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Zoning Board of Adjustment

**APPLICATION OF HENRY AND GRACE
STEENLAND FOR C VARIANCE
RELIEF FOR LOT WIDTH FOR BLOCK
2018, LOT 3.02**

*CITY OF SOMERS POINT
ZONING BOARD OF ADJUSTMENT*

ZB-8-2020

DECISION AND RESOLUTION

THIS MATTER, having been heard by the Zoning Board of Adjustment of the City of Somers Point (hereinafter sometimes referred to as the “Board”) on August 10, 2020 by video and audio means through the “Zoom” application due to the ongoing public health crisis surrounding the COVID-19 coronavirus, and a quorum being present; and

WHEREAS, an Application was made by Henry and Grace Steenland (the “Applicants”) for bulk variance relief pursuant to N.J.S.A. 40:55D-70c from the lot width requirement of §114-21B of the City of Somers Point’s Development Regulations in order to construct a two family dwelling on property identified as Block 2018, Lot 3.02 on the Tax Map of the City of Somers Point, which property is located at 104 Broadway (the “Property”); and

WHEREAS, the Property is located in the R-MF Multi-Family Residential District (“R-MF Zone”) as designated within the City of Somers Point’s Development Regulations; and

WHEREAS, proper subject matter jurisdiction for the Zoning Board of Adjustment of the City of Somers Point was established with respect to the relief requested and the statutory powers granted to the Board by the New Jersey Legislature as embodied in N.J.S.A. 40:55D-70; and

WHEREAS, the Applicants have demonstrated site control of the Property by ownership of the same; and

WHEREAS, the Applicants have properly notified surrounding property owners of the Application and have satisfactorily published notice of the Application and the Board's meeting to consider the same as required by N.J.S.A.40:55D-12; and

WHEREAS, the Board conducted a public hearing on the said Application on August 10, 2020, at which time the Board considered the Application on its merits for approval; and

WHEREAS, the Applicants were represented by A. Steven Fabietti, Esquire at the public hearing conducted on August 10, 2020; and

WHEREAS, the Board has reviewed the Application submitted by the Applicants together with all attachments and all exhibits submitted with the Application and during the course of the hearing; and

WHEREAS, the Board heard the testimony of Applicant Henry Steenland and the Applicants' professional planner, Stephen Hawk, PP, during the course of the hearing; and

WHEREAS, during the public portion of the hearing, the following people spoke in opposition to the Application:

1. Caroline Edwards, Esquire, an attorney representing the South Pointe Condominium Association, 75 Broadway;
2. John Pileggi (75 Broadway, Unit #120);
3. Mike Belfield (75 Broadway, Unit #116);
4. Gus Staino (75 Broadway, Unit #117);
5. Richard Kater (75 Broadway, Unit #121);
6. Melissa and Thomas Maffettone (75 Broadway, Unit #119);
7. Joseph Ferzoco (75 Broadway Avenue, Unit #102);
8. Joseph McCarrie (102 Broadway); and

9. Bill Kalogredis (75 Broadway, Unit #115);

and;

WHEREAS, the Zoning Board of Adjustment of the City of Somers Point, based upon the Application submitted, the testimony presented by and on behalf of the Applicants and from the public, as well as all plans and exhibits from the Applicants, makes the following findings of fact and conclusions of law:

1. The Applicants are, as noted, Henry and Grace Steenland. At the time of the hearing, the Applicants were represented by A. Steven Fabietti, Esquire.

2. The Applicants have submitted a properly filed Application and all required documents and have paid all required fees and have complied with the advertising and notice requirements of the Municipal Land Use Law.

3. The Property is known as Block 2018, Lot 3.02 in the City of Somers Point and is located at 104 Broadway.

4. The taxes for the Property have been paid and are current.

5. The Property is serviceable by public water and sewer.

6. The Property is located in the R-MF Zone and its proposed use for a two family dwelling is a permitted use in the R-MF Zone.

7. The subject Property fronts on Broadway and is located along the Great Egg Harbor Bay. The Property is 17,740 square feet in area and is currently vacant land. The frontage of the Property along Broadway is 33 feet in width but widens to as much as approximately 70 feet towards the Great Egg Harbor Bay. The Applicants acquired the Property in the late 1980s and, crediting the testimony of Applicant Henry Steenland, 33 feet of frontage existed at the time of the acquisition. The area surrounding the Property contains a mix of townhouses, the South Pointe

Condominiums and other residential uses. Crediting the testimony of the Applicants' professional planner, Mr. Hawk, at least 5 developed properties in the area have no direct frontage along Broadway or any other street.

8. The Applicants have obtained a CAFRA Permit dated February 8, 2018 authorizing the construction of a two family dwelling with associated decks/patios and a driveway. The approved CAFRA plan, which was submitted with the Application and presented to the Board, was prepared by Schaeffer Nassar Scheidegg Consulting Engineers, LLC and is dated June 21, 2011, last revised July 28, 2017. The CAFRA plan shows the Property, the building envelope for the two family dwelling and the related site improvements, including but not limited to the associated decks/patios and a 12 foot wide driveway from Broadway. A letter dated December 14, 2011 from the City of Somers Point Fire Official was also submitted by the Applicants indicating that a 12 foot wide driveway was sufficient for access by fire apparatus. Architectural plans for the two family dwelling have not yet been prepared.

9. The proposed two family use is, as noted, a permitted use in the R-MF Zone, along with garden apartments and townhouses. With the exception of lot width, the Applicants meet all of the area and bulk requirements for two family dwellings set forth in §114-21 of the City of Somers Point's Development Regulations. However, since the width of the Property at 33 feet is less than the 90 feet required pursuant to §114-21B of the City of Somers Point's Development Regulations, a variance is required pursuant to N.J.S.A. 40:55D-70c, as set forth below. This lot width variance is the only variance sought and required by the Applicants.

10. The within Application is for bulk variance relief pursuant to N.J.S.A. 40:55D-70c from the requirements in §114-21B of the City of Somers Point's Development Regulations to allow:

(a) Lot width of 33 feet where 90 feet is required (variance of 67 feet).

11. Based upon the testimony and evidence presented, the City of Somers Point Zoning Board of Adjustment finds that the Applicants are entitled to the relief detailed in Paragraph 10 above, and makes the following additional findings of fact and conclusions of law, and decision:

The Board finds that pursuant to N.J.S.A. 40:55D-70c(1), the shape of the subject Property and the physical features uniquely affecting the subject Property would result in peculiar and exceptional practical difficulties, and exceptional and undue hardship upon the Applicants, justifying the variance relief requested for deficient lot width. Further, the Board finds that the requested variance relief will not cause a substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan of the City of Somers Point or the Somers Point Development Regulations.

Specifically, pursuant to N.J.S.A. 40:55D-70c(1), the Board finds that the subject Property has a unique physical feature in that it is exceptionally narrow at 33 feet wide. The Board finds that the narrowness of the Property existed at the time that the Applicants acquired it and thus the Applicants did not self-create this condition. The Board further finds that there is no additional land that the Applicants can acquire to make the width of the Property conforming at 90 feet. The Board finds that the narrowness of the Property presents a clear hardship to the Applicants ability to comply with the 90 foot lot width requirement for the Property and, as a result, the variance is justified.

In terms of the negative criteria (that granting the variances will not cause substantial detriment to the public good or substantially impair the intent and purpose of the City of Somers Point zone plan or Development Regulations), the Board finds that constructing a two family dwelling on the subject Property would be consistent and in scale with other development in the

area. The Board notes in that regard that there are a mix of townhouses, the South Pointe Condominiums and other residences in the area. The Board further finds that while the width of the Property is deficient, there are several other developed properties in the area with no direct frontage at all on Broadway or any other street. The Board also notes that the Property does widen to approximately 70 feet off of Broadway and that, with the exception of lot width, the Applicants meet all other area and bulk requirements for two family dwellings in the R-MF Zone. The Board additionally notes that the fire department has in the past determined that a 12 foot wide driveway is sufficient for fire apparatus and finds that the Board's failure to grant the lot width variance could have the negative effect of making the Property virtually unusable. The Board finds that accordingly, granting the lot width variance will not have a substantial negative impact on the public good, or the zone plan or Development Regulations of the City of Somers Point

For these reasons, the Board finds that the variance relief is warranted and should be granted. In making this decision, the Board finds that the testimony from the Applicants' professional witness, Mr. Hawk, was credible and uncontroverted by any professional testimony from the objectors.

NOW, THEREFORE, a Motion having been made by Mr. Marshall and seconded by Mr. Kedziora, the City of Somers Point Zoning Board of Adjustment hereby grants variance relief pursuant to N.J.S.A. 40:55D-70c(1), as detailed in Paragraph 10 above, for the reasons set forth above, subject to the following conditions:

- (1) All representations made by or on behalf of the Applicants during the course of the hearing shall be followed.
- (2) The Applicants' approval herein is contingent upon the Applicants obtaining all other necessary governmental approvals.

Roll Call Motion to Grant relief pursuant to N.J.S.A. 40:55D-70c(1) as set forth above

Rowan		No
Marshall	Motion	Yes
Granus		No
Kedziora	2nd	Yes
Gannon		Yes
Huber		Yes

**CITY OF SOMERS POINT ZONING
BOARD OF ADJUSTMENT**

Dated: 9-14-20

By:



Paul Huber, Vice-Chairman

Dated: 9-14-20

By:



Jayne Meischker, Zoning Board Secretary