

**BOROUGH OF DUMONT  
COUNTY OF BERGEN  
JOINT LAND USE BOARD**

**RESOLUTION GRANTING USE VARIANCE RELIEF  
WITH RESPECT TO THE PROPERTY KNOWN AS  
116 LEXINGTON AVENUE  
BLOCK 310, LOT 26, BOROUGH OF DUMONT,  
COUNTY OF BERGEN, STATE OF NEW JERSEY**

WHEREAS, an Application for use variance has been made to the Dumont Joint Land Use Board pursuant to N.J.S.A. 40:55D-70(d)(1) by AHMED JAHEEN, (the "Applicant") in connection with proposed change of use and improvements upon the property commonly known as 116 Lexington Avenue, more particularly described as Block 310, Lot 26 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(d) from the restrictions of the following sections of the Zoning Ordinance of the Borough of Dumont:

Ordinance Section 455-7 - Residential A Districts – Principal Permitted Uses

WHEREAS, the subject Application seeks use variance approval from permitted one-family residential use to two-family residential use; 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 18, 2021; 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. Application dated February 8, 2021;
2. Site Plan dated March 27, 2021, by Vision Design for Life of Monmouth, New Jersey, which incorporates Survey prepared by Morgan Engineering & Surveying, Tom's River, New Jersey, performed on April 25, 2021, entitled "Exist. Site Plan, Site Photo, Survey", Tax Lot 26 Block 310, 116 Lexington Avenue, Borough of Dumont, Bergen County, New Jersey;
3. Architectural Plans dated January 26, 2021, consisting of two (2) sheets entitled "Block 310, Lot 26, Alteration for Existing Single-Family Dwelling to be Two Family House, 116 Lexington Avenue, Dumont, New Jersey, 07628", prepared, signed, and sealed by Joseph D. Javier, AIA of Vision Design for Life, on February 7, 2021.

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

WHEREAS, the Joint Land Use Board heard the sworn testimony from the Applicant's Architect, Mr. Joseph D. Javier, having an address at 26 North Oak Avenue, Iselin, New Jersey 08830, who testified in support of the Application; and

WHEREAS, the Joint Land Use Board heard the sworn testimony from the Applicant, Mr. Ahmed Jaheen, having an address at 116 Lexington Avenue, Dumont, New Jersey 07628, who testified in support of the Application; and

WHEREAS, the Board received a report on the Project dated March 4, 2021, from Carl P. O'Brien, P.E., P.P., C.M.E., C.P.W.M. of Colliers Engineering and Design, Board Engineer; and

WHEREAS, following the hearing held on May 18, 2021, 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 116 Lexington Avenue, Dumont, New Jersey, and more particularly described as Block 310, Lot 26 on the Tax Map of the Borough of Dumont. Said property is located within the "RA" Residential District pursuant to the Zoning Ordinance of the Borough of Dumont.
3. The Applicant's Attorney, Alfred V. Acquaviva, Esq., presented an overview of the project stating that it is a change of use of a one-family residence back to a two-family residence, as it is believed that the property had at one time been a two-family residence.
4. The Applicant's Architect, Mr. Joseph D. Javier, was sworn in by Board attorney, Matthew Root, Esq., and was accepted as an expert witness and presented a more detailed overview of the property, stating that there is an existing single-family dwelling having two bedrooms, a living room and a full bathroom on the first floor, one bedroom, a kitchen a living room and a dining room on the second floor, and three bedrooms, a living room and a full bathroom on the third floor. Mr. Javier testified that as it stands, the building is a two-family house. The Applicant proposes converting a first-floor bedroom into a kitchen, thereby creating a one-bedroom apartment on the first floor and creating an entry foyer at the front door that will allow private access to both proposed residences. Mr. Javier stated that there will be no exterior construction.
5. Mr. Javier testified that there are pre-existing nonconforming conditions. One specific condition to which he testified is that the existing side yard setbacks are twenty-seven feet (27') on the left side and approximately three inches (3") on

the right side (in the RA zone, for 2-family dwellings, the minimum side yard setback is 5' and the minimum aggregate side yards is 40').

6. Per Mr. O'Brien's report, in addition to the side yard setbacks, the following non-conforming conditions exist:

<u>Condition</u>	<u>Existing</u>	<u>Required</u>
Minimum Lot Area	5,000 sq. ft.	15,000 sq. ft. min.
Maximum Coverage	33.5% <sup>1</sup>	30% maximum
Minimum Lot Width	not provided <sup>2</sup>	120' minimum
Minimum Lot Frontage	not provided <sup>2</sup>	150' minimum
Maximum Height	31'	28' maximum

1. Mr. Javier presented testimony that the lot coverage is approximately 33.5%
2. Mr. O'Brien's report indicates that it appears the lot width and frontage are approximately 50'

7. Mr. Javier testified that there is parking on site available for four (4) cars and that with 1.5 parking spaces per dwelling in a 2-family home being required (3 spaces minimum required), available parking on site is adequate for the proposed two-family use.
8. Mr. Javier concluded his testimony stating that there are other two-family units on the street, that changes to the building will not be noticed as there will be no exterior modifications, and that there will be no negative impact if converted back to 2-family use.
9. At the conclusion of Mr. Javier's testimony, the hearing was opened to questions from the public. No members of public had questions for Mr. Javier.
10. At that time, the testimony of Mr. Javier was closed to the public and the Board felt all concerns were adequately addressed.
11. In support of the Application, Mr. Acquaviva presented the testimony of Mr. Ahmed Jaheen, 116 Lexington Avenue, Dumont, New Jersey 07628, who was

sworn in by the Board Attorney. Mr. Jaheen concurred with the testimony of his Architect, Mr. Javier and testified that there are pre-existing separate electric panels and gas meters serving the two proposed dwelling units in the building. Mr. Jaheen testified that an area for garbage and recycling bin storage will be identified and screened off from public view. Mr. Jaheen concluded his testimony by agreeing that any surface runoff will be directed away from neighboring properties.

12. At the conclusion of Mr. Jaheen's testimony, the hearing was opened to questions from the public. No members of public had questions for Mr. Jaheen.
13. At that time, the testimony of Mr. Jaheen 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 for change of use variance approval. Granting the use variance will promote the general welfare and given the prior two-family residential use of the building, the existence of other two-family residences in the vicinity, and that pre-existing two-family dwellings are a conditional use in the zone, the property is particularly suited for the use proposed. Further, the Board has determined that the relief sought can be granted without a substantial negative impact on the zone plan and the zoning ordinances, 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 upgrading of the area through creative development techniques and good civic design and arrangement and complies with the Borough's site plan ordinance. The Board concludes and agrees that the site can operate safely with the proposed modifications and parking is adequate and compliant with Borough requirements.

NOW THEREFORE, be it resolved by the Joint Land Use Board of the Borough of Dumont that the within Application for change of use approval 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 4, 2021.
2. Applicant would screen off an enclosure for garbage and recycling can storage.

GENERAL CONDITIONS

1. The Applicant shall comply with all 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 18, 2021, 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 18, 2021, upon motion of Board Member, Chairman Graeme Dutkowsky and seconded by Board Member, Mr. Al Moriarty upon the roll call as follows:

Ayes:     6    

Nays:     0

Absent:   1  

Abstain:   0  

**ROLL CALL:**

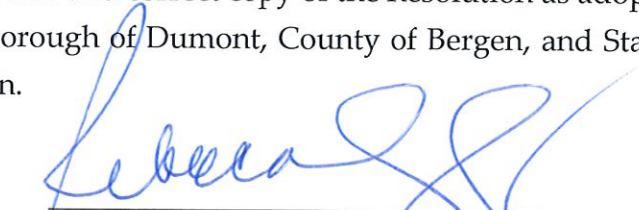
Nicco Attanasio	Class I	NA
Rafael Riquelme	Class II	Y
Jimmy Chae	Class III	NA
Kenneth Armellino	Class IV	Y
Graeme Dutkowsky	Class IV	Y
Paola Carolina Fajardo	Class IV	A
Alfred Moriarty	Class IV	Y
Andrew Warta	Class IV	Y
Gino Zilocchi	Class IV	Y

This Resolution was adopted on the 15<sup>th</sup> day of June, 2021 upon the motion of GRAEME DUTKOWSKY and seconded by ANDREW WARTA by a vote of 4 Ayes and 0 Nays.

  
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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.

  
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Rebecca Vazquez, Secretary