

**RESOLUTION NO. 15 – 2017
(Cal 3-2017)**

**RESOLUTION OF THE PLANNING BOARD OF THE
BOROUGH OF SPRING LAKE, COUNTY OF
MONMOUTH, STATE OF NEW JERSEY.**

WHEREAS, 203 Monmouth Avenue, LLC (hereinafter referred to as the "applicant") has applied to the Planning Board of the Borough of Spring Lake for variance relief pursuant to N.J.S.A. 40:55D-70(d) from the provisions of the Spring Lake Zoning Ordinances to permit the construction of certain Victorian-style towers at property known as 203 Monmouth Avenue, Spring Lake, New Jersey, and also known as Block 34, Lot 1 on the Spring Lake Tax Map, and

WHEREAS, a public hearing was held at the regularly scheduled meeting of the Planning Board on August 9, 2017, in the Municipal Building, and testimony having been presented on behalf of the applicants and objectors to the application having been given an opportunity to be heard; and,

WHEREAS, such proof of service as may be required by New Jersey Statutes and Municipal Ordinances has been furnished; and,

WHEREAS, the Board, having considered the application, testimony, and exhibits submitted, makes the following findings:

1. The property is located in an R-1 Zone.
2. The property consists of a rectangular-shaped that has 100 feet of frontage on Monmouth Avenue and 150 feet of frontage on Second Avenue. The property sits on the southwest corner of the intersection of the aforementioned avenues. The property totals 15,000 square feet in total area. The property is presently vacant.
3. The applicant is proposing to construct a 2-1/2-story dwelling and a detached garage with driveway access to Second Avenue. The applicant is proposing to construct a dwelling that has two towers that extend above the height permitted by Borough Ordinance 225-12 D which permits principal structures in the R-1 zone to be built to a height of 35 feet. According to the plans and testimony presented, the applicant proposes to construct a tower at the northeast corner of the structure to a height of 43.9 feet and to construct a tower at the northwest corner of the house to a

height of 39 feet. The applicant has stated that the dwelling will otherwise conform to the requirements of the Borough's zoning ordinances and the Board accepts that representation and stipulation as true. The applicant presented the plans prepared by Paul A Damiano, Architects, LLC, dated January 14, 2017 and last revised May 10, 2017, which more fully detail the applicant's proposal.

4. The applicant brought this matter before the Board for the purpose of requesting the Board's interpretation of Borough Ordinance 225-34, and to request such variances as to height that may be necessary pursuant said interpretation. Councilman Robert Drasheff and the Mayor's Designee, Melissa Goldstein, recused themselves from the Board's consideration of the matter because of the potential that a variance under N.J.S.A. 40:5D-70(d) could be required.

5. Borough Ordinance 225-34 was amended in 2012 and reads as follows:

On residential dwelling and accessory structures, chimneys, vent pipes, lightning rods and non-roofed architectural/ornamental appurtenances such as cupolas and spires may be erected above the height limits prescribed by this chapter by no more than six feet, provided that the combined area of all such projections shall not exceed ten percent and no single projection shall exceed five percent of the total building area of the building to which they are attached. [Amended 4-10-2012 by Ord. No. 2012-005]

6. The applicant has proffered through its architect, Paul Damiano, that the design features that extend above the permitted 35 feet for height are essentially ornamental appurtenances, decorative in nature and similar to the referenced spires and cupolas. The Board heard testimony and received a report from the Board engineer, in which the Board attorney concurred, that the features under discussion were actually "roofed structures" not included under the ordinance's exception. At the hearing, the applicant's architect presented thorough testimony on the issue and proffered that the features could be seen as decorative because they offered no additional living space and were, essentially, unnecessary. The Board discussed the issue. Some of the discussion centered upon the intent of the original ordinance when enacted. Some members of the Board were of the opinion that the ordinance was to include such structures. Other members did not share that opinion. At the end of the discussion the motion was made to find that such structures are not to be included

under the exception of 225-34 citing the specific wording of the ordinance. The motion was seconded and the motion carried four votes to three.

7. As a result of the Board's finding, the applicant will need variance relief for the height of both tower structures pursuant to N.J.S.A. 40:55D-70(d.6) because both of the towers as proposed are in excess of 110% of the permitted height. In reference to the northeast tower the applicant is seeking a height variance to 43.9 feet and in reference to the northwest tower, the applicant is seeking a height variance to 39 feet.

8. The Board finds that the variances may be granted as requested. The Board finds that the Borough's height ordinance for the R-1 Zone was enacted to limit the bulk of the dwellings in the zone and to limit the encroachment on the air, light and open space of the neighbors and the community that may be caused by excessive height. The Board finds additionally that the height limitation was put in place to protect the uniformity of the zone and to limit the impact that taller structures have on the visual environment. The Board finds that in this case the variances may be granted because the heights proposed are otherwise appropriate given the location of the property, and the compatibility of the architectural design and the conformity of the scale of the features proposed with the surrounding community. The Board finds that the property is a gateway property that occupies a prominent location in the community. The Board finds from this that the property could and should support a somewhat more grand style of house in the nature of the existing Victorian style houses in the community. The Board finds that the tower design is common in such structures and the inclusion of such design elements will promote the visual environment of the community. The Board finds that the property is open in nature and that the towers proposed are complimented by such open space so as to prevent any undue encroachment into the air, light and open spaces of the neighbors and the community. The Board finds that the property is located across the street from the Hewitt Wellington Hotel which is a large structure of Victorian design and a central feature of the area. The Board finds that the inclusion of the design features on the subject dwelling will balance and compliment the design and scale of the Hotel and as such will be in conformity with the area and the area's structures. The Board finds that there are a number of other dwellings in the area of similar size and therefore the structure proposed will not look

out of place. The Board otherwise finds that there will be no detriment to the public good. The Board finds that the structure will promote the public good by adding to the aesthetics and visual landscape of the community. The Board further finds that there will be no detriment to the zone plan. The Board finds that there are many such features on other houses in the Zone. Overall, the Board finds that the inclusion of the features proposed represents a better use of the property and presents an overall benefit to the community.

9. For the reasons stated above, the Board finds that the application may be and is granted.

WHEREAS, The Board has that the relief requested can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinances of the Borough of Spring Lake and that the benefits of granting said relief substantially outweighs the detriments associated therewith; and that the height proposed is otherwise appropriate; and,

NOW THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Spring Lake on this 13th day of September, 2017, that the application for variance relief shall be and is hereby granted as stated herein subject to the following conditions:


1. That all existing taxes, water and sewer assessments be paid current prior to the issuance of a certificate of occupancy.
2. That all construction be completed in accordance with Borough Ordinances, the Building Codes, and Uniform Construction Codes and all other state, federal and local regulations including those addressing requirements for the construction of curbing, sidewalks and the control of storm water runoff.
3. That all legal fees, engineering fees, inspection fees, or performance bonds set by the Board Engineer be paid by the applicants prior to the issuance of a building permit.
4. That a copy of this Resolution be given to any subsequent owner of this property.
5. That the applicants shall conform their plans to the recommendations of

Board Engineer as found in his report of July 7, 2017, and as discussed at the hearing of this matter, and present additional plans evidencing compliance with the findings herein.

6. The applicant shall employ a roof design that uses cedar or wood shingles, if practical.

CERTIFICATION

I, Margaret McElynn, Secretary of the Planning Board of the Borough of Spring Lake, in the County of Monmouth, State of New Jersey, do hereby CERTIFY that the foregoing is a true copy of a resolution adopted by the Planning Board at its regular meeting held on September 13, 2017.



Margaret McElynn