

9/6/18

**RESOLUTION APPROVING BULK VARIANCES  
FOR MASSETT & KRIEGER AT 17 OCEAN STREET**

WHEREAS, the applicants, JIM MASSETT and JESSICA KRIEGER are the owners of a home at 17 Ocean Street, Highlands, New Jersey (Block 19, Lot 8) and have filed an application to construct an unattached garage with a roof-top deck in their front yard; and

WHEREAS, all jurisdictional requirements have been met, and proper notice has been given pursuant to the Municipal Land Use Law and Borough Ordinances, and the Board has jurisdiction to hear this application; and

WHEREAS, the Board considered the application at a public hearing on August 8, 2018; and

WHEREAS, the Board heard testimony from the applicant, JIM MASSETT; his engineer, DANIEL CARUSO; and JOSEPH MOLINARI, the draftsman for the architectural plans submitted by his employer; and

WHEREAS, a neighbor, LOUISA MC MILLAN appeared to both ask questions of the witnesses and testify in opposition to the application; and another neighbor, DOUGLAS WIDMAN appeared to ask questions of the witnesses, but did not testify; and

WHEREAS, the applicant submitted the following documents in evidence:

A-1: Variance application (2 pages);

- A-2: Zoning permit application—denied (1 page)
- A-3: Survey by LAKE LAND SURVEYING dated 11/8/16
- A-4: Proposed Plan and Elevation by JAMES WATT dated 5/29/18 (1 sheet)
- A-5 Grading Plan for Proposed Garage by DANIEL CARUSO dated 7/30/18
- A-6a&b colored pictures of property

AND, WHEREAS, the following exhibit was also marked into evidence:

- B-1: Board Engineer review letter dated 7/29/18 (4 pages)
- O-1 picture of front of house
- O-2 picture from Widman property, facing south to the retaining wall

WHEREAS, the Board, after considering the evidence, has made the following factual findings and conclusions:

1. The applicants are the owners of a home located in the R-1.01 Zone.

2. The existing/proposed use for a single-family home is in conformance with the R-1.01 Zone requirements.

3. The existing driveway along the southerly property line, which serves the dwelling, will remain.

4. A second "driveway", which is really only an enlarged apron, is proposed from the same street where the existing driveway begins.

5. No variance relief is required for lot area, lot frontage, lot depth, front yard setback, rear yard setback, building height, lot coverage, or building coverage, as all currently conform with the Borough's ordinances.

6. The new structure (garage) will be aesthetically similar to the existing structure. It will be a concrete slab on grade.

7. The usage of a flat roof will minimize any "massing" effect of seeing an additional structure on the property, in the front yard. The proposed garage is to be built into the ground, rather than sitting on the ground, thereby decreasing any negative visual effect on the street scape.

8. Though the property is fairly large (over twice the lot area required in the zone), there is no existing garage. Neither is there any parking available under the deck of the home.

9. There was significant testimony, and several questions, regarding the retaining walls and stone "wall" (it was not clear whether it was a wall or simply a pile of stones) on the property, and what purpose they served, and how they would affect both the subject and its neighbors. The Board was particularly concerned with those walls not being

disturbed, so that there was no impact on any neighbor, whether by drainage or otherwise.

10. Parking is a problem throughout the Borough, as well as on Ocean Street. The addition of the detached garage will add two off-street parking spaces, which will be in addition to parking available on site in the existing driveway. No parking variance is required, since the parking requirements of the ordinance have been met. In this case, available parking is being improved and extended.

11. The construction of the detached garage, as proposed by the applicants, is an innovative use of the space.

12. There is no possibility, because of the slope of the property and the existing home, to place a garage to the rear or side of the property.

13. Any shrubs or plantings removed shall be replaced with shrubs and plantings which blend in well with the balance of the neighborhood.

14. Because of the slope of the property, water currently flows from the top of the property, where the house is situated, down to Ocean Street, and then flows southerly.

15. There does not appear to be any problem with drainage, however the applicant will add gutters to

the garage in order to collect runoff, and not have the runoff flow onto neighboring properties.

16. The Board recommended, and the applicant agreed, that a ridge line will be installed between the old retaining wall and new retaining wall. That will minimize runoff towards the neighbor, and direct any runoff towards the garage. If required by the building code, "underdrains" will be installed to catch the water running in the direction of the garage.

17. The applicant will amend its plans so that the new retaining wall on the north side will reflect the grading. It will also reflect the height of the wall.

18. The primary retaining wall will remain in place, as it is.

19. If either retaining wall needs rebuilding, the applicant will undertake the same, as it is the intention not to remove any retaining walls from the property as part of this project.

20. The applicant testified that he is not running a business on the property. Because of a job-related issue, there was a van at the house since July 3, which is why anyone would have seen that van.

That situation was temporary, and not for the purpose of running any business.

21. The applicant requests the following variance for preexisting conditions: side yard setbacks of 5.9/19.5 feet where 8/12 feet are required.

22. The applicant also seeks a variances for the following: front yard setback for an accessory structure (a garage) of 13 feet where 35 feet are required; a second driveway when the frontage is less than 400 feet, where only one is permitted; ground floor area of approximately 36% of the principal structure when only 30% is permitted.

23. The applicant meets the requirements of N.J.S.A. 40:55D-70c(1)(a) because of the shape and contour of the property. The applicant also meets the requirements of N.J.S.A. 40:55D-70c(2) in that this is a single family lot within the Borough and the applicant has met the hardship requirements. The applicant has minimized the deviations from the zoning ordinance in order to build a two-car garage on a property which currently has no garage.

24. The purposes of the Municipal Land Use Law will be advanced by these deviations from the Zoning

Ordinance requirements, and the benefits of the deviation substantially out way any detriment.

25. The granting of this variance is done without substantial detriment to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, the application was heard by the Board at its meeting on August 8, 2018, and this resolution shall memorialize the Board's action taken at that meeting;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board/Land Use Board of the Borough of Highlands that the application of JIM MASSETT and JESSICA KRIEGER to construct an unattached garage with a roof-top deck in their front yard in accordance with the plans accepted in evidence be and the same is hereby approved; and variances are hereby granted for side yard setbacks of 5.9/19.5 feet where 8/12 feet are required; front yard setback for an accessory structure (a garage) of 13 feet where 35 feet are required; a second driveway when the frontage is less than 400 feet, where only one is permitted; and ground floor area of approximately 36% of the principal structure when only 30% is permitted;.

AND BE IT FURTHER RESOLVED that this approval is subject to the following conditions:

A. Any damage to any existing pavement, sidewalk, or curb by this project shall be repaired or replaced by the applicant, to the satisfaction of the Borough.

B. Any retaining wall exceeding 3.5 ft. in height will require structural calculations for review. Further review of the retaining wall is deferred to the Building Department.

C. The applicant shall obtain outside agency approvals, as required, from the following:

(1) NJ DEP

(2) Flood Plain Officer

(3) Construction Official

(4) Fire Official

(5) All other departments and agencies having jurisdiction.

D. New shrubs and plantings shall match those found elsewhere in the neighborhood.

E. A new retaining wall will be placed on the north side of the garage.

F. Plans shall be updated to show grades and height of wall.

G. Ridge line shall be constructed between the old retaining wall and new wall to minimize runoff, and be directed towards the garage.



H. Gutters shall be installed to collect runoff from the garage and direct it toward the street; and the plans will be noted accordingly.

I. Ground water shall be collected by use of "underdrains" in accordance with the National Building Code.

J. If any existing retaining wall requires reconstruction, as a result of this project, applicant will undertake the same.

L. There will be no parking on the driveway apron in front of the garage.

M. The applicant will work with the board's engineer to address any impacts from stormwater runoff.

VOTE	MAYOR ONEIL	CHIEF BURTON	COUNCILMAN BRASWELL	MR. COLBY	MR. FRANCY	MR. GALLAGHER	MR. KNOX	MR. NOLAN	MR. STOCKTON
YES	x	x	x	x	x		2 <sup>nd</sup> x		x
NO						x		1 <sup>st</sup> x	
ABST									



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Andrew Stockton, Chairman



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Nancy O'Neil, LUB Secretary