

**ZONING BOARD OF ADJUSTMENT
BARNEGAT LIGHT
APRIL 8, 2019**

THE MEETING OF THE ZONING BOARD OF ADJUSTMENT was called to order at 7:30 pm by Chairman Nancy Spark, who stated that the notice of this meeting has been published and posted in accordance with requirements set forth in the New Jersey Open Public Meetings Act.

The Pledge of Allegiance followed.

**ROLL CALL: CLARK, OROS, FINELLI, SPARK, MESCOLOTTO
ABSENT: WARK, FITZSIMMONS, MANOOKIAN
ALSO PRESENT BOARD ATTORNEY STU SNYDER & SECRETARY ELAINE
TOLLISON**

DUE TO ABSENCES ESPOSITO & MESCOLOTTO SAT ON THE BOARD

MINUTES OF MARCH 11, 2019 MEETING

AT THIS TIME, Chairman Spark asked for a motion to approve the minutes of the March 11, 2019 meeting. Mescolotto so moved, seconded by Oros

MOTION: MESOLOTTTO

SECOND: OROS

VOTE: AYES: OROS, FINELLI, SPARK, MESCOLOTTO

ABSTAIN: CLARK, ESPOSITO

NAYS: NONE ABSENT: WARK, FITZSIMMONS, MANOOKIAN

RESOLUTION TO MEMORIALIZE DOCKET ZB-2019-01

AT THIS TIME, Chairman Spark asked for a motion to memorialize resolution 2019-01, for Joseph Foy, 603 Broadway

**RESOLUTION OF MEMORIALIZATION OF THE
ZONING BOARD OF ADJUSTMENT THE BOROUGH OF BARNEGAT LIGHT
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. ZB-2019-01**

WHEREAS, Joseph D. Foy, Jr. has made application to the Zoning Board of Adjustment of the Borough of Barnegat Light for variances to permit the construction of a rooftop deck with 36 inch railings and balusters at a height of 30.77 feet upon the mixed use building located at property known and designated as 603 Broadway, Lot 2 Block 12 in the Borough of Barnegat Light, County of Ocean and State of New Jersey; and

WHEREAS, the Zoning Board of Adjustment considered this application at a public hearing conducted on March 11, 2019. The applicant was represented by James S. Raban, Esq. The application dated February 19, 2019 was entered into evidence as Exhibit A-1; the plan prepared by FRD Surveying, LLC, titled "Plot Plan for Variance Lot 2 Block 12" dated February 11, 2019 under signature and seal of Frank R. DeSantis, PLS was entered into evidence as Exhibit A-2; the plan prepared by Coastal Design Group, Architecture; with a copy of the survey transposed on it, a photograph of the existing building ; and a computer generated photograph of the proposed front elevation with the roof deck dated July 18. 2018 titled "Foy Residence 603 Broadway, Barnegat Light, NJ" under signature and seal of Jeffrey A. Wells, AIA was entered into evidence as Exhibit A-3. The review letter from Owen, Little & Associates, Inc. dated March 6, 2019 under signature of Frank J. Little, Jr. was entered into evidence as Exhibit B-1. Testimony was offered by Frank DeSantis, applicants Professional Licensed Surveyor, and Joseph B. Foy, Jr., the applicant. Public comment was offered by John Alchus, and John Paterson; and

WHEREAS, the Zoning Board of Adjustment after considering the Application, documentation entered into evidence, testimony of the witness and argument of counsel has made the following factual findings:

1. All jurisdictional requirements have been met.

2. The property is located in the GB General Business Zone. The property consists of a lot with dimensions of 50 x 125 improved with a two story mixed use building. A five hundred (500) square foot area of the first floor was previously used for commercial purposes; applicant proposes to find a commercial tenant to occupy that space; the balance of the building is occupied by applicant and contains a four (4) bedroom apartment.
3. Applicant has completed an interior renovation; he proposes to provide a small deck at the front of the building with French doors from the master bedroom; he further proposes to construct a roof top deck; accessible by a mid-building deck at the west side of the building and spiral staircase.
4. The proposed roof top deck will be used solely for residential purposes and shall not be accessible from the commercial space.
5. The building conforms to all bulk requirements; applicant is requesting a height variance to permit the roof top deck with open balusters and rails. The permitted building height is 30 feet; the height required to accommodate 36 inch spindles and rail system is 30.77 feet. The variance requested comports to the requirements of NJSA 40:55d-70 (c), as the proposed height is within ten (10%) percent of the permitted building height.
6. The Board adopts the contents of the March 6, 2019 letter from Frank J. Little, PE, PP, entered into evidence as Exhibit B-1; as if set forth herein at length; and

WHEREAS, the Zoning Board of Adjustment of the Borough of Barnegat Light has determined that the relief requested by the applicant Joseph D. Foy, Jr. for variance relief to permit the construction of a rooftop deck with 36 inch railings and balusters at a height of 30.77 feet upon the mixed use building located at property known and designated as 603 Broadway, Lot 2 Block 12 in the Borough of Barnegat Light, County of Ocean and State of New Jersey in accordance with the plans entered into evidence as Exhibits A-2 and A-3 can be granted without substantial detriment to the public good and without impairing the intent and purposes of the zone plan and zoning ordinances of

the Borough of Barnegat Light; there will not be any negative impediment to the light or air of surrounding properties and the project will barely be visible from the street. The rails and balusters shall remain open. The improvement and preservation of the existing building benefits the Borough, the only access to the deck is from the residential portion of the building; and the site, being on a main thoroughfare in the Borough, is suitable for the project; which mandates a deviation of less than one (1) foot.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Barnegat Light that the application of Joseph D. Foy, Jr. for a variance to permit the construction of a rooftop deck with 36 inch railings and balusters at a height of 30.77 feet upon the mixed use building located at property known and designated as 603 Broadway, Lot 2 Block 12 in the Borough of Barnegat Light, County of Ocean and State of New Jersey in accordance with the plan entered into evidence as Exhibit A-2 and Exhibit A-3, be and hereby is, conditionally approved.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon all construction at the property conforming to FEMA requirements and all building, fire and safety Codes.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant obtaining all requisite permits and Applicant complying with all Federal, State and Local rules regulations and statutes and ordinances effecting this development.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant obtaining all outside agency approvals from all agencies having jurisdiction over this development.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's payment of all taxes and all other applicable assessments, and Applicant satisfying all fees and escrow fees as may be required.

BE IT FURTHER RESOLVED that the Applicant is required to comply with all ordinances of the Borough of Barnegat Light, and failure to specify compliance herein shall not be deemed a waiver or recommendation by the Zoning Board of Adjustment with respect to Borough Ordinances, including the Zoning Ordinances.

BE IT FURTHER RESOLVED that this approval is subject to all conditions and representations made by counsel and witnesses for the applicant and as placed on the record at the public hearing conducted on March 11, 2019 when this matter was considered.

BE IT FURTHER RESOLVED that the height of the rails and baluster not exceed 30.77 feet; and that the deck, rails and balusters remain open. The only variance granted is from the 30 foot height limitation, permitting a finished height of 30.77 feet, as aforementioned. All other development at the site shall conform to all bulk zoning requirements;

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant complying with all technical revisions and any other requirements as set by the Borough Engineer and Building Department.

DATED: APRIL 8, 2019

MOTION: MESCOLOTTO

SECOND: OROS

VOTE: AYES: OROS, FINELLI, MESCOLOTTO

NAYS: NONE

ABSTAIN: CLARK, SPARK, ESPOSITO

ABSENT: WARK, FITZSIMMONS, MANOOKIAN

ELAINE TOLLISON, SECRETARY

-CERTIFICATION-

I, **ELAINE TOLLISON**, Secretary of the Zoning Board of Adjustment of the Borough of Barnegat Light, County of Ocean and State of New Jersey, do certify that the foregoing is a true copy of a Resolution adopted by the Zoning Board of Adjustment of the Borough of Barnegat Light at a public meeting held on April 8, 2019.

ELAINE TOLLISON, SECRETARY

SCHILLACI APPLICATION ZB-2019-02

Mr. Richard Visotcky, attorney represented the applicants, Alexander & Susan Sillachi. Susan Sillachi is the sole owner of the property at 12 East 22nd Street, Block 41 Lot 14. They plan to do conforming renovations to the first floor and to add some decks. They are proposing an elevator on the west side and that is encroaching into the side yard setback making it a 4.2 foot setback where 9 feet is required.

Mr. Snyder marked the application as A1, the plot plan prepared by Mr. Marchiano as A2, the architectural drawings from Craig Brearley as A3, the review letter from Mr. Little as B1, and two photographs on one piece of paper as A4.

Mr. Jason Marchiano was sworn in. He is a professional engineer and planner with current licenses employed with the firm of East Coast Engineering, Toms River. He said that it is a two story house with garages underneath. They plan to renovate bedrooms and install decks. He said that on the west side they are proposing an elevator shaft that would extend out to make the setback 4.2 feet where 9 feet is required. Mr. Marchiano described what is shown on the photographs. He feels that this is a good location for the elevator. He does not think this would be a detriment and no impairment to any views from other properties. Ms. Esposito asked if there was any thought putting the elevator in the interior and Mr. Marchiano said that should be answered by the architect.

Mr. Alex Sillachi was sworn in. They bought the house as new construction and the title was transferred to his wife a year later. Mr. Sillachi said that Mr. Brearley went over the options of where to install the elevator and felt that this was the best place for it. Mrs. Spark asked why the elevator is needed. Mr. Sillachi stated that they plan on spending more time here when retired and that his wife has had back surgery and her parents cannot climb the stairs.

Mr. Mescolotto asked if they thought about putting new bedrooms 2 & 3 at the back of the house and putting the elevator in where a bathroom is located. Mrs. Spark asked about putting the elevator off of the back deck.

Mr. Craig Brearley was sworn in. He is an architect and his license is current. He prepared the plans marked as A3. He described the proposed renovations on the plans. He doesn't feel that there is another good place for the elevator. Mrs. Spark asked why it couldn't be located off of the back of the house. Mr. Finelli thought that the elevator could be located through the garage. Mrs. Spark brought up the fact that emergency vehicles would not be able to get through.

Mr. Snyder said that under the land use laws this is not a hardship per se. He said that this would be a variable C and that the board has to consider the testimony given.

AT THIS TIME, Mrs. Spark asked for a motion to open to the public. Oros so moved, seconded by Esposito. All in Favor

There was no public comment.

AT THIS TIME, Mrs. Spark asked for a motion to close to the public. Oros so moved, seconded by Mescolotto. All in favor

AT THIS TIME, Chairman Spark asked for a motion on this application. Mescolotto made a motion to approve, seconded by Clark

ROLL CALL VOTE

AYES: CLARK, MESCOLOTTO

NAYES: OROS, FINELLI, SPARK, ESPOSITO

ABSTAIN: NONE

MOTION DID NOT CARRY

AT THIS TIME, Chairman Spark asked for a motion to open to the public. Oros so moved, seconded by Mescolotto. All in favor

There was no public comment

AT THIS TIME, Chairman Spark asked for a motion to close to the public. Oros so moved, seconded by Esposito, all in favor

OTHER BUSINESS: Barry Mescolotto completed the mandatory land use class and received a certificate.

**THERE BEING NO FURTHER BUSINESS BEFORE THE ZONING BOARD OF
ADJUSTMENT, ON A MOTION MADE BY CLARK AND SECONDED BY
OROS THE MEETING WAS ADJOURNED.**

**ELAINE TOLLISON
BOARD SECRETARY**