

**RESOLUTION NO. 2024-007**  
**Borough of Roselle Park**  
**Land Use Board**  
**In the Matter of Jagdishbhai D. Patel**  
**Decided on February 26, 2024**  
**Memorialized on March 18, 2024**  
**“c” Variance Relief**

**WHEREAS**, Jagdishbhai D. Patel (hereinafter the "Applicant") has made application to the Roselle Park Land Use Board for “c” variance relief for property known as Block 128, Lot 1, as shown on the Tax Map of the Borough of Roselle Park, located at 315 West Webster Avenue in the R-1 Zone (hereinafter the "Subject Property"); and,

**WHEREAS**, a public hearing was held on February 26, 2024, after the Board determined it had jurisdiction; and,

**WHEREAS**, the Applicant was not represented by counsel.

**NOW THEREFORE**, the Land Use Board makes the following findings of fact, based on evidence presented at its public hearing, at which a record was made.

The Applicant requests approval to maintain the existing freestanding air conditioning equipment along the Willow Street frontage requiring “c” variance relief for 315 West Webster Avenue being Block 128 Lot 1 (the “property”), located within the R-1 (Single-Family Residence) Zone District in the western portion of the Borough of Roselle (the “Borough”). The property and adjacent parcels within the Borough are all located within the R-1 Zone. No other improvements are proposed. The application is exempt from site plan approval as it involves a detached single-family home.

The 2,500 square foot corner lot property has 25 and 100 feet of frontage along West Webster and Willow Avenues, respectively, and abuts the following parcels located within Block 128: Lot 2 (NW rear) and Lot 22 (NE side). The property contains a detached home whose front

entrance faces West Webster Avenue. The home has an attached garage accessed from Willow Avenue, and contains a storage shed in the rear yard area. The central A/C units are located along the Willow Avenue frontage. The property does not meet minimum lot and width requirements for lots (5,000 square feet, 50 feet) or lots of record (3,300 square feet, 33 feet)<sup>1</sup> as set forth in Article XVII (R-1 Single-Family Residence District) of the Ordinance. In addition, building frontage facing Willow Street does not meet the required 10-foot setback. The application before the Board is a request for “c” variance relief for the Subject Property.

Table 1: Bulk Standards			
Standard	Required / Permitted	Existing & Proposed	Section
Lot Area (s.f.)			
Lot	5,000	2,500 (NC)	§ 40-1704.D
Lot of Record	3,300	2,500 (NC)	§ 40-1704.D
Minimum Lot Width Frontage (feet)			
Lot	50	25 (NC)	§ 40-1704.D
Lot of Record	33	25 (NC)	§ 40-1704.D
Minimum Front Yard: Principal (feet)			
West Webster Avenue	20	Not Provided	§ 40-1704.A.1
Willow Avenue	10	3 (NC)	§ 40-1704.A.3
Minimum Front Yard: Freestanding air conditioning equipment (feet)	14 (10-foot front yard setback + 4 feet)	< 3 (V)	§ 40-3003.G
Minimum Side Yard (feet)	6 *	3 (NC)	§ 40-1704.B
Minimum Rear Yard (feet)	25 **	Not Provided	§ 40-1704.C
Maximum Height (Feet)			
Height	28	Not Provided	§ 40-1703
Stories	2.5	Not Provided	§ 40-1703
Maximum Building Coverage (%)	25	Not Provided	§ 40-1603.H
Maximum Lot/ Impervious Coverage (%)	50	Not Provided	§ 40-1603.I
<p>* Maximum required side yard shall not have a width of not less than 10% of the average width of lot, provided, however, that such side yard shall be at least six (6) feet wide.  ** Minimum rear yard is 25 feet (25% of lot depth of 100 feet)  NC: does not conform to current Ordinance regulations.  V: Variance</p>			

Per the above table, the Applicant requires “c” variance relief only for minimum front yard as the freestanding air conditioning equipment requires no less than a 14 foot front yard, whereas less than 3 feet are existing and proposed. All other pre-existing conditions which do not meet current Ordinance requirements are to remain unchanged.

The Applicant appeared together with his son, Jay Patel, to testify in support of the variance. The Applicant appreciated that a side yard installation would be preferable, but based on the close proximity of the neighboring houses, placing the air conditioner in a conforming location would likely create greater noise disturbances for those neighbors. The property size is already non-conforming, so placing it in the rear yard would also limit the already small amount of yard area available to the Applicant. To minimize the impacts created by placing the unit in the front yard, the Applicant is installing a mini-split style of condenser, which is generally quieter than standard equipment, and is also amenable to planting landscaping around the unit to both visually buffer and to lessen any perceptible from the public right of way.

There were no members of the public present expressing an interest in this application.

**NOW THEREFORE,** the Land Use Board makes the following conclusions of law, based on the foregoing findings of fact.

The application before the Board is a request for “c” variance relief. The Applicant is proposing to install its A/C condenser in the front yard of the Subject Property, requiring a variance for minimum front yard area. The MLUL at N.J.S.A. 40:55D-70c sets forth the standards for variances from the bulk regulations of a zoning ordinance. A “c(1)” variance is for cases of hardship due to factors such as shape or topography, or due to “an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.” A “c(2)” variance may be granted where the purposes of zoning are advanced

and the benefits of deviating from the ordinance requirements outweigh any detriments. The benefits derived from granting a “c(2)” variance must include benefits to the community as a whole, not just to the applicant or property owner. A “c” variance applicant also must address the “negative criteria,” and affirmatively demonstrate that the variance can be granted “without substantial detriment to the public good” and “without substantial impairment to the intent and purpose of the zone plan and zoning ordinance” of the municipality.

Here, the Board finds that the Applicant’s inability to satisfy the minimum front yard requirement represents a hybrid variance situation. The existing property is non-conforming as to both size and dimensions. While the Applicant could relocate the air conditioning condenser to a more conforming location on the Property, the Board finds that permitting the Applicant’s proposal represents a better planning alternative under these circumstances. The Applicant’s desire to place the air conditioner in the front yard is to better protect his neighbors from any noise generated by the unit, and to also maintain the utility of the already small rear yard for his own enjoyment. The design proposal, utilizing a mini-split style of air conditioning unit, to be visually buffered by landscaping, is beneficial by allowing a more useful and enjoyable living space without creating disturbances to neighboring property owners and the public right of way. With respect to the negative criteria, the Board finds that Applicant’s proposal will not result in a substantial detriment to the neighboring properties, nor will it result in any substantial impairment of the zone plan and zoning ordinance.

In reviewing the application, plans and testimony, the Board concludes the Applicant has met the minimum requirements of the Municipal Land Use Law, Case Law and Borough Ordinances to a sufficient degree so as to enable the Board to grant the relief being requested.

**NOW, THEREFORE, BE IT RESOLVED** by the Land Use Board that the application of Jagdishbhai D. Patel for Block 128, Lot 1, as shown on the Tax Map of the Borough of Roselle Park, located at 315 West Webster Avenue in the R-1 Zone, requesting “c” variance relief is granted pursuant to N.J.S.A. 40:55D-70c, subject to the following terms and conditions:

1. The development of this parcel shall be implemented in accordance with the plan submitted and approved.
2. Applicant shall prepare and present to the Board Engineer, for his review and approval, a plan to install landscaping around the air conditioning equipment to provide some visual screening from the public right of way.
3. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board’s Secretary.
4. Certificate that taxes are paid to date of approval.
5. Union County Planning Board approval, if necessary.
6. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Roselle Park, County of Union, State of New Jersey, or any other jurisdiction.

The undersigned Chairman certifies the within resolution was adopted by this Board on February 26, 2024 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on March 18, 2024.



FOR:

AGAINST:

ABSTAIN:

Member Class	Board Members	Motion	Second	Yes	No	Abstain	Not Voting	Absent
Class I	Mayor Joseph Signorello			✓				
Class II	Andrew J. Casais			✓				
Class III	Councilman Jay Robaina			✓				✓
Class IV	Jorge Casalins			✓				✓
Class IV	Nicola Cristofaro			✓				
Class IV	John Curia			✓				
Class IV	Loren Harms					✓		
Class IV	Kevin Kolbeck	✓						
Class IV	Michael Quiroga		✓	✓				
Alternate No. 1	Christian Camilo			✓				
Alternate No. 2	Richard G. Templeton III			✓				
Alternate No. 3	Darwin Roman			✓				
Alternate No. 4	Vrutti Patel						✓	