMA "substantial improvement" standard which would trigger the need to bring the entire structure into compliance with FEMA standards. The proposed addition complies with FEMA and Borough standards.
- 8 & 9) We have provided testimony regarding the variances.
- 10) As stated, parking complies with RSIS
- 11) Rear yard setback is 47' and the east side setback is 7.2' and the revised plans will be provided.
- 12) The proposed improvements are limited to the work within the home where the habitable attic will be constructed.
- 13) Our office has prepared a survey for the site and the garage is 5' off the property line. I believe that this has been provided but if not, we will provide it.
- 14) The mechanical platform is provided on our survey and is 2.3' from the east property line.
- 15) Light air and open space will essentially not change from existing conditions since no change in the building footprint nor impervious coverage is proposed.

16) The AC equipment was elevated above floor level after Sandy and appropriate permitting was provided for the lift.

17) Since the applicant is adding only to his footprint and not building a new structure, we do not believe a contribution to the pedestrian fun is appropriate.

18) The applicant will provide all escrow and professional review fees.

The applicant will provide a new elevation certificate and survey.

The applicant, 1717 Bay Blvd was sworn in. The applicant testified that the home was built in 1997. The first floor is 8.1', the current height is 27 or 28 feet high. The newly finished height will be 32 feet, less than what is allowed.

**A motion to adjourn the meeting until October 11th, 2023, was made by Mr. Frisina, seconded by Mrs. Schlapfer .**

**Roll Call Vote**

Mr. Nikola- Yes Mr. Giordano- Yes Mrs. Masterson- Yes Mrs. Schlapfer- Yes  
Mr. Guetzlaff- Yes Mr. Frisina- Yes Mr. Coleman

Mr. Veni returned to the dais.

**10-23- Resident- Block 129 Lot 16- 1183 Ridgefield Drive- Building Coverage, Lot Coverage,& Front Yard Setback(7:52-8:15)**

A-1 Application

A-2 PowerPoint pages 1-16

A-3 Mr. Savacool's review letter

Mr. Jackson is the attorney for the applicant. They are taking an older home and making it larger and more modern. They are asking for a lot coverage variance of 54%, where 50% is allowed because they previously put in a driveway and some pavers. They are staying within the existing footprint. There will be an upgrade to the existing detached garage, and it will match the house. The garage will not be habitable.

The applicant, 1183 Ridgefield was sworn in. They have lived in Point Pleasant for nine years. Their street has changed over the last nine years, larger, new, and updated homes. The addition to their home will allow them to stay in Point Pleasant. They are providing five off-street parking spaces, where three are required.

An additional variance is needed for the air conditioning units, which will be in violation of the front yard setback 13.1ft, where 25ft is required.

Mr. Giordano suggested a condition of approval that the air conditioning units be appropriately buffered and landscaped.

A motion to approve the application was made by Mr. Giordano, seconded by Mr. Veni.

**Roll Call Vote**

Mr. Nikola- Yes            Mr. Giordano-Yes            Mrs. Masterson- Yes    Mr. Veni- Yes    Mrs.  
Schlapfer- Yes   Mr. Guetzlaff- Yes            Mr. Coleman- Yes

The meeting adjourned at 8:16PM, all were in favor.

Respectfully submitted,

Sharon Morgan

Board Secretary