

BOROUGH OF DUMONT  
COUNTY OF BERGEN  
JOINT LAND USE BOARD

BOROUGH OF DUMONT NJ

RESOLUTION GRANTING VARIANCE RELIEF WITH RESPECT TO THE  
PROPERTY KNOWN AS 130 MAGNOLIA AVENUE  
BLOCK 1306, LOT 15, BOROUGH OF DUMONT,  
COUNTY OF BERGEN, STATE OF NEW JERSEY

WHEREAS, an Application for variance relief has been made to the Dumont Joint Land Use Board pursuant to N.J.S.A. 40:55D-70(c) by **Richard Jakob and J. Susan Jakob**, (the "Applicant") in connection with proposed improvements upon the property commonly known as 130 Magnolia Avenue, more particularly described as Block 1306, Lot 15 on the Tax Map of the Borough of Dumont, County of Bergen, State of New Jersey (the "Property"); and

WHEREAS, the Applicant has applied to this Board for variance relief pursuant to N.J.S.A. 40:55D-70(c) (1) and (2) from the restrictions of the following sections of the Zoning Ordinance of the Borough of Dumont:

Ord. Sec. 455-35      Minimum Front Yard Setback

The subject Application seeks approval of "c" variance relief and, as a consequence, must meet the statutory standard for such relief set forth in N.J.S.A. 40:55D-70(c); and

WHEREAS, the Application was duly considered by the Joint Land Use Board at a public hearing (via virtually and telephonically via Webex) on May 26, 2020; and

WHEREAS, the Applicant gave proper notice in accordance with law; and

WHEREAS, at said public hearings the Joint Land Use Board received the following documents in evidence:

1. Architectural Drawings for 130 Magnolia Avenue, Block 1306, Lot 15 prepared by Stanley J. Kufel, Jr., R.A. of S.J. Kufel Associates/Architects, 337 Demarest Avenue,

Oradell, New Jersey, dated December 1, 2017 and last revised October 30, 2019, consisting of two (2) sheets, titled "Addition to Jakob Residence, 130 Magnolia Avenue, Dumont, New Jersey"; sheet A1 General Notes, Wall Section and Site Plan and Sheet A2 Elevations and Partial Floor Plans.

**WHEREAS**, the subject Application involves the following zoning data:

<u>Category</u>	<u>R-A District Requirements</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance</u>
Lot Size	7,500 Square Feet	5,000 Square Feet	N/A	NO
Lot Frontage	75 Feet	50 Feet	N/A	NO
Front Yard Setback	25.00 Feet	14.81 Feet	12.96 Feet	YES
Side Yard	5.0 Feet	7.58 Feet	No Change	NO
Rear Yard Setback	25.00 Feet	41.42 Feet	No Change	NO
Lot Coverage	30% (1,500 sq. ft.)	23% (1,150 sq. ft.)	24% (1,203 sq. ft.)	NO
Green Area Percentage	50% (2,500 sq. ft.)	57% (2,859 sq. ft.)	56% (2,806 sq. ft.)	NO
Floor Area Ratio	50% (2,500 sq. ft.)	31.8% (1,590 sq. ft.)	33% (1,643 sq. ft.)	NO
Impervious Coverage	45% (2,250 sq. ft.)	43% (2,141 sq. ft.)	44% (2,194 sq. ft.)	NO
Impervious Front Yard Coverage	40% (856 sq. ft.)	26.6% (571 sq. ft.)	29% (624 sq. ft.)	NO
Impervious Rear Yard Coverage	40% (552 sq. ft.)	39.4 % (544 sq. ft.)	No Change	NO
Building Height	28 ft.	25.25 ft.	25.25 ft.	NO

**WHEREAS**, the public had an opportunity to be heard on the Application at said hearings; and

**WHEREAS**, the Joint Land Use Board heard the sworn testimony the Applicant, Richard Jakob, who testified in support of the Application; and

**WHEREAS**, the Board received a report on the Project dated March 17, 2020, from Maser Consulting PA, Board Engineer; and

WHEREAS, following the hearing held on May 26, 2020, the Joint Land Use Board approved the Application, subject to certain conditions; and

WHEREAS, the Board now wishes to set forth its findings, conclusions and conditions with respect to the Application;

NOW, THEREFORE, BE IT RESOLVED by the Joint Land Use Board that the following facts are hereby made and determined:

1. The proceedings in this matter were stenographically transcribed and voice recorded. The facts in this Resolution are not intended to be all-inclusive but merely a summary and highlight of the complete record made before the Board.
2. The Applicant is the owner of the property commonly known as 130 Magnolia Avenue, Dumont, New Jersey, and more particularly described as Block 1306, Lot 15 on the Tax Map of the Borough of Dumont. Said property is located within the "RA" Single Family Dwelling District pursuant to the Zoning Ordinance of the Borough of Dumont.
3. In support of the Application, the Applicant, RICHARD JAKOB, was sworn in and stated that he will be representing himself. He described the project as the demolition of a glass window solarium currently in disrepair and the construction of "regular" room in its place, on the side of his house facing Depew Street.
4. The house is on a corner lot, at Depew Street and Magnolia Avenue. As such, the solarium window, located on the Depew side of the house, is regarded as a front yard, for setback consideration purposes.
5. Mr. Jakob noted that the solarium window was an existing, non-conforming structure in that it protruded into the front yard setback of his lot, such that the setback was 14.81 existing, and the front yard requirement is 25 feet,
6. Mr. Jakob presented the architectural drawings prepared by Stanley J. Kufel Jr., of S.J. Kufel Associates/Architects located at 337 Demarest Avenue, Oradell,

New Jersey 07649 consisting of two (2) pages. Marked as Exhibits A-1 was the General Notes, Wal Section and Site Plan info and Marked as Exhibit A-2 was the Elevations and Partial Floor Plans.

7. Mr. Jakob stated that the property foot print will remain unchanged as the room will be constructed in the location of the current solarium. The new construction will have several windows and the crawl space below the current solarium will not be changed.
8. Mr. Jakob described that the pre-existing non-conforming front setback would see a di minimis increase, from 14.81, (existing), to 12.96, or 1 ft. 8 inches.
9. At the conclusion of Mr. Jakob's testimony, the hearing was opened to questions from the public. No members of public had questions for Mr. Jakob.
10. At that time, the testimony of Mr. Jakob was closed to the public and the Board felt all concerns were adequately addressed.

#### **CONCLUSIONS OF LAW:**

**WHEREAS**, the Board, after careful deliberation, found that this Application has met the requirements of N.J.S.A. 40:55D-70(c)(1) (hardship) and (2); and the Board has determined that the relief sought can be granted without a substantial negative impact, and considering that the increase in the setback non-conformity is di minimis, and particularly where the addition is to the side of the dwelling, and provided all conditions of approval are satisfied or met; and

**WHEREAS**, The Board finds that the purposes of zoning are advanced where the proposal promotes the upgrade of the property and good civic design and arrangement, thus satisfying the so-called "positive criteria". The Board concludes and agrees that given the limitations of the corner lot and the di minimis increase in the non-conforming setback, the addition will not be a detriment to the zone plan or the zoning ordinance.

WHEREAS, the Board has determined that the relief sought does not impair the intent and purpose of the Master Plan or Zoning Ordinance of the Borough of Dumont.

NOW THEREFORE, be it resolved by the Joint Land Use Board of the Borough of Dumont that the within Application for variance relief shall be granted subject to the following conditions:

#### CONDITIONS SPECIFIC TO THE APPLICATION

1. Applicant would comply with the requirements of the Board Engineer's review correspondence dated March 17, 220.

#### GENERAL CONDITIONS

1. The Applicant shall comply with all of the stipulations made during the hearing on this Application.
2. The Application must comply with the necessary requirements of the zoning ordinances of the Borough of Dumont and the Municipal Land Use Act of the State of New Jersey, N.J.S.A. 40:55D-2 et seq.
3. The Applicant shall develop, prepare and improve the subject premises so as to conform with all of the details shown on the aforementioned plans and submissions, as presented to the Board and in accordance with the zoning ordinances, building codes and all other standards and ordinances unless expressly stated to the contrary within the approvals granted.
4. No building structure or land shall be occupied until such time as the Zoning Officer of the Borough of Dumont shall issue a final Certificate of Zoning Compliance to ensure compliance with the Board's decision.

5. Unless otherwise addressed herein or at the hearing held on May 26, 2020 the Applicant shall comply with the recommendations of the Board's professional and any other post-approval reports. The Applicant's professionals shall amend the architectural plans to reflect these recommendations in the form of drawing detail and/or written construction note detail format as necessary. In addition, the Applicant's professionals shall amend any engineering reports, engineering calculations that were presented as a part of the testimony before the Board as necessary and/or required by the Board Engineer and the Board Planner. All such amendments shall be submitted to the Board Engineer and Board Planner for review within thirty (30) days of the adoption of this Resolution. A Planting Plan shall be submitted to the Board Planner for her approval. Failure to provide same within this time period may result in this Resolution being declared null and void.
6. Within thirty (30) days of the approval of this Resolution by the Board, the Applicant shall, if necessary, post any additional escrow funding that may be required to reimburse the Borough's professionals for the review of this Application. Failure to provide such escrow fees may result in this Resolution being declared null and void.
7. The completed revised plans and submissions must be approved and signed by the Board Chairman, and Board Secretary, prior to submission to the Zoning Officer of the Borough of Dumont Certificate of Zoning Compliance, and prior to the issuance of any building permits.
8. The Applicant is responsible for publishing notice of this decision as required by the M.L.U.L.

This Application was approved by the Joint Land Use Board at its regular meeting on May 26, 2020 upon motion of Mr. Ken Armellino and seconded by Mr. Nico Attanasio upon the roll call as follows:

Ayes: 9

Nays: 0

Absent: \_\_\_\_\_

Abstain: \_\_\_\_\_

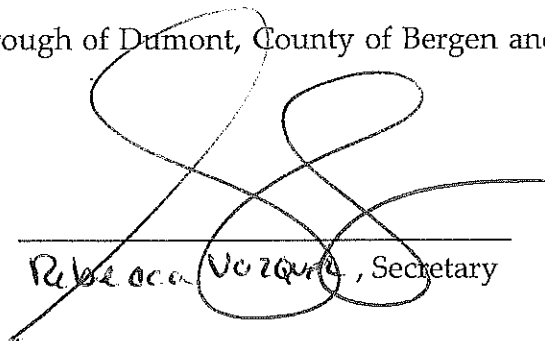
This Resolution was adopted on the 30th day of June, 2020 upon the motion of GINO ZILLOCCI and seconded by KENNETH ARMELLINO by a vote of 8 Ayes and 0 Nays.



Graeme Dutkowsky, Chairman

**BE IT FURTHER RESOLVED**, that a copy of this Resolution be forwarded to the Applicant, Borough Clerk, Construction Code Official and Zoning Officer of the Borough of Dumont.

I do certify that this is a true and correct copy of the Resolution as adopted by the Joint Land Use Board of the Borough of Dumont, County of Bergen and State of New Jersey in the within Application.



Rebecca Verzura, Secretary