

JOINT LAND USE BOARD OF THE BOROUGH OF DUMONT

**RESOLUTION OF APPROVAL FOR BULK VARIANCES,
AND/OR WAIVERS**

APPLICANT: **TOPRAK CIVGIN-GULKAN SNT
214 SENATE AVENUE – 4TH FLR
CAMP HILL, PA, 17011**

PREMISES: **563 WASHINGTON AVENUE
BLOCK 214; LOT 17**

WHEREAS, the within Application is brought before the Board as to Property located at 563 Washington Avenue (the “Property”) by the owner/applicant **TOPRAK CIVGIN-GULKAN SNT**, (the “Applicant”); and

WHEREAS, the Property is located in the “RA” Residential Zone of the Borough; and

WHEREAS, the Applicant made an application to the Joint Land Use Board of the Borough of Dumont for Variances and/or waivers was heard by the Board at public hearing on January 29, 2019 (hereinafter, “the Hearing” or “Public Hearing”) for the expansion of an interior bedroom and creation of a storage area in the interior of the structure so as to intrude into and remove a portion of one of the existing garage bays; and

WHEREAS, there are no exterior alterations to the Property and all renovations are interior only; and

WHEREAS, the Applicant received a Letter of Denial that specified a variance for an Accessory Dwelling Unit in the garage and it was subsequently determined by the Board that this variance was not applicable to this matter. However, the Board concluded that a variance was required for the removal of an existing garage bay; and

WHEREAS, the Applicant and the Board introduced the following Exhibits into evidence:

- Exhibit A-1** 3 Page Architectural Plan, prepared by Malcolm Burton, AIA, and dated through 10/3/18;
- Exhibit A-2** Site Plan;
- Exhibit A-3** Photograph of Subject Property;
- Exhibit A-4** Rendering prepared by Malcolm Burton, AIA

WHEREAS, Planning Board Engineers, Boswell McClave Engineering, Dennis Harrington, PE, submitted a Letter Report, dated November 12, 2018, which report was accepted into evidence and made part of the submission; and

WHEREAS, at Public Hearings, the following relevant testimony was adduced through Applicant's counsel, Peter F. Lefkowitz, Esq., Stephen A. Geffner, Esq., ("Geffner"), of the law firm of Schenk, Price, Smith and King, utilizing the following witnesses: 1) Malcolm Burton, AIA ("Burton"); 2) Gina Sinon ("Sinon"), Wells Fargo Bank; and

The proceedings in this matter were voice recorded. The Testimony, Statements of Fact and Findings of this Resolution are not intended to be all inclusive but merely a summary and highlight of the complete record made before the Board.

1. Sinon testified that she was employed by the Wells Fargo Bank with a specialty in advising persons who required "Special Needs Trusts" to care for persons with significant physical disabilities. She testified that the Applicant's family utilized a Special Needs Trust to care for a profoundly disabled child who was a member of the family residing at the Property. Sinon testified that one of the minor children upon the Property was "profoundly disabled" having been diagnosed with Cerebral Palsy; various seizure disorders; and other significant disabilities that make residing in the Property – and in their family setting – difficult or nearly impossible. She further testified that the child is "tube fed" and requires 24 hour per day professional care.
2. Sinon further testified that the result of these issues, the disabled child was "completely dependent" on "round the clock" care of the "highest degree".
3. Burton testified that he prepared the architectural plans based on the needs of the family. The room in which the disabled child is maintained is too small for all necessary medical devices; required storage and a small area for the child's mother or night time aides to sleep. As a result, he was charged with the expansion of the subject bedroom. After consideration of numerous options, Burton felt that the best plan was the expansion of the existing bedroom. The only direction that that the bedroom could be expanded was by utilizing garage space. He emphasized that the garage was not being converted to an apartment or another bedroom. The existing bedroom was being expanded to include a portion of the garage.
4. The Applicant requires the following approvals, variances or waivers:
 - Various submission waivers.

- The removal or conversion of a portion of a garage parking space.
 - A variance is not required for the creation of an Accessory Apartment of any sort.
5. N.J.S.A. 40:55D-70(c) (2) provides that a variance may be granted where the Board finds that the purposes of the Municipal Land Use Law ("MLUL") would be advanced by a deviation from the zoning requirements and that the benefits of the deviation would substantially outweigh any detriment. The Board finds that the benefits of the proposed improvements substantially outweigh any possible detriment that could occur by the granting of the variance. The Board further finds, based upon the testimony of the Applicant's experts and its own determination that the purposes of the MLUL would be advanced by virtue of a grant of variance from the requirements of the Borough's zoning ordinances as follows:
- (a) N.J.S.A. 40:55D-2(a) by promoting the development of land in a manner which will promote public health, safety and general welfare.
 - (b) N.J.S.A. 40:55D-2(c) by providing adequate light, air and open space. The Application does not compromise any of these concerns or provide for any exterior modifications.
 - (c) The Board finds that the modification of the structure's interior to assist in providing for the care of a disabled family member provides for housing for a variety of persons, permits the family to reside together; and assists in the care of a disabled family member. The Board also finds that the Application – and the minor deviation sought – provides a reasonable accommodation in the application of the zoning ordinance to assure that all residents are adequately housed.
6. The Board finds there is no substantial detriment to the zone plan or zoning ordinance to the granting of the requested variances, waivers or deviations.


NOW, THEREFORE, BE IT RESOLVED that the application for variance relief is approved by this Board subject to the conditions set forth below:

- A. Compliance with the recommendations of the Fire Official, if any;
- B. The Applicant shall comply with the requirements of the Board Engineer.
- C. The Planning Board Engineer's reports previously set forth shall be complied with by the Applicant in accordance with the terms and conditions of this Resolution and the plan aforesaid.
- D. The Applicant shall comply with all other applicable Federal, State, County and Municipal rules and regulations.
- E. The garage shall be restored to its current configuration when the family vacates.

This Application was approved by the Dumont Joint Land Use Board upon a roll call vote of all members eligible to vote at its regular meeting on January 28, 2019.


A copy of this Resolution shall be given to the Tax Assessor, Applicants (through counsel), Borough Clerk, Building Department, Zoning Officer and Borough Engineer.

ATTEST:



Rebecca Vazquez, Secretary

SO APPROVED:



William Bochicchio, Chairman

Adopted: