

Bulk variances for front  
and rear yard setbacks and  
building coverage

**RESOLUTION  
LEONIA PLANNING BOARD  
APPLICATION OF MIKI AND KENYA LAZOVIK  
CALENDAR NO. 2024-03**

WHEREAS, Miki and Kenya Lazovik (hereinafter referred to as the “Applicant”) applied for bulk variances for front and rear yard setbacks and building coverage (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 1304, Lot 3, and is more commonly known as 122 Howard 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 hearing on February 28, 2024 on proper notice, at which time the Applicant was sworn and testified in support of the Application; and

WHEREAS, the Applicant presented the testimony of Peter Pulice, 344 Broad Avenue, Leonia, who was sworn and qualified as an expert in the fields of architecture and professional planning; and

WHEREAS, the Applicant submitted in support of the Application a 4-page plan entitled “Lazovik Residence” prepared by Pulice Williams Architects, dated January 30, 2024 (the “Site Plan”) that depicted the Property, the zoning survey, the existing dwelling and the proposed improvements; and

WHEREAS, the following exhibits were marked into evidence at the hearing on February 28, 2024:

A-1: Colorized SP-1 and Sheets A-1, A-2 and A-3 of the Site Plan

A-2: Photo Exhibit Sheet P-1, dated February 6, 2024

A-3: Surveys for 403 Allaire Road for pre- and post construction conditions.

WHEREAS, the following members of the public appeared at the hearing and either asked questions or provided comments:

Iris Coleman, 127 Howard Terrace, Leonia, New Jersey; and

WHEREAS, the Board was assisted in the hearing by its planner, Richard Schulman, P.P., and its engineer, Drew DiSessa, P.E.; 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 6,425.5 square feet, which is larger than the minimum

lot area required in the A-3 Zone. It is 100 feet long with varying depths between 67.98 feet along its frontage on Howard Terrace and 56.49 feet on its southern lot line due to the curvature of Allaire Road.

5. The Property is improved with a single family dwelling. According to the Applicant and the Site Plan, the dwelling is not practical as there is no bathroom on the first floor and only one on the second floor for the entire dwelling.

6. The Property maintains non-conforming front yards on both of its frontages. Its front yard on Howard Terrace is 24.8 feet while the front yard on Allaire Road is 21.9 feet, where a minimum front yard of 25 feet is required. Because of where the United States Postal Service listed the address to the Property, the rear yard is designated as its southerly yard adjacent to the existing garage. Currently, there is a compliant 25.2-foot rear yard setback.

7. The Applicant proposes to construct a two-story addition with dimensions of 15' x 27' to allow it to relocate the garage further south for the purposes of enlarging the dwelling's kitchen, creating a first floor bathroom, and providing a second floor primary bedroom suite inclusive of a second bathroom and office. As shown on the Site Plan and testified to by the witnesses, the Applicant has gone to great lengths to retain the architectural character of the dwelling, which was constructed approximately 90 years ago.

8. The Board is authorized, pursuant to *N.J.S.A. 40:55D-70(c)(1)*, to grant relief based upon a hardship arising from the physical conditions of the Property or an extraordinary situation caused by the lawfully existing the structures existing on the Property. Here, the Applicant seeks front and rear yard setback and building coverage variances to permit a front yard setback on the Allaire Road frontage of 19.5 feet, a rear yard setback on its south side of 10.1 feet, and a building coverage of 25.3%. The curvature of the Allaire Road is the cause of the front yard setback variance, while the rear yard setback is a function of the Postal Service's numbering of the dwelling on Howard Terrace rather than Allaire Road. When viewed from Allaire Road (which appears to be the dwelling's front facing building wall, as the driveway and

the majority of the width is on that side of the Property), the southern lot line functions as a side yard and the 10.1 foot setback would conform to the requirements of the Borough's Zoning Ordinance. This is particularly true when viewed in conjunction with the dwelling at 403 Allaire, as the homes are side by side and have sufficient space between them under the Borough's ordinances, at least on the Property. But for the address assigned by the Postage Service, the 10.1-foot yard would comply, thereby creating a hardship. The Board also finds that the curvature of Allaire Road has reduced the area of the Property such that if the Property were square (with 6,798 square feet of area) it would not exceed the building coverage limit. Based upon these facts, the Board concludes that the Applicant has met its burden for relief under this section of the Municipal Land Use Law. The Board also concludes that without relief, the Applicant will suffer practical difficulties, and this justifies variances for front and rear yard setback and building coverage.

9. The Board also finds that the benefits of granting the required variances substantially outweigh the detriments and advance the purposes of zoning. It reaches this conclusion because doing so allows the Applicant to retain the character of the dwelling which is an important planning goal for the Borough while bringing the house up to the standards of modern living without causing significant impacts to adjacent properties. The Board commends the Applicant for its efforts in this regard and concludes that the general welfare will be advanced by the minor deviations sought, and for the reasons set forth above, the minimal inputs associated with the variances (to the extent there are any) are far outweighed by the positive attributes of the development.

10. The Board concludes, for the reasons set forth above, that the grant of relief would not cause substantial detriment to the public good. The front yard setback allows for a

continuous building wall and due to topography no impact from the proximity of the addition to the street will arise. Similarly, the addition will not impact the home at 403 Allaire because its expansion, as shown on A-2, does not extend to the garage at the northernmost part of the lot; the living quarters of that dwelling are further away from the common property line and there is more than sufficient light, air and open space. Finally, the slight increase in building coverage will be barely noticeable. The Property is well landscaped and its steeply pitched roofline does not present the appearance of an overdeveloped lot.

11. 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 Borough's Master Plan encourages efforts to retain the character of the Borough and the Board concludes that the Applicant is furthering the Borough's planning goals despite deviating, albeit slightly, from the zoning requirements. These deviations are not so significant as to rise to the level of a substantial impairment, and therefore allow the Board to approve the required variances.

**NOW THEREFORE, BE IT RESOLVED** the Application of Miki and Kenya Lazovik for front and rear yard setback 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 Site Plan prepared by Pulice Williams Architects, dated January 30, 2024 subject to the following conditions:

A. Any trees to be removed from the Property shall be replaced in consultation with the Borough of Leonia Shade Tree Commission.

B. The Applicant shall comply with the Engineering Review Letter of Pennoni Engineering, dated February 20, 2024.

C. The Applicant shall submit an as-built survey upon completion of all work on the Property to confirm conformance with this condition.

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. Ford  
 Seconded by: Mr. Wolf

	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Michael DeGidio, Chairman				X	
Mayor Ziegler				X	
Councilman Hesterbrink	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				



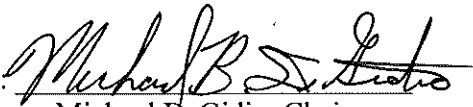
Said Resolution was adopted by the following vote:

Moved by: Mr. Ford  
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 Ziegler					X
Councilman Hesterbrink	✓				
Ira Gold, Vice Chairman				✓	
William Russell	✓				
Ron Wolf				✓	
Patrick Botten				✓	
Timothy Ford	✓				
Sean Thompson	✓				
Haesok Ko	✓				
Damee Choi	✓				

Dated: 03/27/2024

LEONIA PLANNING BOARD

By:   
Michael DeGidio, Chairman

CERTIFIED TO BE A TRUE COPY

By:   
Michael Greco, Administrative Secretary to  
the Planning Board

