

BOROUGH OF NEW PROVIDENCE

BOARD OF ADJUSTMENT

RESOLUTION

WHEREAS, David Hyung Lim is the owner of 14 Birch Place, New Providence, New Jersey (the "Applicant"), and has applied to the Zoning Board of Adjustment of the Borough of New Providence (the "Board") for variances pursuant to N.J.S.A. 40:55D-70(c) for relief from the Borough's zoning ordinance to permit the construction of an addition. The proposed rear yard setback to the addition is 35 feet, whereas 40.62 feet is the minimum required. The proposed building coverage is 1,710 square feet, whereas, 1,562 is the maximum permitted. The existing front yard is 39.6 feet. The existing side yards are 8.11 and 9.65 feet. The property is designated as Block 73, Lot 3 on the Borough Tax Map, and lies in the R-2 Single Family Residential Zone; and

WHEREAS, the Board has reviewed the application, testimony and exhibits presented by the Applicant at the hearing conducted on April 2, 2018; and

WHEREAS, the Board has made the following findings of fact and drawn the following conclusions of law:

FINDINGS OF FACT

1. The Applicant, David Hyung Lim, is the owner of 14 Birch Place, New Providence, New Jersey. The property is designated as Block 73, Lot 3 on the Borough Tax Map, and lies in the R-2 Single Family Residential District.

2. The proposed rear yard setback to the addition is 35 feet, whereas 40.62 feet is the minimum required. The proposed building coverage is 1,710 square feet, whereas, 1,562 is the

maximum permitted. The existing front yard is 39.6 feet. The existing side yards are 8.11 and 9.65 feet. The proposed addition is in violation of the requirements set forth at Chapter 310, Article IV, Section 310-10, Schedule II.

3. Mr. Ammitzbol recused himself from consideration of the application as a member of the Board as he lives within 200 feet of the subject property.

4. The Applicant, David Hyung Lim, and his wife, Lauren Lim, appeared and were sworn in. Al Leonard, AIA, was also sworn in and presented his credentials to the board and was accepted as an expert in the field of architecture.

5. Mrs. Lim presented an overview of the application, the history of the property, and the fact that having two growing children is the main reason for the request for relief to construct an addition.

6. Mr. Leonard presented Exhibit A-1 which included photographs and a colorized rendering of the proposed addition. He discussed the variances sought, which included a rear yard setback variance and a variance for an increase in building coverage. Mr. Leonard also described the proposed addition, which included a "window" through the middle of the fireplace. Mr. Leonard advised that the addition would be constructed as proposed, although the window may need to be removed, depending on the final cost.

6. Mr. Leonard testified that the house is slab on grade and does not have a basement. The previous owner added a second floor. The house has a living room but no family room. The rear property line is skewed so a variance is needed for the rear-yard setback for one corner of the addition. A variance is also required for the building coverage of 1,710 square feet, an increase of 1.83 percent. The addition will have double cathedral ceilings and a fireplace in the center with windows on either side. Cultured stone will be used around the foundation. The

kitchen will open up into the family room. A patio is proposed at the side of the addition. A 6 foot fence, as shown on Exhibit A-1, is located around the perimeter of the property. There is little impact to the houses behind the subject property.

7. Mr. Leonard responded to questions from the Board. The addition is 20 feet, 8 inches deep. It will be a working fireplace and the window in the fireplace is functional although it will not open. The Applicant would like to include the window, but it may be removed based upon budget considerations.

8. Mr. Lynch asked about water management on the site is a flat grade and the rear yard slopes up. Mr. Leonard is aware that there is an issue and that the water cannot become a neighbor's problem. The addition will have a masonry foundation. In addition, a dry well may be needed but Mr. Leonard has not done a grading analysis to determine the location of a dry well. If necessary, it will most likely be located in the rear of the property. The gutters/leaders would be directed if a dry well is the solution; however, Mr. Leonard would like to look at all options to manage the water as it would be better if the water can be managed without a dry well. Mr. Lynch stated that the applicant needs to get the water to the street. While less than 1,000 square feet of soil will be moved, the Applicants were willing to submit a grading application subject to approval by the Borough Engineer as a condition of approval.

9. The Board had no further questions for the witness. The hearing was opened to questions from the public. Hans Ammitzball, 15 Birch Place, asked if the water can be pumped from the back to the curb. Mr. Leonard agreed that this can be done if he can get a gravity feed. This would be a better option than a dry well.

10. No further witnesses appeared to testify and the hearing was opened to comments from the public. Nakul Kapoor, 3 Birch Place, was sworn in and stated that he lives diagonally

across the street from the Lims and has known them for four or five years. He thinks the proposed project is a perfect addition that will not be seen from the front of the house. The variance requests are functional not cosmetic. Hans Ammitzboll, 15 Birch Place, who lives directly across the street, was sworn in. He stated that it is a great addition and cannot be seen from the street. When he went through the house after the previous addition his first thought was why the Applicant did not add more to the back of the house because it is not very deep. He knows the pain of having a house built on a slab without a basement for storage.

10. There were no additional comments from the public and the public hearing was closed.

CONCLUSIONS OF LAW

1. The proposed addition does not comply with the requirements established by Chapter 310, Article IV, Section 310-10, Schedule II. The request to permit the construction of the addition requires the granting of "c" variances pursuant to N.J.S.A. 40:55D-70(c).

2. Through the testimony and exhibit presented, the Applicant has established that the application:

(a) relates to a specific piece of property, namely the Applicant's premises;

(b) that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements, namely the promotion of the public health, safety, morals and general welfare and the preservation of neighborhood character and conservation of neighborhood values;

(c) that the variances can be granted without substantial detriment to the public good;

(d) that the benefits of the deviations would substantially outweigh any detriment and that the variances will not substantially impair the intent and purpose of the zone plan and ordinance.

3. The addition could not be designed in a way to avoid variance relief given the existing setbacks of the home.

4. The Board found the addition, as designed, would not negatively impact the neighborhood.

NOW, THEREFORE, BE IT RESOLVED, on this 16th day of April, 2018, that David Hyung Lim's application for "c" variance relief be and hereby is **GRANTED**, subject to the following conditions:

1. The addition shall be constructed in accordance with the plans and testimony presented to the Board;
2. The application is subject to submission of a drainage plan to manage and transport stormwater from the rear of the property to the public right of way; such plans to be submitted to the Borough Engineer for review and approval prior to the issuance of a building permit;
3. The approval is subject to all other governmental approvals, including but not limited to compliance with the Borough's lot grading ordinance; and
4. The variances granted herein shall not constitute authority to engage in any construction which is not authorized by the Zoning Ordinance of the Borough of New Providence, except as expressly stated herein.

ROLL CALL VOTE

Those in Favor: Mr. DeSarno, Mr. Grob, Mr. Karr, Mr. Morgan,
Ms. Ananthakrishnan, Mr. Sorochen and Mr. Nadelberg
Those Opposed: -----

The foregoing is a Resolution duly adopted by the Zoning Board of Adjustment of the
Borough of New Providence at its meeting on April 16, 2018.

ATTEST:

Margaret Koontz
Secretary, Board of Adjustment

William J. Nadelberg
Chairman, Board of Adjustment