

Bulk variances for front
yard setback and building
coverage

**RESOLUTION
LEONIA PLANNING BOARD
APPLICATION OF RUPAL MISTRY
CALENDAR NO. 2024-10**

WHEREAS, Rupal Mistry (hereinafter referred to as the “Applicant”) applied for bulk variances for front yard setback and building coverage to expand an existing single family dwelling (hereinafter referred to as the “Application”), as further described herein; and

WHEREAS, the property that is the subject of the Application is identified on the Tax Map of the Borough of Leonia as Block 1205, Lot 13, and is more commonly known as 149 Prospect Street, 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 a public hearing on August 28, 2024 on proper notice, at which time the Applicant was sworn and testified in support of the Application; and

WHEREAS, the Applicant testified under oath presented the sworn testimony of Peter Pulice, Pulice Williams Architects, 344 Broad Avenue, Leonia, New Jersey; who was qualified as an expert in the fields of architecture & professional planning; and

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

A-1 Photo exhibit, 2 pages; and

WHEREAS, the Applicant submitted a 3-page plan entitled “Proposed Additions Mistry/Levi Residence” prepared by Pulice Williams Architects, dated July 29, 2024 in support of the Application that depicted the Property, the dwelling and proposed improvements (the “Site Plan”); and

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

WHEREAS, the Board has carefully considered the testimony of the Applicant and her witness; 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 7,309 square feet, which is larger than the minimum lot area required in the A-3 Zone. It has dimensions of 60.44’ x +/- 121’ and is regularly shaped.
5. The Property is improved with a single-family dwelling that was constructed more than 100 years ago, prior to the advent of zoning in the Borough.
6. The Property is located at the intersection of Prospect Street and Leonia Avenue. The front door of the dwelling faces Prospect Street while a driveway curb cut is located on the Leonia Avenue frontage. The driveway services a detached garage that is 2.9 feet off the northeastern property line, which is a pre-existing non-conformity as it violates § 290-45(A)(4)

of the Zoning Ordinance, which currently requires a 3-foot setback. The front yard adjacent to the Leonia Avenue frontage is 14.4 feet, which does not conform to 25-foot requirement in the A-3 Zone as specified by § 290-8(B) of the Zoning Ordinance, and is a pre-existing non-conformity, as is the 5.4 foot side yard on the opposite side of the dwelling, as a minimum of 10 feet is required by § 290-8(D) of the Zoning Ordinance.

7. The Applicant proposes two areas of expansion on the first floor only. One is in the front yard adjoining the Leonia Avenue frontage, where an existing family room will be extended by 10.5 feet to create a ground-floor guest suite. The proposed addition will match the existing front yard setback of 14.4 feet to the Leonia Avenue frontage and will be designed with a flat roof. The second addition is a roofed porch at the rear entry door (adjacent to the driveway) with dimensions of 7'6" x 19'. The porch will be supported by columns but will be otherwise open to the elements. The two additions will increase the building coverage from an already non-conformity of 26% to 30.3% of the area of the Property where no more than 25% is permitted in the A-3 Zone.

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 a front yard setback variance because she is unable to place the guest room addition in the rear yard of the dwelling for two reasons. First, doing so could interfere with the ability of vehicles to maneuver in the driveway and into the garage. Second, the internal layout of the dwelling is not amenable to same because according to the Applicant's architect, the plumbing lines are not located along the exterior walls and the new bathroom to be constructed could not be easily accomplished outside the existing footprint. The expansion matches the

existing front yard setback to the bay window located closer to the Prospect Street frontage and does not exacerbate the deviation from the Zoning Ordinance. 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 for the front yard setback variance.

9. The Board also finds that the benefits of granting the building coverage variance substantially outweigh the detriments and advance the purposes of zoning. It reaches this conclusion because the proposed additions allow the Applicant to retain the architectural character of the dwelling and upgrade the dwelling for the needs of modern living in a way that creates a desirable visual environment. The areas of the Property which the additions are located are well screened by existing natural landscaping so the benefits of granting the approval substantially outweigh the detriments. Notably, constructing the guest room addition in the rear of the building with the porch behind would require the removal of several large trees, which provide screening from Leonia Avenue and an adjacent property, and would run counter to the Borough's goals of preserving tree cover for stormwater management.

10. 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 proposal since they are only one story in height, well screened by the existing landscaping and, in the case of the porch addition, only covered by a roof but without walls, which limits the visual impact of the building mass.

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 proposal does not result in an overdevelopment of the Property, will not impinge on light, air, or open space and is a well thought out approach to address the needs of modern

living while retaining the architectural character of the dwelling. As such, the proposal actually advances the goals of the Borough's Master Plan.

12. As noted herein, the Board has determined that the existing front and side yard setbacks of the dwelling and the setback of detached garage are pre-existing non-conformities that may continue.

NOW THEREFORE, BE IT RESOLVED the Application of Rupal Mistry 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 Site Plan dated July 29, 2024 subject to the following conditions:
 - A. 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. Botten
 Seconded by: Vice Chairman Gold

	<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. Botten
Seconded by: Councilman Hesterbrink

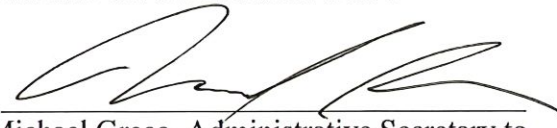
	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Michael DeGidio, Chairman	X				
Mayor Ziegler	X				
Councilman Hesterbrink	X				
Ira Gold, Vice Chairman	X				
William Russell				X	
Ron Wolf				X	
Patrick Botten	X				
Timothy Ford	X				
Sean Thompson	X				
Haesok Ko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

Dated: 9/25/2024

LEONIA PLANNING BOARD

By: 
Michael DeGidio, Chairman

CERTIFIED TO BE A TRUE COPY

By: 
Michael Greco, Administrative Secretary to
the Planning Board