

11/7/13

Mr. Gallagher offered the following Resolution and moved on its adoption:

**RESOLUTION APPROVING BULK VARIANCES
FOR O'REILLY**

WHEREAS, the applicant, MICHELLE O'REILLY, is the owner of a residential property at 20 Barberie Avenue in the Borough of Highlands (Block 78, Lot 1); and

WHEREAS, the applicant filed an application for bulk variance relief, seeking extend her front porch to the full width of the dwelling and add an additional 48 square feet of porch area; 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 October 3, 2013; and

WHEREAS, the Board heard the testimony of the applicant, MICHELLE O'REILLY; her builder, LARRY MACPHEE; and the board's engineer, ROBERT KEADY; and

WHEREAS, no objectors appeared to either ask questions or voice any objection to the application; and

WHEREAS, the applicant submitted the following documents in evidence:

- A-1 Variance application (3 pages);
- A-2 Zoning permit application dated 8/22/13
- A-3 enlargement of survey and tax map (4 pages)
- A-4 2 photos on one page

AND, WHEREAS, the following exhibit was marked into evidence as a Board exhibit:

- B-1 Board Engineer review letter by ROBERT KEADY dated 9/27/13 (4 pages plus photo);

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

1. The applicant is the owner of property located in the R-2.01 Zone, which permits single-family homes.

2. The site currently contains a single-family home and detached garage.

3. The existing porch was severely damaged during Superstorm Sandy and needs to be rebuilt. The foundation, however, was not damaged.

4. As a result of the storm tide, the floor buckled and the roof was raised.

5. The applicant plans to square off the corner, so that the home is uniformly 20 feet wide, and retain the one-story structure.

6. It would be an undue hardship to deny the applicant the ability to extend her porch since it was damaged in the storm and needs to be replaced anyway.

7. The applicant seeks the following variance relief:

A. Lot area of 2,812.5 square feet where 3,750 square feet is required (pre-existing condition).

B. Lot frontage of 37.5 feet where 50 feet is required (pre-existing condition).

C. Front yard setback on Barberie Avenue of 5.9 feet and on Recreation Place of 3.7 feet, where 20 feet is required (pre-existing condition).

D. Accessory structure setback of 13.3/2.7 feet where 3 feet/3 feet are required (pre-existing condition).

F. Building coverage of 40.2% where 33% is permitted. The pre-existing condition was 38.5% coverage.

8. The change in building coverage over the prior condition is de minimus.

9. This application was made as a result of damage caused by Super Storm Sandy, which devastated many properties within the borough. The applicant is seeking to repair her storm-damaged porch, which requires variance relief, almost all of which is for pre-existing conditions.

10. The Board finds that the positive criteria required for bulk variance relief under N.J.S.A. 40:55D-70(c) has been met, both because of the extraordinary and exceptional situation of the storm damage as it affected the lawful pre-existing structure.

11. As to the negative criteria, the Board finds that most of the variance relief requested is for pre-existing conditions which are not changing by this application. The only other relief requested is for the de minimus increase in building coverage. Additionally, this relief can be granted without any substantial detriment to the public good or substantial impairment of the intent and purpose of the zone plan. The board finds no detriment as to either.

12. The board further finds that there will be no adverse impact, and in fact no impact at all, on surrounding properties.

WHEREAS, the application was heard by the Board at its meeting on October 3, 2013, and this resolution shall memorialize the Board's action taken at that meeting;

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Highlands that the application of MICHELLE O'REILLY to extend her front porch to the full width of her home in accordance with her application is hereby granted. Variances are hereby granted for the preexisting conditions set forth above in paragraphs 7A, B, C, and D; and a variance is also granted for building coverage as set forth in paragraph 7E.

AND BE IT FURTHER RESOLVED that this approval is conditioned upon the following, all of which are set forth in the board engineer's review letter:

A. Any damage caused to curbing, sidewalk or pavement during construction shall be repaired or replaced to the satisfaction of the borough.

B. The applicant shall submit signed/sealed plans showing the proposed improvements and existing conditions.

C. Approvals shall be obtained from the flood plain officer, the construction official and any other departments or agencies having jurisdiction.

Seconded by Mr. Kutosh and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Kutosh, Mr. Knox, Mr. Gallagher, MR. Mullen, Ms. Maresca, Mr. Braswell

NAYES: None

ABSTAIN: None

DATE: November 7, 2013

Carolyn Cummins, Borough Clerk

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