

**RESOLUTION NO. 2024-010**  
**Borough of Roselle Park**  
**Land Use Board**  
**In the Matter of Rupen Shah**  
**Decided on March 18, 2024**  
**Memorialized on April 5, 2024**  
**Minor Subdivision and Variance Approval**

**WHEREAS,** Rupen Shan (hereinafter the "Applicant") has made application to the Roselle Park Land Use Board for subdivision approval for property known as Block 201, Lot 7, as shown on the Tax Map of the Borough of Roselle Park, located at 128 Grove Street in the Single-Family R-1 Zone (hereinafter the "Subject Property"); and,

**WHEREAS,** a public hearing was held on March 18, 2024, after the Board determined it had jurisdiction; and,

**WHEREAS,** the Applicant was represented by Bianca R. Pereiras, Esq.

**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 application before the Board is a request for subdivision approval for the Subject Property, and the following documents were reviewed:

- A set of engineering plans entitled "Proposed Detention Plan for Single Family House", consisting of two (2) sheets, prepared by Optimized Engineering Associates, dated December 2023; and
- A set of plans entitled "Proposed Single Family House, 128 Grove Street, Roselle Park NJ", consisting of four (4) sheets, prepared by Pereiras Architects Ubiquitous, dated May 2023, last revised December 14, 2023;
- A copy of a Municipal Land Use Board Application Package, endorsed on July 26, 2023.

**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 minor subdivision approval to subdivide two (2) adjoining parcels held in common ownership and construct a single-family home requiring “c” variance relief is proposed at 128 Grove Street being Block 201 Lot 7 and 31 Grove Street being Block 201 Lot 8, located within the Borough of Roselle Park (“Borough”) and Carpenter Pl Rear being Block 335 Lot 12, located within the Township of Cranford, NJ (the “properties”) which are located within the R-1 (Single-Family Residence) Zone District in the SW portion of the Borough, and the R-4 (One-Family Detached Residence District: in the ENE portion of the Township. The Applicant is proposing to construct a new two-story, single-family dwelling. Additional improvements include but are not limited to, new paver driveway and walkways, concrete walkways and apron and landscaping.

The properties currently consist of two (2) contiguous parcels held under common ownership per Mod IV records, and contain approximately 8,158.79 square feet (or 0.1873 acres) of lot area. The 3,075 square foot Lot 7 is located entirely within the Borough and is currently vacant. Lots 8 & 12 are located within the Borough and Township and contain 0.1167 acres (or 5,083.45 square feet) of area. Lots 8 & 12 is approximately 5,083.45 square (or 0.1167 acres) in size. Lot 8 is located within the Borough. contains approximately 3,750.52 square feet (or 0.0861 acres) of lot area, and is improved with a detached home, accessory garage and associated improvements. Lot 12 is located within the Township, is approximately 1,332.94 square feet (or 0.0306 acres) in size, and forms a portion of the rear yard area of Lots 8 & 12.

The combined properties have 91 feet of frontage along Grove Street to the NE, and shares side lot lines with the following tax lots within Block 201 of the Borough: Lot 6 (SE side)

and Lot 9 (NW side), as well as the following tax lots within Block 335 of the Township: Lot 13 (SE Side), Lots 7 & 8.01 (rear), and Lots 8.01 and 8.02 (NW side). The property and adjacent parcels within the Borough are located within the R-1 Zone, the use regulations of which are set forth in Article XVII (R-1 Single-Family Residence District) of the Ordinance. Development patterns of detached homes were observed during a site visit conducted on November 3, 2023, which are reflective of permitted single-family structure type within the R-1 Zone. As each parcel does not meet the minimum 5,000 square-foot lot size of the Borough's R-1 Zone, they are considered merged per the Loechner doctrine, as they are undersized contiguous lots in common ownership. In addition, Lot 7 does not meet the minimum 3,300 square foot standard for parcels defined as "lots of record" by Ordinance.

The Applicant's architect Manny Peireras, R.A., provided the Board with an overview of the property, neighborhood and his proposed architectural design. The Applicant proposes to subdivide the properties into two (2) separate parcels and construct a four (4) bedroom single-family detached home within Lot 7. Sheet Z01 (Zoning and Code Information, Tax Maps, Survey and Images) of the submitted plans (the "plans") indicates that a parking pad is proposed within the front yard area, parallel to the side lot line with proposed Lots 8 & 12 to the NW. Sheet 2 (Proposed Floor Plan) indicates that the proposed home will contain a basement, first and second floor. The basement shall be accessed via stairs from the first floor and shall contain a "recreation area", a mechanical room and a small bathroom. A kitchen, living room area, dining room, a bedroom and a bathroom are proposed for the first floor. The second floor shall contain three (3) bedrooms, two (2) bathrooms and a laundry room. Pull down stairs shall provide access to the attic area. No changes are proposed to the principal and accessory uses and structures within the proposed Lots 8 & 12 parcel.

The Applicant requires the following “c” variance relief and waivers for Proposed Lot 7: (1) Minimum Front Yard: 20 feet required, 17.11 feet proposed. § 40-1704.A.1 (Area Regulations/Front Yard); (2) Minimum Rear Yard: 18.75 feet (25% of lot depth) required, 14’9” proposed. § 40-1704.C(Area Regulations/Rear Yard); (3) Minimum Lot Area: 5,000 square feet required, 8,158.79 square feet existing, 3,075 feet proposed. § 40-1704.D (Area Regulations/Lot Area); (4) Minimum Lot Width: 50 feet required, 41 feet existing and proposed: § 40-1704.D (Area Regulations/Lot Area); (5) Maximum Building Coverage: 25 % permitted, 30 % proposed: § 40-1603.H (Regulations of General Applications); (6) Maximum Lot (Impervious) Coverage: 50 % permitted, 54.4 % proposed: § 40-1603.H (Regulations of General Applications); and (7) Parking in the front yard in any residence district not permitted, except as provided in Subsection U hereunder. § 40-2803.S (OFF-STREET PARKING) Also, the Applicant requires a RSIS waiver for off-street parking, because minimum off-street parking (Single-Family Detached: 4 Bedrooms) requires 2 spaces, whereas only a single space is proposed (N.J.A.C. § 5:21-4.14). The Applicant further requires a single “c” variance relief for the proposed Lot 8 & 12 parcel: Minimum Front Yard: 20 feet required, <20 feet existing and proposed. § 40-1704.A.1 (Area Regulations/Front Yard).

A single neighboring resident offered comment requesting that the Applicant align its proposed construction schedule to respect the residential neighborhood, and to make best efforts to provide adequate parking for the motor vehicles associated with these properties. There were no other members of the public present expressing an interest in this application.

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

The application before the Board is a request for minor subdivision and variance approval for the Subject Property. 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.

The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain “bulk” or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good

and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

In addressing the affirmative criteria, the Board concludes that the Applicant's proofs satisfied the variance criteria under c(1) and c(2). The size of the existing parcel allows for its subdivision into two mostly conforming lots, which lots will be consistent with the predominant non-conforming lot widths in this neighborhood. The Board further finds that the proposed lot with all required infrastructure will provide a benefit, and is supported by MLUL reasons "c" and "e". The Board, therefore, finds this not only to be a unique parcel of land and a unique situation, but further, that the development of the parcel is substantially more consistent and provides a better overall conformance with the established neighborhood development. Therefore, the Board concludes the benefits significantly outweigh any detriments.

As regards the negative criteria, the Board concludes this will not negatively impact the public good nor the zone plan or zone scheme of the area. In fact, the subdivided parcel will better conform to that which has taken place on the property and in the neighborhoods. Therefore, the Board concludes this is more consistent with not only the Ordinances but the overall Master Plan scheme for this neighborhood.

In reviewing the request for subdivision approval, 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 Rupen Shah for Block 201, Lot 7, as shown on the Tax Map of the Borough of Roselle Park,

located at 128 Grove Street in the Single-Family R-1 Zone, requesting subdivision approval is granted pursuant to N.J.S.A. 40:55D- 47 and N.J.S.A. 40:55D- 70(c), 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. There shall be no habitable bedroom space within either the basement or the attic without first obtaining a further RSIS parking waiver.
3. Applicant shall comply with all technical comments provided in the review letters of both the Board Engineer and Board Planner.
4. The Board's approval of the Applicant's subdivision application applies only to properties and development proposed within the Borough itself. Any separate approvals involving the portions of the property that lie within Cranford Township shall be addressed by the Township, not the Borough.
5. The Deed recorded memorializing this subdivision shall specifically refer to this Resolution and shall be subject to the review and approval of the Board Engineer and Board Attorney. The Applicants shall record the Subdivision Deed within 190 days of the memorializing Resolution being adopted. Failure to do so absent receipt of a time extension from this Board shall render this approval null and void.
6. 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.
7. Certificate that taxes are paid to date of approval.
8. Union County Planning Board approval, if necessary.

9. 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 March 18, 2024 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on April 15, 2024.



FOR: 4

AGAINST: 0

ABSTAIN: 1

Board Member(s) Eligible to Vote:

3518853.1



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							✓