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Neptune
Township - NJ

Where Community, Business & Tourism Prosper

Barbara Bascom
Dr. James Brown
Naomi Riley
Michael Pullano
Alternates: Derel Stroud
Shane Martins
Shawn Weston

Office of the Neptune Board of Adjustment
2201 Heck Avenue, P.O. Box 1125
Neptune, New Jersey 07753
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KDickert@neptunetownship.org

January 23, 2023

Sent Via Email christopherlbeekman@gmail.com and First Class Mail

Christopher L. Beekman, Esq.
The Beekman Law Firm
47 Main Avenue
Ocean Grove, NJ 07756

Re: Resolution ZBA#23-01
Block(s): 153, Lot(s): 4
Applicant: Hy Rudin & Ellen Mallin
Project Address: 118 Mt. Tabor Way

Dear Mr. Beekman:

Enclosed please find three [3] copies of the resolution adopted **November 2, 2022** and memorialized at the **January 18, 2023** public hearing of the Neptune Township Zoning Board of Adjustment.

Please be advised that it will be necessary for you to publish the decision of the Neptune Zoning Board of Adjustment, in one of the Township's official newspapers [the Coaster or Asbury Park Press] and return the original affidavit to this office for proof of publication. [Sample notice has been enclosed for your convenience].

If you have any questions regarding this matter, please feel free to contact me the number listed above and I will be glad to help you.

Sincerely,

Kristie Dickert
Administrative Officer
Zoning Board of Adjustment

c: M. Shafai, Engineer (via e-mail)
J. Beahm, Planner (via e-mail)
J. Ciccone, Director of Construction
Diana Pajak (via e-mail)
B. Haney, Tax Assessor
G. Waterman, Zoning Officer
Zoning Bd File#22/11



Notice of Decision
Township of Neptune Zoning Board of Adjustment

Notice is hereby given that pursuant to the requirements of the Neptune Township Zoning Board of Adjustment, the Board has **granted/denied** the application submitted by:

[Name of applicant and or developer]

for property located at _____
[List property location]

also known as Tax Block(s) _____ Lot(s) _____

The determination of the Neptune Township Zoning Board of Adjustment is on file at the Board Office located at the Engineering/Planning Building, 2201 Heck Avenue, Neptune, NJ 07753; and is available for inspection during the regular business hours of 9 A.M. to 3 P.M. Monday through Friday, or it can be e-mailed to you by sending a request for same to kdickert@neptunetownship.org.

Notice is given pursuant to R.S. 40:55D-17G.

Date _____
[Signature of applicant, attorney, or developer]

APPLICANT: HY RUDIN & ELLEN MALLIN

APPLICATION NUMBER: ZB 22/11

BLOCK: 153

LOTS: 4

ADDRESS: 118 MOUNT TABOR WAY

ATTORNEY FOR APPLICANT: CHRISTOPHER BEEKMAN, ESQ.

RESOLUTION NUMBER: ZBA#23-01



**RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT
OF THE TOWNSHIP OF NEPTUNE**

WHEREAS, BOARD MEMBER THOMAS HEALY, offered the following Resolution moved and seconded by **BOARD MEMBER NAOMI RILEY**:

WHEREAS, HY RUDIN and ELLEN MALLIN by and through their Attorney, **CHRISTOPHER BEEKMAN, ESQ.** hereinafter referred to as the “applicant” filed an application with the Zoning Board of Adjustment of the Township of Neptune, (hereinafter referred to as the “Board”) seeking the following relief:

The applicant is the owner of the property and proposes an addition/modification to the current structure and requests the following approvals.

1. Expansion of a covered porch into the front yard setback area.
2. Any other variance and/or waivers as may be required by the Township of Neptune Zoning Board/Zoning Official.

WHEREAS, the application pertains to premises known and designated as Block 153, Lots 8 on the Tax Map of the Township of Neptune, which premises are located at 118 Mount Tabor Way, Ocean Grove, NJ 07756.

WHEREAS, all notice requirements were satisfied by the applicant and the Board has jurisdiction to hear, consider and determine the application at issue; and

WHEREAS, the Board held a public hearing with regard to the referenced application on the following date, November 2, 2022:

WHEREAS, the following items were entered as Exhibits at the hearing:

1. Checklist & Application
2. Zoning Permit Denial
3. Assignment of Lease
4. Survey of Property
5. Photo Packet- Existing
6. Architectural Plan Sheet
7. Updated Survey of Property

WHEREAS, The Board listened to the Testimony of the following:

- 1. HY RUDIN – APPLICANT**
- 2. BRIAN KENNY – BK CUSOM BUILDER**

WHEREAS, The Board took Questions from the following member of the Public as to the witnesses presented:

- 1. NONE**

WHEREAS, The Board took Commentary on the Application upon conclusion of the witness testimony as follows:

- 1. NONE**

WHEREAS, the Board, having given due consideration to the Exhibits moved into evidence and the Testimony presented at said hearing(s), does make the following findings of fact:

1. 118 Mt. Tabor Way in Ocean Grove was purchased by applicant in 2004. They made certain improvements to the property. The house was built in the 1960s. The porch had been re-done initially, then maintained ever since.
2. In the last few years, the house needed further improvement.
3. Some exterior renovations such as removal of brick were proposed in order to provide a better appearance.
4. The porch was narrow and applicant wanted to widen same. Applicant had prior HPC approvals for other work done.
5. Applicant, along with their contractor, BK Custom Builders, expanded the porch without zoning or HPC approval in the past winter of 2021.
6. The house/porch setback is consistent with the neighborhood and should be consistent with current setback and is only a 4" difference in reality.
7. Planner Beahm would submit this is consistent with the area and would support a finding approving the application as it is proposed. Technically, there should be a 4' set back but this is 2' and is consistent with what is out there on the street.
8. BRIAN KENNY, owner/operator of BK CUSTOM BUILDERS (Pilgrim Pathway and Main Street) has been building in Ocean Grove for 15-20 years.
9. This was a rebuild of a porch and went to HPC for the cedar shakes and veneer. Paint and veneer. BK Builders did not approach or receive approval from HPC to extend the porch. This application is brought about as a result of the deficiency and clear violation of ordinance caused by BK Builders, despite their knowledge of the historic designation of the town and the process required to expand any exterior aspect of the structure.
10. Board Member Riley questioned Mr. Kenny as to the importance of working under the rules and regulations and that failure to do so puts his business and reputation in jeopardy

WHEREAS, In order to prevail on an application for a variance, the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D – 70, requires the applicant to establish that the variance can be granted without substantial detriment to the public good and that the granting of the variance does not substantially impair the intent and purpose of the master plan, zone plan and zoning ordinance.

NOW THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Neptune that it hereby adopts the aforesaid findings of fact and specifically makes the following conclusions:

- a. Based upon the aforesaid findings of fact, the Board concludes that:
 - i. The applicant has demonstrated that the proposed use of the property in question is substantially the same kind of use as that to which the premises were devoted at the time of the passage of the zoning ordinance.
- b. Based upon the aforesaid findings of fact, the Board further concludes that the granting of the approval set forth herein will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning ordinance and the zoning plan of the Township of Neptune.
- c. **The Board specifically includes herein by reference, the Transcripts from the hearings, which provide the detailed basis and description of the decision as memorialized in this Resolution and do hereby rely upon same for further reference, as necessary.**

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Neptune that the following be and are hereby **GRANTED**:

Applicant is granted bulk variance relief for the addition/modification of the current structure with the expansion of the covered front porch in the into the front yard setback area.

The Board specifically notes that while it can justify the de minimis variance relief (about 4" and half foot on side for overhang) as there is no negative impact with WHAT has been constructed, the Board cannot support the WAY it was constructed and cautions against this behavior in the future to avoid fines and penalties, including removal of the unauthorized improvements.

ALL APPROVALS GRANTED HEREIN ARE SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) The applicant shall comply with any requirements established by, and obtain any necessary approvals of the following, IF APPLICABLE, to the proposed construction herein:
 - a. All Plans must be approved by Township Engineer and Code and Construction Departments for the issuance of Permits;
 - b. MONMOUTH COUNTY PLANNING BOARD;
 - c. FIRE MARSHALL;
 - d. BOARD OF HEALTH;
 - e. SOIL CONSERVATION AND SEDIMENT CONTROL APPROVALS AND PERMITS;
 - f. AFFORDABLE HOUSING CONTRIBUTION (ORD. 04-22)
 - g. BOARD OF ADJUSTMENT PLANNER
 - h. BOARD OF ADJUSTMENT ENGINEER
 - i. POSTING OF PERFORMANCE GUARANTEES AND INSPECTION FEES;
 - j. FINAL SITE PLAN DRAWINGS INCORPORATING ALL CHANGES AND/OR AMENDMENTS MADE AT THE HEARING.
 - k. FINAL DESIGN SUBJECT TO APPROVAL OF THE BOARDS'S PROFESSIONALS.
 - l. SUBJECT TO THE APPLICANT COMPLYING WITH ANY AND ALL FEDERAL, STATE, COUNTY AND LOCAL LAWS, RULES AND REGULATIONS AFFECTING AND PERTAINING TO THE DEVELOPMENT OR USE OF THE SITE IN QUESTION.
- (2) SUBJECT TO ALL REPRESENTATIONS AND TESTIMONY OF THE APPLICANT BEING TRUTHFUL AND ACCURATE

ROLL CALL VOTE: Offered by: Thomas Healy Seconded by: Naomi Riley

THOSE IN FAVOR: Barbara Bascom, Naomi Riley, Thomas Healy, Tanya Pickard, Shane Martins, and William Frantz

THOSE OPPOSED: None.

ABSENT: Dr. James Brown, Michael Pullano, James Gilligan

ABSTAINED: None.

INELIGIBLE: Derel Stroud

MEMORIALIZATION VOTE: Offered by: Thomas Healy Seconded by: William Frantz

THOSE IN FAVOR: Barbara Bascom, Naomi Riley, Thomas Healy, Shane Martins, and William Frantz

THOSE OPPOSED: None.

ABSENT: None.

ABSTAINED: None.

I hereby certify that the foregoing is a true copy of the Resolution adopted by the Zoning Board of Adjustment of the Township of Neptune at its meeting on November 2, 2022 and memorialized at the meeting held on January 18, 2023

Date: January 23, 2023



Kristie Dickert, Administrative Officer of the
Zoning Board of Adjustment
Township of Neptune

