

**APRIL 9, 2020 AVON-BY-THE-SEA PLANNING BOARD AGENDA**

**THIS MEETING WILL TAKE PLACE VIRTUALLY**

If you would like to join the meeting.

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You will now be able to hear the meeting.

- A. Please wait for the public portion for questions and comments to be announced before you speak.

1. Opening Statement
2. Roll Call
3. March 12, 2020 Minutes
4. Resolution for Pink House Properties, LLC -37 Sylvania Avenue NSFR
5. Motion to Adjourn

**Sheila Sullivan / Planning Board Secretary**

**BOROUGH OF AVON-BY-THE SEA PLANNING BOARD**

**RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF AVON-BY-THE-SEA, COUNTY OF MONMOUTH, STATE OF NEW JERSEY GRANTING APPROVAL FOR BULK VARIANCES FOR PINK HOUSE PROPERTIES, LLC, WITH RESPECT TO 37 SYLVANIA AVENUE, DESIGNATED AS BLOCK 35, LOT 3**

**WHEREAS**, Pink House Properties, LLC (the "Applicant") filed a development application with respect to property identified as Block 35, Lot 3 with a street address of 37 Sylvania Avenue (the "Property") which calls for the demolition of an existing house and garage and the construction of a new single-family dwelling and detached garage with associated bulk variance relief; (the "Application"); and

**WHEREAS**, such proof of publication of notice of hearing as may be required by New Jersey statutes and municipal ordinance requirements has been furnished; and

**WHEREAS**, a public hearing was held concerning the Application on March 12, 2020, in the Borough of Avon-By-The-Sea and testimony and exhibits were presented on behalf of the Applicant, with George McGill, Esquire representing the Applicant, and all interested parties were afforded an opportunity to be heard; and

**WHEREAS**, the Borough of Avon-By-The-Sea having considered the application, testimony of the Applicant and exhibits submitted, and after having received information and consultation from its professional staff, the Borough of Avon-By-The-Sea Planning Board does hereby make the following findings of fact and law;

- A. The property known as 37 Sylvania Avenue (Block 35, Lot 3) is located on the south side of Sylvania Avenue between Ocean Avenue and First Avenue in the R-Residential Zone.

- B. The existing property is non-conforming regarding lot area and lot width: whereas a lot area of 7,000SF and a lot width of 50' is required, the subject property has a lot area of 3,360SF and a lot width of 24'.
- C. The existing property contains a one-story, single-family dwelling and a detached garage. The applicant proposes to demolish the existing one-story, single-family dwelling and detached garage and construct a new single-family dwelling and detached garage with associated bulk variance relief.
- D. The Applicant is seeking the following bulk variance relief per review of the Zoning Ordinance Section 113-11 Residential Zone:
  - a. Side Yard Setback (Residence and Detached Garage)- Where a minimum side yard setback of 5' is required, the applicant is proposing a side yard setback of 3.1' for both the residence and detached garage. Variances are required for all four (4) side yard setbacks.
  - b. Building Height- Where a maximum building height of 28' is permitted, the applicant is proposing a building height of 30'. The 28' height limitation is due to the substandard width of the lot.
  - c. Building Coverage- where a maximum building coverage of 35% is permitted, the applicant is proposing a building coverage of 42.3%.
  - d. Front Yard Setback- the front yard setback required is 27.53' and the applicant modified his proposal for a 27' setback.
- E. The property owner, Mark Walsh, appeared and was sworn. He testified that he and his family have lived in another home on Sylvania Avenue since the year 2016. They purchased the subject property in December of 2018. They are

planning to develop the subject property for its usage by their sons and in-laws. Mr. Walsh testified that he believes their proposal is a modest home in keeping with the character of the surrounding neighborhood.

- F. Mr. Thomas Peterson, AIA, appeared on behalf of the applicant and was sworn. He testified that his plans were last revised on November 12, 2019. He introduced A-1 (aerial and streetscape photographs). He testified that the proposed home is 1,800SF in area. It is a two-story home with three bedrooms and a detached, two-car garage, and a deck in the backyard. The first-floor ceiling height is 9', and the second-floor ceiling heights is 8'. He discussed the various bulk variances needed. He testified that as to the building height variance, the window levels line up with other homes on this street and the front elevation comports with the style of the town. He confirmed that he will get a height certificate. The proposed home is a "seashore style" including a front porch, which is what triggers the front yard setback variance.
- G. Mr. Peterson further testified that the basement of the proposed home will have interior access only. The basement will house mechanicals for the first floor, and the attic will house mechanicals for the second floor.
- H. The Board opened to the public and the following individuals sought to comment:
  - a. Theresa Egan of 30 Garfield Avenue was sworn. She asked questions concerning the 2<sup>nd</sup> story covered porch and whether it will block neighboring views.

b. Jane Bourke of 311 Garfield Avenue was sworn. She testified that she supports the application and believes that this new home will be an improvement to the property.

I. The applicant considered the concerns of the board and offered to reduce the depth of the proposed house and proposed porch which reduced the front yard setback variance and eliminated the impervious coverage variance.

J. Based on the above-referenced findings, the Board has balanced the positives of the application against any negatives and finds, by an enhanced standard of proof, that the positives are not substantially outweighed by any negative aspects of the Application and further that the bulk variances may be granted without substantial detriment to the public good or impairment of the intent and purpose of zone plan.

**NOW, THEREFORE, BE IT RESOLVED**, by the Planning Board of the Borough of Avon-By-The-Sea, on the 12<sup>th</sup> day of March, 2020, that the applicant's request for bulk variances pursuant to NJSA 40:55D-70(c) be approved subject to the conditions as set forth below; and,

**BE IT FURTHER RESOLVED**, that a copy of the Resolution be forwarded by the Planning Board Secretary, to the Applicant, the Borough Clerk and the Building Department.

**BE IT FURTHER RESOLVED**, that notification of this favorable approval be published in an official newspaper of the Borough of Avon-By-The Sea by the Clerk.

**BE IT FURTHER RESOLVED**, that this approval is subject to the following conditions:

1. The Applicant shall comply with all representations made before the Land Use Board, by its attorney and its expert.

2. The Applicant shall submit modified plans confirming the modification of the impervious coverage calculation, lot coverage calculation, and front yard setback, as well as any other modifications deemed necessary by the Board engineer, to the satisfaction of the Board engineer during resolution compliance.
3. The second story porch shall not be enclosed. The Applicant shall submit modified plans reflecting this change to the satisfaction of the Board engineer during resolution compliance.
4. Any disturbance to the asphalt within Sylvania Avenue shall be repaired by the Applicant in accordance with the Borough's design standards.
5. Applicant shall amend the architectural plans to include repair of the curbs with a resolution compliance submission.
6. If required, applicant shall obtain certification by the Local Soil Conservation District of a plan for soil erosion and sediment control in accordance with N.J.S.A. 4:24-39 et seq., commonly known as the "Soil Erosion and Sediment Control Act."
7. All materials, methods of construction and detail shall be in conformance with the current engineering and building requirements of the Borough of Avon-By-The-Sea, which are on file in the office of the Borough Construction Official.
8. Applicant shall obtain all approvals required by any Federal, State, County or Municipal agency having regulatory jurisdiction of this development. Upon receipt of such approval(s), the applicant shall supply a copy of the permit(s) to the Board. In the event that any other agency requires a change in the plans approved by this Board, the applicant must reapply to the Borough of Avon-By-The-Sea Planning Board for approval of that change.

9. Applicant shall resubmit this entire proposal for re-approval should there be any deviation from the terms and conditions of this resolution or the documents submitted as part of this application, all of which are made a part hereof and shall be binding upon the applicant.
10. No soil shall be removed from the site without the written approval of the Borough Commission.
11. If applicable, applicant must comply with the new COAH ordinance for the building improvements in question.
12. Unless specifically modified herein, the applicant shall comply with all terms and conditions of all prior resolutions of the Avon-By-The-Sea Planning Board regarding this application.
13. Applicant shall comply with all generally applicable Borough ordinances.
14. Subject to the discretion of the Construction Official, the existing curbing and sidewalk along the applicant's frontage will be repaired and/or replaced as directed.
15. Five (5) copies of revised plans shall be submitted for signatures.

#### CERTIFICATION

I hereby certify that I, the undersigned, am the secretary of the Planning Board of the Borough of Avon-By-The-Sea, and I hereby certify that the foregoing Resolution was unanimously adopted by the Planning Board at a meeting held on the 9<sup>th</sup> day of April, 2020.

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Richard Maloney, Chairman

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Sheila Sullivan, Sec