

**A RESOLUTION OF THE BOROUGH OF
BARRINGTON PLANNING BOARD
GRANTING BULK VARIANCE RELIEF
TO AARON AND OLIVIA SCHWARTZ**

**300 AUSTIN AVENUE
BLOCK 40, LOT 13**

RESOLUTION NO. 2024-

WHEREAS, Aaron and Olivia Schwartz (the "Applicants") have made an application to the Planning Board of the Borough of Barrington (the "Board") seeking bulk variance relief to permit the construction of an approximately 1,200 square feet (SF) single-family detached house on their 5,000 SF lot at 300 Austin Avenue, referenced on the Borough of Barrington (the "Borough") Tax Map as Block 40, Lot 13 (the "Subject Property"), located within the Borough's Residential-3 Zoning District ("R-3 Zone"), in accordance with Chapter 128 "Zoning" of the Code of the Borough of Barrington ("Borough Code"); and

WHEREAS, prior to the Applicants' public hearing, the Applicants submitted to the Board various plans and documents with the Application, including but not limited to the following: 1) Barrington Borough Application for Zoning, dated April 15, 2024; 2) "Permit Plan Set for Lot Improvements," prepared by Padula Engineering, dated March 25, 2024; 3) Borough of Barrington Petition of Appeal/Special Permit, dated May 2, 2023; 4) Barrington Planning Board Notice to Property Owners, dated May 20, 2024, including Affidavit of Service, Additional Listing of Property Owners Receiving Notice, and Certified Mailing Receipts; 5) Document on Average Setbacks in Neighborhood; and 6) Architectural Renderings (collectively, the "Applicants' Plans"); and

WHEREAS, at the June 24, 2024 regular Board meeting, the Applicants appeared on their own behalf, were placed under oath and sworn-in to provide testimony and evidence in support of the Application; the Applicants further introduced and summarized the Application for the Board, provided a description of the Subject Property and an initial explanation of the requested relief, the reasons for the requested relief, including the benefits of the Application to the Township and the Applicants and the hardship imposed upon the Applicants were the requested relief not granted by the Board; and

WHEREAS, the Applicants testified that they seek bulk variance relief to permit the construction of an approximately 1,200 SF single-family detached house on their 5,000 SF lot at 300 Austin Avenue; the Property is currently improved with a 1.5 story detached garage and concrete driveway at the rear of the Property and a wooden gazebo structure in the front yard area of the Austin Avenue frontage; that a bulk variance is required for impervious coverage on the lot; that the Property is located in the R-3 Zone; the Property is a corner lot situated on the southwesterly corner of Austin Avenue and Third Avenue with dimensions of 50' X 100' and

comprising 5,000 SF (0.115 Acres); the Property is bound by residential properties of similar character on all sides; and

WHEREAS, regarding the proposed improvement, the Applicants testified the home is going to be used for customary residential purposes and will be of similar nature to the residential properties surrounding the Property; that the Applicants require bulk variance relief from Section 360-18-B-3(a) of the Borough Code as the Applicants are proposing lot improvement coverage of 41.3% whereas a maximum of 35% is permitted in the R-3 Zone; that the Board can grant the variance because the existing nonconformity of a 5,000 SF lot presents a hardship in conforming with the impervious coverage requirement; the proposed improvement will enhance the Property and the community as a whole with a residential property that will match the character of the surrounding neighborhood; and that there is no negative impact to the Applicants' neighbors resulting from the proposed improvement nor any substantial impairment to the Borough Code or Master Plan; and

WHEREAS, being duly sworn and accepted as the Board's Professional Engineer, G. Jeffrey Hanson, P.E., C.M.E. of Environmental Resolutions, Inc., reviewed the Application for the Board and introduced his technical review letter dated June 12, 2024 ("Engineering Review Letter"); then testified and questioned the Applicants as to various aspects of the Application and the development proposal including the submission of an appropriate Grading Plan; and

WHEREAS, the Board and Board Professionals questioned the Applicants as to various aspects of the Application, including the existing improvements on the Property and proposed changes and additional aspects of the Application and Property; and

WHEREAS, being duly sworn and accepted as the Applicants' General Contractor, Eric Schreiber presented to the Board his testimony regarding the nature of the proposed residential property to be built and was subject to questioning by the Board and the Board's Professional Engineer; and

WHEREAS, the meeting was opened to the public and no members of the public appeared to testify; and

WHEREAS, the Board having considered the Application, the Applicants' Plans, and any additional evidence submitted, if any, and heard the testimony presented at the Applicants' public hearing, renders the following Findings of Fact and Conclusions of Law in addition to any of those contained in the "WHEREAS" paragraphs set forth above, which are incorporated by reference herein as further Findings of Fact and Conclusions of Law, as appropriate:

1. **Incorporation by Reference of "WHEREAS" Clauses.** In addition to the paragraphs below, the above "WHEREAS" clauses are expressly adopted and incorporated by reference herein as the Board's Findings of Fact and Conclusions of Law, as appropriate.
2. **Applicant & Subject Property.** The Applicants are Aaron and Olivia Schwartz. The Subject Property is 300 Austin Avenue, referenced on the Borough of

Barrington Tax Map as Block 40, Lot 13. The Subject Property is located in the Borough's R-3 Zone.

3. **Development Proposal.** The Applicant proposes to construct an approximately 1,200 SF single-family detached house on their 5,000 SF lot.
4. **Required Relief.** The Applicant requires bulk variance relief to permit the construction of a single-family detached house with total impervious coverage of 41.3% in accordance with Chapter 128 "Zoning" of the Borough Code.
5. **Notice.** Based on the representations, testimony, and evidence submitted by the Applicants, the Board determined adequate notice had been provided for the Applicants' public hearing in accordance with Borough Code requirements and the MLUL. N.J.S.A. 40:55D-12 et seq.
6. **Proposed Use.** The Applicants' use of the Subject Property as a residential use with a single-family detached house is permitted in the Borough's R-3 Zone. Borough Code § 360-18-A-1(a).
7. **Chapter 102, 128 & 213 Submission/Design Waivers.** Based on the representations, testimony, and evidence submitted by the Applicants, the Board determined no waivers from Borough Code requirements were required.
8. **Chapter 128 Variances.** Based on the representations, testimony, and evidence submitted by the Applicants, the Board determined the following variances from Borough Code zoning requirements were required:
 - a. Construction of single-family detached house with total impervious coverage of 41.3% whereas a maximum of 35% is permitted in the R-3 Zone; Borough Code § 360-18-B-3(a).
9. **Board Professional Review.** The Board Engineer and Board Attorney reviewed and discussed the Application with the Board, the Applicants, and the Applicants' witnesses and professionals; and the Applicants agreed, as a condition of approval, to work with the Board Professionals and/or appropriate Borough officials to resolve any outstanding concerns with the Application through post-resolution compliance. The Applicants also agreed to comply with the Board Engineer's Review Letter dated June 12, 2024.
10. **Public Testimony.** The Applicants' public hearing was opened to the public for testimony in accordance with N.J.S.A. 40:55D-10. No members of the public appeared to testify.
11. **Decision on Bulk Variance.**
 - a. Undue Hardship. In light of testimony and other evidence presented, the Board determined that the Applicants face an undue hardship in complying

with the impervious coverage requirements of Borough Code § 360-18-B-3(a) due to the fact that the Property has a preexisting nonconformity wherein the Property is only 5,000 SF where the minimum lot size requirement is 6,000 SF in the R-3 Zone pursuant to Borough Code Section 360-18-B-1.

- b. Positive Criteria. In light of the testimony and other evidence presented, the Board determined that the Applicant has sustained the burden of proof to support the requested variance(s) in accordance with the statutory requirements set forth in the MLUL, 40:55D-70c(2); that is, the Application to construct a single-family detached house with nonconforming impervious coverage may be granted because the Application advances several purposes of the MLUL, specifically: granting the variance(s) will allow the Applicants to improve the Subject Property with a new, modern residential structure that will match the existing surrounding principal residential structures in visual style and appearance, improve the Property, and permit an encouraged residential use in the R-3 Zone, thereby promoting the general welfare of the Borough and its residents and promoting a desirable visual environment; N.J.S.A. 40:55D-2a; N.J.S.A. 40:55D-2i; therefore, bulk variance relief permitting the improvement(s) as represented to the Board at the Applicants' public hearing is warranted.
- c. Negative Criteria. In light of the testimony and other evidence presented, the Board further determined that the Application can be granted without substantial detriment to the public good because the Subject Property is large enough to accommodate the single-family detached house with the excess impervious coverage and will have no detriment on adjacent properties or substantial negative impact on the public good. The Applicants have also agreed to comply with the Board's specific and standard conditions of approval, and to comply with all recommendations and comments of the Board Engineer, thereby mitigating any negative impact of the variance on the public or impairment to the intent and purpose of the Borough Code and Master Plan; and
- d. On Balance: In light of the testimony and other evidence presented, in addition to the undue hardship faced by the Applicants, the Board determined that, on balance, the benefits of granting the Application substantially outweighs any negatives as identified in the foregoing paragraphs, such that permitting the improvement(s) as represented to the Board at the Applicants' public hearing is warranted, subject to the submission of final plans for the review and approval of the Board's professionals and satisfaction of all conditions of approval: N.J.S.A. 40:55D-70c; N.J.S.A. 40:55D-70.

WHEREAS, the Board Solicitor summarized the Application and hearing for the Board, including the requested relief, the evidence and testimony submitted by the Applicants, and possible conditions of approval, and directed the Board to conduct a single vote whether to grant the Application. including bulk variance relief; and

WHEREAS, upon motion duly made and seconded to approve the Application, subject to any conditions stated on the record and detailed herein, the Board voted to **GRANT** the Application, per the roll call vote duly recorded below:

MEMBERS	IN FAVOR	OPPOSED	ABSTAIN
CHAIRMAN J. RINK	X		
VICE-CHAIR CILURSO	X		
MAYOR HANSON	x		
COUNCILMAN			
MR. HARRELL	X		
MS. SULLIVAN			
MR. ORLANDO			
MS. LANG			
MR. BRENNAN	x		
MS. SCHREYER	X		

NOW, THEREFORE BE IT RESOLVED, the Board concludes that the Applicants have demonstrated that the Application will not have a deleterious effect upon the Borough, and has satisfied the standards necessary for approval and the Application is therefore approved and granted subject to the conditions stated herein and on the record.

IT IS FURTHER RESOLVED, the entirety of the Applicants' approval is subject to the following conditions:

1. The Borough shall not issue any construction, occupancy, use, or other like permit to the Applicants necessary for the development approved herein until such time the Applicants obtain final signed compliance plans from the Planning Board.
2. The Applicants shall comply with all outstanding comments, recommendations, and conditions set forth within the Engineering Review Letter and made on the record by the Board and its professionals. Specifically, the Applicants must submit a Grading Plan to the Board Engineer for review and approval prior to moving forward with development of the Property.
3. At the request of the Board Professionals, the Applicants shall return to the Board for a public hearing as needed for any further approvals and/or to resolve any outstanding issues, comments, and concerns of the Board Professionals that cannot be resolved between the Applicants and Board Engineer through post-resolution compliance. Any post-resolution public hearing relating to the foregoing shall be duly noticed and advertised as may be required by the MLUL, N.J.S.A. 40:55D-12 et seq.

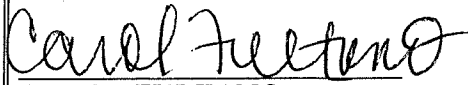
4. The Applicants shall obtain approvals from any and all other governmental and/or public agencies as required by the Borough Code, MLUL, or other applicable law, whether federal, state, county or local, over which the Board has no control but which are necessary in order to finalize the relief being granted herein, as well as any resulting construction that may be a part of said relief. The Applicants are solely responsible for determining from which governmental and/or public agencies, if any, such approvals are required. The Applicants shall submit satisfactory evidence of all required outside agency approvals and/or letters of no interest/exemption to the Board Secretary, Board Solicitor, and Board Engineer prior to finalizing, perfecting, and/or recording the relief granted herein.
5. The Applicants shall comply with all Federal, State and Borough laws and requirements, including without limitation, all provisions and requirements of the Code of the Borough of Barrington, applicable to this Application and approval.
6. That the Application, all exhibits, testimony, map, and other documents submitted and relied on by the Applicants, are true and accurate representations of the facts relating to the Applicants' request for approval. In the event that it is determined by the Board, on non-arbitrary, non-capricious, and reasonable grounds, that the Application, exhibits, testimony, maps, and other documents submitted are not accurate, are materially misleading, or are the result of mistake, and the same had been relied upon by the Board as they bear on facts which were essential to the granting of the relief sought by the Applicants, the Board may review its approval and rehear the Application, if circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice.
7. Upon discovery by the Board of clear and convincing evidence of a materially misleading submission, material misstatement, materially inaccurate information, or a material mistake made by the Applicants, the Board reserves the right to conduct a hearing with the Applicants present for the purpose of fact-finding regarding the same. Should the facts at said hearing confirm that there had been a material fault in the Application, the Board shall take whatever action it deems appropriate at that time, consistent with the MLUL and applicable law, including but not limited to, a reconsideration of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate.
8. At any time within forty-five (45) days after the adoption of this resolution, a party of interest may appeal to the Superior Court for an order vacating or modifying any term or condition as set forth herein.
9. The Applicants shall indemnify and hold the Borough harmless from any claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the Applicants, including

but not limited to the Applicants' representation that proper service and notice upon interested parties had been made in reliance upon the certified list of property owners and other parties entitled to notice, said list having been provided to the Applicants by the Borough pursuant to N.J.S.A. 40:55D-12(c), and publication of the notice of the Applicants' public hearing in this matter having been made in accordance with law.

10. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the Subject Property which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed.
11. The Applicants must pay the costs of all professional review and other fees required to act on the Application, pursuant to the applicable sections of the Borough's land development ordinances, zone codes and any other applicable municipal codes, and the MLUL.
12. The Applicants assume all risks should the Applicants fail to obtain any other construction or other municipal permits required with respect to the relief as granted herein during the statutory appeal period associated with the language of this resolution.
13. The Applicants must obtain any other construction or other Borough permits as required with respect to the relief as granted herein.
14. The Applicants shall comply with all of the representations and stipulations as contained in the Application and as represented through testimony in support of the Application.
15. The Applicant shall meet and otherwise comply with any and all affordable housing and/or COAH and/or Fair Share Housing Obligations req the Application, as applicable.
16. The Applicants shall make a non-residential development fee payment in an amount determined in accordance with the Borough Code and/or applicable law.
17. The Applicants shall post all applicable performance and maintenance bonds as may be required by State Law and the Borough Code.
18. The conditions of this approval may be enforced by the appropriate Borough officials as zoning violations or in any other manner as may be permitted by law.

ATTEST:

BARRINGTON BOROUGH
PLANNING BOARD



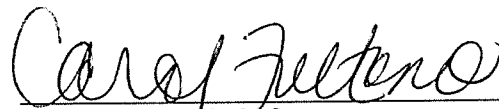
CAROL FULTANO
SECRETARY



JOHN RINK
CHAIRMAN

CERTIFICATION

I HEREBY CERTIFY that the Planning Board of the Borough of Barrington, County of Camden, State of New Jersey, adopted the foregoing resolution at its regular meeting held at the Borough Hall, 229 Trenton Avenue, Barrington, New Jersey, on June 24, 2024, and said resolution was authorized for memorialization at a meeting held on August 26, 2024.



CAROL FULTANO
SECRETARY