

TOWNSHIP OF MIDDLETOWN

Zoning Board of Adjustment and Appeals

1 Kings Highway
Middletown, NJ 07748-2594

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Chairman



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TECHNICAL MEMORANDUM

DATE: July 16, 2021
BOARD: Zoning Board of Adjustment and Appeals
APPLICATION: Kugelman and Phair (#2021-007)
36 East Twin Road, Monmouth Hills and Water Witch Club Historic District
Block 773, Lot 1
R-45 Zone
Relief from Section 540-504A: Every principle building shall be built with frontage on an improved street; and

PROJECT DESCRIPTION & VARIANCE SUMMARY

The applicant is proposing to construct a 578 s.f. two-story addition to the rear of an existing single family dwelling; and add a second story over the garage. Additionally proposed is a structural retaining wall with a 4' high fence on top of the wall all within the side- and rear-yard setback of the property.

Relief is required for the existing roadway width for which the home is located. Section 540-504A requires every principle building to be built with frontage on an improved street, and East Twin Road does not comply to Township standards for roads; and relief is required for the height of the proposed retaining wall. As per Section 540-616.I (and 540-902.H) structural retaining walls shall not exceed 3' in height within required setback areas. The proposed retaining wall is located within the required rear setback and exceeds 3' in height in some areas.

Approval from the Landmarks Commission has been obtained by the applicant for the proposed building improvements.

PROPERTY DESCRIPTION, ZONING AND SURROUNDING LAND USES

The subject property is located along East Twin Road and Sea View Terrace in the Monmouth Hills section of Middletown Township, and also within the Water Witch Historic District. The property contains a single family dwelling with an attached garage, driveway from East Twin Road and associated walkways. The property is wooded and slopes down at the rear of the property.

The property is located in and surrounded by the Residential (R-45) Zone, and within the Water Witch Historic District.

Many Neighborhoods. One Middletown!

Belford ◦ Chapel Hill ◦ Fairview ◦ Harmony ◦ Leonardo ◦ Lincroft ◦ Locust ◦ Middletown Village
Monmouth Hills ◦ Navesink ◦ New Monmouth ◦ North Middletown ◦ Nut Swamp ◦ Oak Hill ◦ Port Monmouth ◦ River Plaza

PLANNING COMMENTS

1. “Planning” Variance

- (A) Construction Along an Unimproved Roadway – East Twin Road in Monmouth Hills is considered not improved to Township Standards, and therefore a variance to construct an addition to the existing dwelling on the subject lot is required.
- (B) “Planning Variance” – The applicant is seeking what is commonly referred to as a “Planning Variance.” The Zoning Board may grant a variance to permit the building addition that fronts upon a street that has not been improved to Township standards - as long as the following conditions are satisfied:

- Adequate access for firefighting equipment, ambulances and other emergency vehicles is provided to ensure the protection of health and safety. We defer to the Fire Advisory Board review.

Additionally, the applicant must demonstrate to the Board that the circumstances of the case do not require the residence to be related to a street improved to Township standards, or that disallowing the building addition on the subject lot will entail practical difficulty or unnecessary hardship.

2. “Bulk” Variance

The proposed development requires variance relief from the maximum height of structural retaining walls within setback areas. As per Section 540-616.I (and 540-902.H) structural retaining walls shall not exceed 3’ in height within required setback areas. The proposed retaining wall is located within the required side- and rear-setback and exceeds 3’ in height in some areas. A detail of the wall shall be provided in the plans.

Statutory Requirements for the granting of bulk variance relief

Based on the Municipal Land Use Law standard for granting bulk variance relief, the applicant shall indicate to the Board whether a “hardship” variance or “flexible C” variance will be sought for the bulk variance indicated above, and provide testimony supporting the chosen approach.

Physical Characteristics - N.J.S.A. 40:55D-70.C(1) (a/k/a Hardship Variance) – Testimony should indicate if strict application of structural wall height requirements would result in peculiar and exceptional difficulties, or exceptional and undue hardship, to the applicant.

- By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
- By reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property;
- By reason of an extraordinary or exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

Benefits Outweighing Detriments - N.J.S.A. 40:55D-70.C(2) (a/k/a Flexible C Variance) - The applicant may also establish, in the absence of proving “hardship,” whether the granting of a variance will further the purposes of the Municipal Land Use Law, and if the benefits of granting the variance will substantially outweigh any detriment.

Negative Criteria - Additionally, with any type of C variance, testimony should confirm that the proposed improvements requiring bulk variance relief will not create a substantial detriment to the public good or substantial impairment of the intent and purpose of the Master Plan and the Zoning Ordinance.

MISCELLANEOUS

1. The project narrative indicates that the applicant will remove a portion of the driveway to maintain lot coverage. The area proposed to be removed from the driveway shall be shown on the plan.
2. Grading plan approval will be required.
3. Fire Advisory Board review is required.
4. Approval from Freehold Soil Conservation District is required.

DOCUMENTS REVIEWED

- Boundary and Topography Survey for Joan M. Kugelmann and Arthur P. Phair, consisting of one (1) sheet, prepared by Landmark Surveys, dated March 16, 2021, last revised March 23, 2021;
- Variance Site Plan 36 East Twin Road, consisting of three (3) sheets, prepared by East Point Engineering LLC, dated March 29, 2021;
- Architectural Plans, consisting of five (5) sheets, prepared by Maxine Giordano, AIA – LLC, dated January 25, 2021, last revised May 5, 2021 (Cover sheet only);
- Certification of payment of taxes;
- Certification of ownership;
- Project Narrative;
- Application for development permit;
- Zoning Officer denial;
- Monmouth Hills Inc approval; and
- Middletown Landmarks Commission approval.

I reserve the right to make additional comments based upon the submission of additional documents or testimony presented to the Board.

Report Prepared by:



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Director of Planning

