

## **RESOLUTION**

**RED BANK ZONING BOARD OF ADJUSTMENT  
ARTHUR MURPHY  
162 BRIDGE AVENUE  
RED BANK, NEW JERSEY  
BLOCK 69, LOT 4  
APPLICATION NO.: Z13968**

### **INTRODUCTION**

**WHEREAS**, Arthur Murphy has made Application to the Red Bank Zoning Board of Adjustment for the property designated as Block 69, Lot 4, commonly known as 162 Bridge Avenue, Red Bank, NJ, within the Borough's RB Zone, for the following approval: Bulk Variance and Use / "d" Variance associated with an Application to effectuate the following:

- Demolition of an existing shed; and
- Construction of an addition to an existing detached garage.

### **PUBLIC HEARING**

**WHEREAS**, the Board held a remote Public Hearing on March 4, 2021, Applicant having filed proper proof of service and publication in accordance with Statutory and Ordinance Requirements; and

### **EVIDENCE / EXHIBITS**

**WHEREAS**, at the said Hearing, the Board reviewed, considered, and analyzed the following:

- *Development Permit Application and Denial of Development Permit, dated November 6, 2020, introduced into Evidence as A-1;*
- *Site Plan, Zoning Data, First Floor Plan, and Elevations, prepared by Jeramiah Regan, Architect, dated November 1, 2020, consisting of 1 sheet, introduced into Evidence A-2;*
- *Review Memorandum from Shawna Ebanks, P.P., A.I.C.P., dated January 28, 2021, introduced into Evidence as A-3;*

- Existing Site Plan, prepared by Charles Surmonte, consisting of 1 sheet, introduced into Evidence as A-4;
- Affidavit of Service; and
- Affidavit of Publication;

**WITNESSES**

**WHEREAS**, sworn testimony in support of the application was presented by the following:

- Arthur Murphy, Applicant, appearing pro se;
- Edward J. McKenna, Jr., Esq., appearing;

**TESTIMONY / EVIDENCE PRESENTED**

**WHEREAS**, testimony and other evidence presented on behalf of the Applicant revealed the following:

- The Applicant is the Owner of the subject property.
- The Applicant has owned the subject property for approximately 28 years.
- The Applicant currently lives at the site – and has lived at the site for approximately 5 years.
- There is an existing detached garage at the site.
- Details pertaining to the existing garage include the following:

Type of garage:	Detached
Number of stories:	1
Size:	661 SF
Number of bays:	2
Approximate height:	14-15 ft.
Utilities?:	Electricity

- There is a need for increased storage space and garage space at the site, for reasons which include, but are not necessarily limited to, the following:
  - The number of driving occupants in the home;

- The Applicant drives a large truck for his construction business (and the said truck cannot physically fit in the existing garage); and
  - There is a need for increased storage needs (for lawn equipment, lawn furniture, beach club material, etc.).
- There is also an existing 363 SF shed at the site, which is located immediately adjacent to the existing garage.
  - The existing shed is in a compromised / deteriorating condition.
  - The nature and extent of the deficiencies associated with the existing shed render demolition more appropriate than just mere renovation / replacement.
  - In light of the above-referenced circumstances, the Applicant proposes to effectuate the following:
    - Demolition of an existing shed; and
    - Construction of an addition to an existing detached garage.
  - The existing garage is 661 SF, and the proposed garage addition is 366 SF, consequently, if approved, the expanded garage will contain 1,027 SF.
  - Details pertaining to the expanded garage include the following:

Type of garage:	Detached
Number of stories:	1
Size:	1,027 SF (i.e. 661 SF exists in garage plus 366 SF addition)
Number of bays:	3
Approximate height:	Below 16 ft. (complying)
Utilities?:	Electricity

- There will be no bathroom in the expanded garage.
- There will be no utilities in the garage (beyond electricity).
- The expanded garage will not be utilized as living space.
- The expanded garage will have the same / similar / matching color / siding as the existing garage.
- The Applicant anticipates that the expanded garage will be constructed in the near future.

**VARIANCES**

**WHEREAS**, the Application as presented requires approval for the following Variances:

*SIZE OF ACCESSORY STRUCTURE: The Prevailing Ordinance provides that an accessory structure (i.e. garage) shall not exceed 500 SF; whereas the proposed garage contains 1,027 SF.*

*NUMBER OF PRINCIPAL STRUCTURES ON THE LOT: The Prevailing Ordinance only permits one principal structure on a lot (which contains a single-family home). However, because the proposed garage exceeds 500 SF, the same is considered a principal structure and thus, there will be 2 principal structures on the subject lot (oversized garage and single-family home), thereby necessitating a Variance.*

*REAR YARD SETBACK: 10 ft. required for a principal structure; whereas the garage proposed herein (which constitutes a principal structure because of its size) only has a 3.2 ft. setback. Thus, Variance relief is required.*

*SIDE YARD SETBACK: 25 ft. required for a principal structure; whereas, the expanded garage proposed herein (which constitutes a principal structure because of its size) only has an approximate 3.1 Side Yard Setback.*

### **PUBLIC COMMENTS**

**WHEREAS**, there were no formal Objectors to the Application; and

**WHEREAS**, no members of the public expressed any questions, comments, or concerns regarding the Application;

### **FINDINGS OF FACT**

**NOW, THEREFORE, BE IT RESOLVED**, by the Zoning Board of Adjustment of the Borough of Red Bank, after having considered the aforementioned Application, plans, evidence, and testimony, that the Application is hereby **granted and approved with conditions**.

In support of its decision, the Board of Adjustment makes the following Findings of Fact and Conclusions of Law:

1. The Red Bank Zoning Board of Adjustment has proper jurisdiction to hear the within matter.

2. The subject property is located at 162 Bridge Avenue, Red Bank, New Jersey within the Borough's RB Zone.

3. The site contains an existing single-family home, which is a permitted use in the RB Zone.

4. There is an existing detached garage at the site, which does not accommodate the vehicular / storage needs of the Applicant.

5. As such, the Applicant proposes the following:

- Demolition of an existing shed; and
- Construction of an addition to an existing detached garage.

6. The details of the expanded garage are set forth elsewhere herein, are set forth on the submitted Plans, and were discussed, at length, during the Public Hearing process.

7. Such a proposal requires approval for Bulk Variance and Use / "d" Variance approval.

8. The Red Bank Zoning Board of Adjustment is statutorily authorized to grant the requested relief, and therefore, the matter is properly before the said entity.

9. With regard to the application, and the requested relief, the Board notes the following:

- As indicated, the Applicant herein is seeking Bulk "c" and Use / "d" Variance relief.
- A detached garage is a permitted accessory use in the subject Zone, provided the same is less than 500 SF. In that the existing detached garage is 661 SF, and in that the Applicant herein is proposing to create a 366 SF addition to the garage (resulting in a 1,027 SF garage), Variance relief is needed.
- Additionally, because the expanded garage will exceed 500 SF in size, the same constitutes a principal structure on the Lot. Thus, as approved, the site will have 2 principal structures (i.e. a single-family home and a 1,027 SF expanded garage). In that, under the Prevailing Zoning Regulations, one is not permitted to have more than 1 principal structure on a single-family lot, Use / "d" Variance relief is needed.
- In conjunction with the above, Bulk Variance relief is also needed because of the Rear Yard Setback and Side Yard Setback of the to-be-

expanded garage. (The Board notes the 1,027 SF garage is technically required to meet the setbacks for a principal structure, and not an accessory structure).

- As referenced, the Zoning Board of Adjustment is statutorily authorized to grant such Bulk “c” and Use / “d” Variance relief.
- Generally speaking, the Board Members are aware of the Zoning Standards associated with the requested relief. Generally speaking, Applicants for a Use / “d” Variance relief must prove the “positive” and “negative” criteria. The Board Members are aware that the so-called positive criteria requires the Applicant to prove that approval of the within Application will, in fact, advance some of the purposes of the New Jersey Municipal Land Use Law. Likewise, the Board Members are aware that the so-called “negative” prong of the Statute requires the Applicant to prove that the Application can be granted without causing substantial detriment to the public good. Moreover, the Board Members are aware of the criteria to be utilized in analyzing / adjudicating Bulk “c” Variance relief. Specifically, the Applicant must prove that there is some type of physical hardship with regard to the size / shape / topography of the property. Or, in the alternative, the Applicant is required to prove that the benefits of granting the Variance relief outweigh any detriments associated therewith. The Zoning Board Members appropriately adjudicated the within Application, in accordance with the aforesaid standards.
- The Board Members are aware that the within Application will result in the elimination of the existing 363 SF shed at the site, and the construction of a new 366 SF garage addition (resulting in an expanded garage).
- In light of the above, the Board recognizes that the size of the proposed garage addition is roughly the same as the size of the existing shed which is to be removed.
- As such, the Board recognizes that there will be no material disturbance of new virgin land in connection with the within proposal. Rather, for the most part, the garage addition approved herein will be built over land which already hosted the existing shed.
- With the simultaneous elimination of the 363 SF shed, and the replacement of the same with a 366 SF garage addition, the overall impervious coverage associated with the site will not materially change as a result of the within approval.
- Approval of the within Application will not materially change the combined footprint of the existing garage / shed.
- The Board Members are aware that the existing garage has a non-conforming rear setback of approximately 3.2 ft., and the garage addition approved herein will continue to honor the said setback.

- In conjunction with the above point, the Board Members are aware that the non-conforming rear yard setback for the garage addition will not be materially different than the non-conforming rear yard setback for the existing garage.
- The Board Members are aware that the existing garage has a non-conforming side yard setback of approximately 3.1 ft., and that the garage addition approved herein will have a similar non-conforming side yard setback. As such, the Board Members are aware that the non-conforming side yard setback for the expanded garage will be roughly the same as the existing non-conforming side yard setback for the existing garage / existing shed.
- Per the testimony and evidence presented, there is a need for expanded garage space / expanded storage space at the site – and, importantly, the Applicant’s lot can physically accommodate the same.
- Approval of the within Application will also result in a corresponding elimination of some of the existing asphalt driveway and curbing at the site.
- Approval of the within Application will not materially intensify the overall density / intensity at the site.
- Currently, the Applicant’s vehicle cannot physically fit into the existing garage. The garage addition approved herein allows the Applicant’s existing trunk and miscellaneous storage items to be placed / stored inside the to-be-expanded garage, which will be beneficial for the site, the neighborhood, and the community as a whole.
- Per the testimony and evidence presented, the 3-bay garage expansion approved herein will allow all of the Applicant’s vehicles to be stored inside the to-be-expanded garage (as well as other miscellaneous storage items).
- The expanded garage addition approved herein (along with the demolition of the existing deteriorated / compromised shed) will significantly improve the overall aesthetic appeal of the property.
- The testimony indicated that the existing shed is compromised, deteriorating, and on the potential verge of collapse. As such, the Board recognizes the many aesthetic / practical / functional benefits associated with the elimination of a compromised shed.
- As indicated, the Applicant’s Lot can physically accommodate the expanded garage approved herein. Towards that end, the Board notes that the existing Lot contains 8,350 SF; whereas the minimum Lot size in the Zone is 3,500 SF. As such, the Board Members recognize that the Applicant’s property significantly exceeds the minimum required Lot Area for the Zone.

- Not all properties could comfortably accommodate a 1,027 SF garage, but the significantly oversized nature of the Lot, and the nature / extent / location / orientation of the existing garage / shed, and the benefits associated with the elimination of the compromised existing shed, allow the within Application to be approved without causing substantial detriment to the public good.
- One purpose of the Municipal Land Use Law suggests that Applications be approved when the same results in appropriate residential uses in residential Zones. Towards that end, the Board finds that the expanded garage approved herein will not be out of character for the subject property or the surrounding community.
- Single-family use is a permitted use in the subject Zone.
- Generally speaking, a garage is a permitted accessory use in the subject Zone (if the same is under 500 SF)
- Per the testimony and evidence presented, there is a need for a garage at the site.
- The Board notes that a curb cut, driveway apron, driveway and garage already exist at the site.
- The garage will not be utilized as living space – as evidenced by the fact that the garage will not have a bathroom, there will be no water service to the same, and there will be no heating service to the same.
- The Board notes that the proposed rear setback would satisfy the Prevailing Setback for an Accessory structure (recognizing that the to-be expanded garage will be a principal structure, with associated setbacks for a principal structure).
- The location of the proposed garage is practical and appropriate.
- The new / expanded garage will be a nice / attractive / functional feature for the home.
- Construction of the expanded garage approved herein will not increase the number of overall occupants at the home.
- Approval of the within Application will not appreciably increase parking demands associated with the site.
- The size of the expanded garage is appropriate, particularly given the oversized nature of the existing lot.
- The size of the expanded garage is appropriate for the neighborhood.
- Approval of the within Application will not appreciably intensify the existing single-family nature of the existing site.

- There was no known formal / public opposition associated with the Application.
- Sufficiently detailed testimony / plans were represented to the Board.
- The expanded garage should nicely complement the existing home / property.
- Additionally, the architectural/aesthetic benefits associated with the proposal outweigh the detriments associated with the Applicant's inability to comply with all of the specified Bulk and Use Standards.
- The architectural design of the expanded garage will not be materially inconsistent with the architectural character of other garages in the area.
- Subject to the conditions set forth herein, the benefits associated with approving the within Application outweigh any detriments associated with the same.
- Subject to the conditions contained herein, approval of the within Application will have no known detrimental impact on adjoining property owners and, thus, the Application can be granted without causing substantial detriment to the public good.
- The improvement to be constructed herein will not be inconsistent with the nature of other improvements located within the Borough.
- Approval of the within application will promote various purposes of the Municipal Land Use Law; specifically, the same will provide a desirable visual environment through creative development techniques.
- The Application as presented satisfies the Statutory Requirements of N.J.S.A. 40:55D-70(c) (Bulk Variances) and (d) (Use Variances).

Based upon the above and for the other reasons set forth herein and during the Public Hearing Process, the Board is of the unanimous opinion that the requested relief can be granted without causing substantial detriment to the public good.

### **CONDITIONS**

During the course of the Hearing, the Board has requested, and the Applicant has agreed, to comply with the following conditions:

- a. The Applicant shall comply with the promises, commitments, and representations made at or during the Public Hearing process.

- b. The Applicant shall comply with the terms and conditions of the Review Memorandum from Shawna Ebanks, P.P., A.I.C.P., dated January 28, 2021 (A-3).
- c. The Applicant shall comply with any Prevailing Affordable Housing Regulations / Requirements / Directives / Contributions, as the State of New Jersey, the Borough of Red Bank, and / or other Agency having jurisdiction over the matter may require.
- d. There shall be no utilities in the to-be-expanded garage, except electricity.
- e. The height of the to-be-expanded garage shall not exceed 16 ft., as no Height Variance relief is granted herein.
- f. The garage shall not be utilized as living space.
- g. There shall be no further physical expansion / intensification to the garage approved herein, absent further / formal approval of the Red Bank Zoning Board of Adjustment.
- h. There shall be no water service to the garage, no sewer service to the garage, and no bathroom service in the garage. However, electrical service to the garage is permitted.
- i. The Applicant shall submit a Grading Plan, which shall be reviewed and approved by the Board Engineer.
- j. The Applicant shall remove the existing 363 SF shed (prior to the expansion of the garage.)
- k. The Applicant shall obtain any and all necessary permits as the Borough of Red Bank (and / or any other Agency having jurisdiction over the matter) may require.
- l. The construction shall be strictly limited to the plans which are referenced herein and which are incorporated herein at length. Additionally, the construction shall comply with Prevailing Provisions of the Uniform Construction Code.
- m. The Applicant shall comply with all terms and conditions of the review memoranda, if any, issued by the Board Engineer and other agents of the Borough.
- n. Unless otherwise waived by the Borough's Director of Planning and Zoning, the Applicant shall obtain any and all approvals (or Letters of No Interest) from applicable outside agencies – including, but not limited to, the Department of Environmental Protection, the Monmouth County Planning Board, and the Freehold Soil Conservation District.
- o. The Applicant shall, in conjunction with appropriate Borough Ordinances, pay all appropriate / required fees and taxes.

- p. If required by the Board Engineer, the Applicant shall submit appropriate performance guarantees in favor of the Borough of Red Bank.
- q. Unless otherwise agreed by the Zoning Board, the within approval shall be deemed abandoned, unless, within 24 months from adoption of the within Resolution, the Applicant obtains a Certificate of Occupancy (if necessary), for the construction approved herein.

**BE IT FURTHER RESOLVED**, that all representations made under oath by the Applicant and/or his agents shall be deemed conditions of the approval granted herein, and any mis-representations or actions by the Applicant contrary to the representations made before the Board shall be deemed a violation of the within approval.

**BE IT FURTHER RESOLVED**, that the Application is granted only in conjunction with the conditions noted above - and but for the existence of the same, the within Application would not be approved.

**BE IT FURTHER RESOLVED**, that the granting of the within Application is expressly made subject to and dependent upon the Applicant's compliance with all other appropriate rules, regulations, and/or ordinances of the Borough of Red Bank, County of Monmouth, and State of New Jersey.

**BE IT FURTHER RESOLVED**, that the action of the Board in approving the within Application shall not relieve the Applicant of responsibility for any damage caused by the subject project, nor does the Board of Adjustment of the Borough of Red Bank, the Borough of Red Bank, or their agents / representatives accept any responsibility for the structural design of the proposed improvement or for any damage which may be caused by the development / renovation.

FOR THE APPLICATION:

AGAINST THE APPLICATION:

ABSTENTIONS:

FOR THE RESOLUTION:

AGAINST THE RESOLUTION:

*I hereby certify that the foregoing is a true copy of a Resolution adopted by the Red Bank  
Zoning Board of Adjustment on this \_\_\_\_ day of \_\_\_\_\_, 2021.*

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Maria Graziano, Zoning Board Secretary

KEK/dmp  
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