

**ZONING BOARD OF ADJUSTMENT
BARNEGAT LIGHT
MAY 8, 2023**

THE MEETING OF THE ZONING BOARD OF ADJUSTMENT was called to order at 6:00pm by Chairwoman Nancy Spark who stated that notice of this meeting has been published and posted in accordance with requirements set forth in the New Jersey Open Public Meetings Act.

The Pledge of Allegiance followed.

ROLL CALL OF MEMBERS

ROLL CALL: Chairwoman Nancy Spark, Vice Chairwoman Lee-Anne Oros, Kathryn Esposito, Tim Brindley, Mark Finelli, Kathleen Clark,
ABSENT: Virginia Fitzsimons, Nancy Manookian, Linda Passaro,
Board attorney, Joseph Coronato was not present

MINUTES OF MARCH 13, 2023 MEETING

Chairwoman Nancy Spark did state for the record that she listened to the meeting minutes and therefore would be eligible to vote.

AT THIS TIME, Chairwoman Nancy Spark asked for a motion to approve the minutes of the March 13, 2023 meeting minutes.

MOTION: Lee-Anne Oros

SECOND: Tim Brindley

VOTE: Chairwoman Nancy Spark, Vice Chairwoman Lee-Anne Oros, Kathryn Esposito, Tim Brindley, Mark Finelli **ABSTAIN:** Kathleen Clark

NAYS: NONE ABSENT: Virginia Fitzsimons, Nancy Manookian, Linda Passaro,

AT THIS TIME, Chairwoman Nancy Spark asked for a motion to memorialize resolution #2023-04

MOTION: Lee-Anne Oros

SECOND: Kathryn Esposito

VOTE: Chairwoman Nancy Spark, Vice Chairwoman Lee-Anne Oros, Kathryn Esposito, Tim Brindley, Mark Finelli **ABSTAIN:** Kathleen Clark

NAYS: NONE ABSENT: Virginia Fitzsimons, Nancy Manookian, Linda Passaro,

**RESOLUTION# 2023-04 RESOLUTION
OF DENIAL APPLICATION OF
BARNEGAT LIGHT, LLC
APPLICATION #ZB-2023-01**

IN THE MATTER OF
BARNEGAT LIGHT, LLC

: BOARD OF ADJUSTMENT OF THE
: BOROUGH OF BARNEGAT LIGHT
: APP NUMBER 2023-1
: BLOCK 39; LOT 17.01
: 2011 SEAVIEW AVENUE

WHEREAS an application has been made to the Borough of Barnegat Light Board of Adjustment (the "Board") by Barnegat Light, LLC (the "applicant"), for variance approval to construct an exterior construct an elevator stack and covered porch on the north side of the existing two (2) story single family dwelling. The property known as 2011 Seaview Avenue in the Borough of Barnegat Light, NJ, Block 39 Lot 17.01 as depicted on the Tax Maps of the Borough of Barnegat Light, Ocean County, New Jersey, and said premises being located in the R-B Two Family Residential Zone with the R-A Single Family Residential Zone requirements: and

WHEREAS, the Applicant has satisfied the noticing requirements of the New Jersey Municipal Land Use Law and provided proof of same to the Barnegat Light Board of Adjustment; and

WHEREAS the Applicant was represented by Richard Visotcky Esq.; and

WHEREAS, the Barnegat Light Board of Adjustment reviewed the application, documents, plans and exhibits as submitted, and listened to the applicant and received information from its professional staff; and

WHEREAS the Board heard the testimony and the evidence presented by the applicant and received no comments from the public.

NOW, THEREFORE BE IT RESOLVED, that the Board of Adjustment of the Borough of Barnegat Light, County of Ocean, and State of New Jersey on March 13, 2023, made the following findings:

1. The Board found the application complete.
2. According to the application, the Applicant is requesting a side yard setback variance to construct an elevator stack on the North side of the existing single-family dwelling. The following variances and waivers:

- A. The following are new variances being requested:
 1. Minimum side yard setback of 9 Ft. is required, whereas 8.3 Ft. exists on the South side This is an existing non-conformity, no change is proposed,
 2. A minimum side yard setback of 9 Ft. is required, whereas 9.4 Ft. exists, and 3.8 Ft. is proposed to the North side where the elevator stack is proposed. A variance is required.

- B. The Applicant is not requesting any waivers.

3. In support of the application, the Applicant submitted the following documents:
 - A. Map of Survey/Plot Plan/Variance Plan, One (1) Sheet, prepared by Gravitt Consulting Group. The map is signed by Bruce A. Jacobs, P.E. and John P. Augustine, P.L.S., dated 07/19/2006 with latest revision date of 01/18/2023 with no revisions.

 - B. Architectural Plans, six (6) Sheets prepared by and signed by Malcolm C. Burton, AIA. The plan is signed by Malcolm C. Burton, Architect and dated 01/12/2023.

 - C. Color Photographs, three (3) color photographs showing various angles of the dwelling with no revisions.

4. During the public hearing held on March 13, 2023; the Board of Adjustment discussed the following review letters prepared by the Board's professionals, the contents of which are hereby adopted and incorporated in full:
 - A. Review letter dated February 1, 2023, by the Board of Adjustment Engineer, Frank Little, P.E., P.P., C.M.E.

5. The Board of Adjustment has received no review letters/memos from the Barnegat Light Officials.

6. During the public hearings, the following exhibits were marked into evidence:
 - A. A-1 color photo facing the ocean side.
 - B. A-2 color photo garage area.
 - C. A-3 color photo westside looking at access to the house.

- D. A-4 (2) two color photos views between the houses
- E. A-5 color photo grade level walkway entrance.

7. The Applicant requested a side yard variance approval for the elevator stack.
8. During the public hearing on March 13, 2023, the Applicant's Engineer Bruce Jacobs, PE, PP, described the variance needed by the Applicant.
 - A. Applicant is requesting a side yard variance pertaining to the house access for Donahue family.
 - B. Mr. Jacobs described the lot, the existing house, and the existing non-conformity.
 - C. The applicant is seeking to construct an elevator on the side of the house (North side).
 - D. Mr. Jacobs testified that there is no other place to put the elevator stack except on the North side of the house.
 - E. The applicant proposed the elevator stack be 3.8 Ft from the property line where 9 Ft is required.
 - F. Mr. Jacobs testified that the positive criteria outweighed any negative criteria and would not be detrimental to the zoning plan.
9. During the public hearing on March 13, 2023, the Applicant's Architect Malcolm C. Burton, AIA, described the variance needed by the Applicant and the proposed changes.
 - A. Mr. Burton described the proposed plans using the submitted plans.
 - B. The elevator will provide access to house the bedroom on the second floor and the living area on the third floor.
 - C. Stack will be located on the North side of the house.
 - D. The remainder of the house will be unchanged.
 - E. Mr. Burton testified that the house was constructed in the mid 1980's and there was no other place to locate the elevator based on the existing interior floor plan.
10. During the public hearing on March 13, 2023, Mr. John R. Donahue, the Resident/Applicant testified:
 - A. Applicant is requesting to install the elevator as he has the onset of Parkinson's and will require a wheelchair. In addition, his wife also has a muscle deficiency and will need an elevator to gain access to the second and third floors.
 - B. The family does utilize the residence virtually 12 months during the year but resides in Pennsylvania.
11. The Board specifically finds the variance for the elevator in the side yard setback (on the North side) as proposed is too close to the neighbor's property line. There

is concern for emergency access to the rear of the property especially since it is ocean front property. The Board finds that there is room within the structure to locate the elevator. The application is not in compliance with the ordinances of the Borough, and the same should not be approved.

CONCLUSIONS OF LAW

WHEREAS the Board determined that the Applicant's variance pursuant to *N.J.S.A.* 40:55D-46 and *N.J.S.A.* 40:55D-50 were found to be insufficient as to style and design, and the Board denies the Applicant's request; and

WHEREAS the need for the Minimum side yard setback of 9 Ft. is required, whereas and 3.8 ft. is proposed to the new elevator and is denied, and

WHEREAS, the Board has determined that the relief sought does impair the intent and purpose of the Master Plan or Zoning Ordinance of the Borough of Barnegat Light.

NOW, THEREFORE, BE IT RESOLVED, by the Barnegat Light Board of Adjustment, in the County of Ocean and State of New Jersey, on the 13th day of March 2023, upon a motion made by Mark Finelli and seconded by Tim Brindley, that the application of Barnegat Light, LLC to be granted, and failing to get the required votes to pass said motion, that being 3 votes to grant the request and 3 votes to deny the request the application is hereby denied.

ADOPTED this 8th day of May 2023.

MEMORIALIZATION RESOLUTION VOTES

MOTION: Lee-Anne Oros

SECOND: Kathryn Esposito

VOTE: Chairwoman Nancy Spark, Vice Chairwoman Lee-Anne Oros, Kathryn Esposito, Tim Brindley, Mark Finelli

ABSTAIN: Kathleen Clark

NAYS: NONE ABSENT: Virginia Fitzsimons, Nancy Manookian, Linda Passaro

VOTES FROM MARCH 13TH MEETING

Mark Finelli made a motion to approve the application.

MOTION: Mark Finelli

SECOND: Tim Brindley

APPROVE: Tim Brindley, Linda Passaro, Mark Finelli

NAYS: Vice Chairwoman Lee-Anne Oros, Kathryn Esposito, Virginia Fitzsimons

AT THIS TIME, Chairwoman Nancy Spark asked for a motion adjourn the meeting

MOTION: Kathleen Clark

SECOND: Tim Brindley

ALL IN FAVOR.

Cecile Hodgson
Zoning Board Secretary