

Bulk variances for front yard setback and building coverage

**RESOLUTION
LEONIA PLANNING BOARD
APPLICATION OF WEIMIN ZHANG
CALENDAR NO. 2023-01**

WHEREAS, Weimin Zhang (hereinafter referred to as the “Applicant”) applied for bulk variances for front yard setback and building coverage to permit the construction of an enclosed front porch/vestibule (hereinafter referred to as the “Application”), as further described herein; and

WHEREAS, the property subject of the Application is identified on the Tax Map of the Borough of Leonia as Block 206, Lot 9, and is more commonly known as 11 Brook Terrace, Leonia, New Jersey (the “Property”); and

WHEREAS, the Property is located in the A-3 Zone; and

WHEREAS, the Property is improved with a single family dwelling; and

WHEREAS, the application was called for public hearings on October 25, 2023 and November 21, 2023 on proper notice, at which time the Junhao Zhang, the son of the Applicant was sworn and testified in support of the Application; and

WHEREAS, the following exhibits were marked into evidence at the hearing:

A-1 Hand-drawn renderings of the proposed enclosed porch

A-2 Revised hand-drawn renderings of the proposed enclosed porch

B-1 Site Survey; and

WHEREAS, no members of the public appeared at the hearing and either asked questions or provided comments; and

WHEREAS, the Board was assisted in the hearing by its planner, Sanyogita Chavan, P.P., and its engineers, Drew DiSessa, P.E., the latter of whom prepared a report dated October 20, 2023; and

WHEREAS, the Board has carefully considered the testimony of the Applicant; and

WHEREAS, the Board has made certain findings of fact and conclusions with respect to this Application.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Leonia that the following facts and conclusions of law are made and determined.

1. All of the recitals set forth above are incorporated herein by reference.
2. The Applicant is the owner of the Property.
3. The Property is located in the Borough of Leonia's A-3 Zone.
4. The Property has an area of 5,000 square feet, which conforms to the requirements of the A-3 Zone. The Property is regularly shaped and has conforming width and depth.
5. The Property is improved with a single-family dwelling that maintains a 27-foot front yard setback where a minimum of 25 feet is required. The dwelling covers 26.17 percent of the area of the Property, which exceeds the maximum building coverage percentage of 25 percent permitted in the A-3 Zone and is a pre-existing nonconformity.
6. The Applicant proposes to construct an enclosed front porch/vestibule area adjacent to the existing driveway. The porch/vestibule is proposed to be 12.3 feet wide and will extend 4.88 feet beyond the existing façade of the dwelling. The expansion towards the front property line will decrease the front yard setback to 20.02 feet, which requires variance relief. Additionally, the porch/vestibule area will increase the building coverage to 27.41% of the area

of the Property. The disparity between the existing front yard setback and the proposed setback based upon the dimension of the porch/vestibule is because the Applicant's survey measures the front yard setback to the building wall on the ground level even though there is an overhang on the second floor that is closer to the front property line. Although the Board was not provided with a dimension for the existing front yard setback to the second floor overhang, based upon the evidence presented, it appears that the second floor overhang is set back 24.9 feet from the front property line.

7. Mr. Zhang testified that due to topographical conditions and the layout of the dwelling, the Applicant regularly experiences stormwater, and in the fall, leaves, collecting at its front door. Neighboring lots, by comparison, have elevated front entries that limit the occurrence of these conditions. Mr. Zhang testified that the goal of the application was to prevent rot and damage to the front door of the dwelling, which has already been experienced as a result of ponding of water in this area.

8. The Board finds that the benefits of granting the front yard setback and building coverage variances outweigh the detriments and advance the purposes of zoning. It reaches this conclusion because the proposed expansion will limit the collection of stormwater in front of the entry to the dwelling on the Property, which alleviates a dangerous condition and is in furtherance of the general welfare (i.e., Purpose A of the Municipal Land Use Law). The proposed porch/vestibule will be one story in height, have four large windows facing Brook Terrace and is quite small in nature, thus avoiding the appearance of overdevelopment on the Property. The expansion into the front yard is similar to what exists on nearby dwellings and is limited to only 25% of the Property's frontage, which is a reasonable solution to what the Applicant seeks to achieve.

9. The Board concludes, for the reasons set forth above, that the grant of relief would not cause substantial detriment to the public good. No neighbors will be impacted by the proposed porch/vestibule area.

10. For these same reasons, the Board concludes that the grant of the requested variances will not substantially impair the intent and purposes of the zone plan and zoning ordinance. The purpose of the front yard setback requirement is to maintain a uniform streetscape and preserve light, air and open space. This addition does not impair those goals. Likewise, the building coverage limit is designed to prevent overdevelopment, which for the reasons set forth above, is not going to occur virtue of the grant of relief and construction of the porch/vestibule area.

NOW THEREFORE, BE IT RESOLVED the Application of Weimin Zhang for front yard and building coverage variances as set forth herein is hereby approved, subject to the following conditions:

1. **Location and Type:** The Applicant shall be permitted to construct the improvements shown on the hand-drawn sketch plan received by the Borough of Leonia Construction Department on October 31, 2023, which are undated but which were marked as Exhibit A-2 during the hearing subject to the following conditions:

A. The Applicant shall not be permitted to install any new utilities within the enclosed porch/vestibule area. The light fixture located on the existing building wall may be retained for lighting purposes, but under no circumstances shall the Applicant be permitted to install additional fixtures or any heating and/or cooling equipment or otherwise utilize the porch/vestibule area for habitation and/or living space.

B. The Applicant shall submit an as-built survey to the Borough of Leonia Building Department prior to the issuance of a certificate of occupancy upon completion of all work on the Property to confirm the construction was conformance with the representations made at the hearing.

2. **Legal and Engineering Fees:** The Applicant shall be responsible for all legal and engineering fees of the Planning Board in connection with this application and no Certificate of Occupancy shall be issued until all such fees are paid.

3. **Other Fees:** All additional fees, if any, required by the Borough Ordinances shall be paid.

4. **Reliance by Board on Testimony and Application:** This approval is specifically granted based upon the testimony of the Applicant, the exhibits, the application, any and amendments to same, submitted to the Board, all of which have been relied upon by the Board.

5. **Compliance with Ordinance:** Except for the variance(s) approved herein, the Applicant shall comply with all other provisions of the Zoning Code of the Borough of Leonia.

6. **Compliance with Laws:** The Applicant shall comply with all Borough Ordinances, and any and all State and Federal laws and applicable regulations.

7. **Non-Severability of Conditions:** The relief granted to the Applicant is specifically made subject to the conditions referred to herein. In the event any condition is held to be invalid, unenforceable, or unlawful, the entire variance shall be unenforceable. It is the intent of the Board that the variance(s) not be approved if any condition is invalid, and that the conditions are not severable from any variances or relief granted herein.

8. **Appeal Period:** The Applicant has been advised that there is an appeal period for the relief granted herein for a period of forty-five (45) days from the date of publication of notice of the relief granted pursuant to this Resolution in a newspaper of general circulation approved by the Board. Accordingly, any work or construction done prior to the expiration of the appeal period is accomplished at the sole risk of the Applicant.

The Board rendered its decision at the meeting prior to the adoption of this Resolution by the following vote:

Moved by: Mr. Botten
 Seconded by: Mr. Russell

	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Michael DeGidio, Chairman	X				
Mayor Zeigler				X	
Councilman Fusco	X				
Ira Gold, Vice Chairman	X				
William Russell	X				
Ron Wolf				X	
Patrick Botten	X				
Timothy Ford	X				
Sean Thompson	X				
Haesok Ko			X		
Damee Choi	X				

Said Resolution was adopted by the following vote:

Moved by: Mr. Botten
Seconded by: Vice Chair Gold

	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Michael DeGidio, Chairman	X				
Mayor Zeigler					X
Councilman Fusco	X				
Ira Gold, Vice Chairman	X				
William Russell	X				
Ron Wolf					X
Patrick Botten	X				
Timothy Ford	X				
Sean Thompson	X				
Haesok Ko					X
Damee Choi	X				

Dated: 12/20/2023

LEONIA PLANNING BOARD

By: 
Michael DeGidio, Chairman

CERTIFIED TO BE A TRUE COPY

By: 
Michael Greco, Administrative Secretary to
the Planning Board