

**RESOLUTION OF THE CASINO REINVESTMENT DEVELOPMENT
AUTHORITY GRANTING BULK VARIANCE RELIEF FOR THE
CONSTRUCTION OF A NEW SINGLE FAMILY DWELLING ON
PROPERTY LOCATED AT 2322 SIRACUSA TERRACE IN ATLANTIC
CITY, NEW JERSEY, BLOCK 337, LOT 54, UNDER APPLICATION
2016-03-1824**

WHEREAS, pursuant to P.L. 2011, c. 18, as amended (the "Act"), the Casino Reinvestment Development Authority (the "Authority"): (i) designated the Atlantic City Tourism District by Resolution 11-25 adopted April 19, 2011, (ii) established the Land Use Regulation and Enforcement Division to, among other matter, hear applications for development in the Tourism District by Resolution 11-33 adopted April 19, 2011, and (iii) adopted the master plan, zoning and land use ordinances and regulations, and zoning maps approved by the City by Resolution 11-34 adopted April 19, 2011; and

WHEREAS, pursuant to Resolution 12-14 dated February 1, 2012, the Authority adopted the "New Jersey CRDA Atlantic City Tourism District Master Plan" prepared by Jones Lang LaSalle, LLC and dated February 1, 2012 (the "Master Plan") (as affirmed and readopted pursuant to Resolution 12-23 adopted February 21, 2012), subject to further comment and revision, which master plan shall become effective upon the adoption of design, development and land use regulations consistent therewith, and in accordance with N.J.S.A 5:12-220a, the Atlantic City Master Plan dated September of 2008 (as adopted by the CRDA pursuant to Resolution 11-34 dated April 19, 2011) shall remain effective for development applications received by the CRDA until adoption of such regulations; and

WHEREAS, Gazi Chowdury (the "Applicant") seeks variance relief for lot area, lot width, front, side and rear yard setbacks to construct a new approximately 900 square foot single family dwelling to replace a non-conforming structure with illegal encroachments on the property located at 2322 Siracusa Terrace in the city of Atlantic City, at Block 337, Lot 54, pursuant to Municipal Land Use Law N.J.S.A. 40:55D-70(c); and


WHEREAS, on May 5, 2016, the Authority's Land Use Regulation and Enforcement Division convened a public hearing on Application 2106-03-1824 in accordance with the requirements of the Open Public Meetings Act, the Municipal Land Use Law and the Act, and subsequently prepared and delivered the Hearing Officer's Report and Recommendation dated June 6, 2016 (the "Report"), incorporated herein by this reference and appended hereto as Exhibit "A"; and

WHEREAS, the Authority intends to adopt the findings, conclusions and recommendations of the Hearing Officer, as detailed in the Report; and

NOW THEREFORE, BE IT RESOLVED by the Casino Reinvestment Development Authority that:

1. The above recitals are incorporated herein, as if set forth in full.
2. Based on the record in this matter, Application 2016-03-1824 is hereby approved in accordance with the Hearing Officer's Report and Recommendation dated June 6, 2016.
3. A copy of this Resolution shall be immediately transmitted to the Governor. This Resolution shall take effect immediately but no action authorized herein shall have force and effect until the earlier of the passage of ten (10) days, Saturdays, Sundays and public holidays excepted, after the delivery of the copy to the Governor, or the Governor's approval.

I hereby certify that this document is a true and correct copy of Resolution 16-60 of the Casino Reinvestment Development Authority.



HOWARD J. KYLE, SECRETARY

MEETING OF JUNE 21, 2016

EXHIBIT "A" ATTACHED.



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

EXHIBIT "A" TO RESOLUTION 16- , ADOPTED 6/21/2016

TO: Members of the Authority

FROM: Lance B. Landgraf, Jr., Land Use Hearing Officer

COPY: John F. Palmieri, Executive Director

SUBJECT: Hearing Officer's Report and Recommendation
Application 2016-03-1824
Gazi Chowdury
Block 337, Lot 54
2322 Siracusa Terrace
Variances Pursuant to N.J.S.A. 40:55D-70(c)

DATE: June 6, 2016

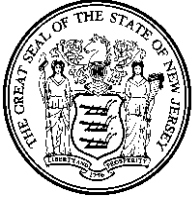
EXECUTIVE SUMMARY

On May 5, 2016, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, Gazi Chowdury (the "Applicant"), seeks variances pursuant to N.J.S.A. 40:44D-70(c) for lot area, lot width, front, side and rear yard setbacks to reconstruct a single family dwelling to replace a nonconforming dwelling on the property located at 2322 Siracusa Terrace in the city of Atlantic City that was damaged during Superstorm Sandy. The existing structure currently encroaches over a property line and violates all area and bulk requirements. The development proposal will eliminate the encroachment.

During the hearing, the Applicants presented adequate evidence and testimony to satisfy the requirements of the Municipal Land Use Law for the grant of the requested relief. Specifically, the evidence and testimony demonstrated that the development proposal generally conforms to the technical requirements of the land use ordinances of the city of Atlantic City and that the grant of the requested variances is warranted. Therefore, for

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Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

the reasons more fully outlined below, the Hearing Officer recommends that the Application be approved by the Authority.

INTRODUCTION

Application Information

Gazi Chowdury
Block 337, Lot 54
117 Dewey Place
R-3 Zoning District

A hearing on the Application was conducted in accordance with the requirements of the Open Public Meetings Act, the Municipal Land Use Law and P.L. 2011, c. 18.

The Applicant seeks variances pursuant to N.J.S.A. 40:44D-70(c) for lot area, lot width, front, side and rear yard setbacks to reconstruct a single family dwelling to replace a nonconforming dwelling on the property located at 2322 Siracusa Terrace in the city of Atlantic City that was damaged during Superstorm Sandy.

Evidence List

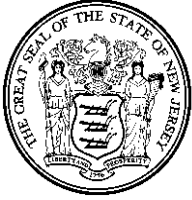
A-1 Application materials
A-2 200-foot Map
A-3 Aerial

B-1 Letter from Cofone Consulting Group, LLC dated April 19, 2016

FINDINGS OF FACT

The Applicant seeks variances pursuant to N.J.S.A. 40:44D-70(c) for lot area, lot width, front, side and rear yard setbacks to reconstruct a single family dwelling to replace a nonconforming dwelling on the property located at 2322 Siracusa Terrace in the city of Atlantic City. The Applicant, Gazi Chowdury (the "Applicant"), seeks variances pursuant to N.J.S.A. 40:44D-70(c) for lot area, lot width, front, side and rear yard

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setbacks to reconstruct a single family dwelling to replace the existing nonconforming dwelling on the property located at 2322 Siracusa Terrace in the city of Atlantic City.

The attorney for the Applicants, Brian J. Callaghan, Esq., introduced the application generally and provided background regarding the specific relief sought by the Applicant. He noted that the existing structure currently encroaches over a property line and violates numerous bulk requirements. The development proposal will eliminate the encroachment. Finally, Mr. Callaghan noted that the Applicant attempted unsuccessfully to acquire property from adjoining property owners to reduce the severity of several of the requested variances.

The Applicants presented the testimony of Rami Nassar, P.E. Mr. Nassar described the location of the site, existing conditions and development proposal. He explained that development proposal seeks to construct a new approximately 900 square foot single family dwelling on the property. He noted that the development proposal will cure all existing encroachments and comply with all applicable FEMA flood hazard regulations.

Mr. Nassar identified the variance relief sought in connection with the application. Specifically, the Applicant seeks variances pursuant to N.J.S.A. 40:55D-70(c) as follows:

- Lot area: 647.50 square feet where 3,000 square feet is required. (Existing non condition.)
- Lot Width: 18.50 feet where 30 feet is required. (Existing condition.)
- Front & Rear setback: 1.5 feet where 10 & 25 feet are required. (Existing condition: Front yard encroaches into right of way; rear yard setback is 0.7'.)
- Side yard setbacks: 1.5 feet where 12 feet is required. (Existing condition: Current structure encroaches over the property line by 2' and 0.9' respectively.)
- Lot coverage: 76.6% where 40% is required. (Existing lot coverage is 100%.)

Mr. Nassar testified that the requested variances can be justified under both N.J.S.A. 40:55D-70(c)(1) and (c)2. With respect to (c)(1), he testified that strict compliance with the zoning ordinance would constitute a hardship due to the narrowness and shape of the lot. With respect to (c)(2), he testified that the development proposal to raise the house to protect against storms and flooding will advance the purposes of the Municipal Land Use Law by securing safety from fire, flood, panic and other natural and man-made disasters (Purpose B) and create a desirable visual environment (Purpose I).

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With respect to the negative criteria, Mr. Nassar testified that the development proposal will not impair the purpose and intent of the zone plan or zoning ordinance, or result in any substantial detriment to the public good.

The planning report of Chistine Cofone, P.P. was marked into evidence.

No member of the public offered testimony or comment regarding the Application.

CONCLUSIONS OF LAW

Variances Pursuant to N.J.S.A. 40:55D-70(c)

For variances requested pursuant to N.J.S.A. 40:55D-70(c)(1) and c(2), an applicant must demonstrate through evidence and testimony that the positive and negative criteria of the statutory requirements have been met.

Positive Criteria

The positive criteria is satisfied if relief can be granted for a specific piece of property upon the finding of hardship arising out of the exceptional narrowness, shallowness, shape, or exceptional topographic conditions of specific piece of property or from a structure lawfully existing thereon. See Lang v. Zoning Board of Adjustment, 160 N.J. 41 (1999). The positive criteria for variances requested pursuant to N.J.S.A. 40:55D-70(c)(2) is satisfied if one or more purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and the benefits of that deviation would substantially out-weigh any detriment to the public good. Ketcherick v. Bor. Mountain Lakes, 256 N.J. Super. 646 (App. Div. 1992); Green Meadows v. Planning Board, 329 N.J. Super. 12 (App. Div. 2000).

Here, the testimony and evidence demonstrate that the development proposal satisfies the statutory positive criteria pursuant to Sections c(1) and c(2). Specifically, the size and shape of the property creates a hardship in satisfying the bulk requirements of the zoning ordinance. In addition, the development proposal advances purposes of the Municipal Land Use Law by securing safety from fire, flood, panic and other natural and man-made disasters (Purpose B) and creating a desirable visual environment (Purpose I).

Negative Criteria



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Relief under either c(1) or c(2) cannot be granted unless the negative criteria is satisfied. The negative criteria required for all "c" variances is that the requested relief can be granted without substantial detriment to the public good and without substantially impairing to the intent and purpose of the zone plan and the zoning ordinance.

Here, the testimony and evidence demonstrate that the development proposal will result in any detriment to the public good, and will not substantially impair the purpose and intent of the zone plan and zoning ordinance.

RECOMMENDATION

For all of the foregoing reasons, the Hearing Officer recommends that the Application for variances pursuant to N.J.S.A. 40:44D-70(c) be approved. The grant of approval of this Application shall be expressly conditioned upon the Applicant complying with all conditions of prior approvals, satisfying all representations made by the Applicant or by others on its behalf during the course of the hearing on this matter before the Hearing Officer.

The grant of approval shall be further conditioned upon compliance with all applicable requirements of the city of Atlantic City Land Use Ordinances, or other City Ordinances, and the requirements of any City agency, board or authority. Any approval granted in accordance herewith shall be further expressly conditioned upon the Applicant obtaining all other necessary governmental approvals, and compliance with all Federal, State and local laws.

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CRDA BOARD TALLY

June 21, 2016

GAZI CHOWDURY (2322 SIRACUSA TERRACE, BLOCK 337 LOT 54) - Bulk variance to allow a single family dwelling. (LL)

MOTION

RT

SECOND

BB

Debra DiLorenzo

A

Edward Gant

Y

Mark Giannantonio

Y

Mayor Don Guardian

Y

Gary Hill

Y

Howard Kyle

Y

Matthew Levinson

A

Robert Mulcahy

Y

William Mullen

Y

Christopher S. Porrino (Designee David Rebuck)

DR

Charles A. Richman (Designee Bob Bartolone)

BB

Ford M. Scudder (Designee Bob Shaughnessy)

BS

Frank Spencer

Y

Richard Tolson

Y