

**BOROUGH OF EMERSON  
MUNICIPAL LAND USE BOARD**

**RESOLUTION APPROVING THE APPLICATION OF  
ROB JONES HOLDINGS, LLC FOR RESIDENTIAL SITE IMPROVEMENT WITH  
VARIANCE APPROVAL RELIEF FOR THE PREMISES LOCATED AT  
216 RANDOLPH AVENUE, EMERSON, NJ  
DESIGNATED AS BLOCK 728, LOT 5**

**HEARING DATE: October 17, 2024  
MEMORIALIZED: December 7, 2024**

**WHEREAS**, Rob Jones Holdings, LLC (hereinafter “Applicant”) applied to the Borough of Emerson Municipal Land Use Board (hereinafter “Board”) for residential site improvement with applied variance(s) approval relief to construct a two (2)-story addition to the existing dwelling upon the residential property located at 216 Randolph Avenue, Emerson, New Jersey also respectively identified on the Borough of Emerson Tax Map as Block 728, Lot 5 (“Property”); and

**WHEREAS**, Alfred Acquaviva, Esq. of Acquaviva Law Offices, LLC, whose office is located at 114 Goffle Road Suite 203, Hawthorne, NJ 07506 appeared as attorney for the Applicant; and

**WHEREAS**, the Board, at its October 17, 2024 meeting, reviewed Applicant’s submittal and at which time, proper public notice to all property owners within two hundred (200) feet therefrom and publication in the official newspaper of the Municipality, at least ten (10) days preceding the date of hearing, was confirmed and Applicants’ file was deemed complete; and

**WHEREAS**, testimony was received at the October 17, 2024 hearing, but not limited to, from the following;

1. Owner, Dwayne Roberts
2. David Agne, A.I.A., and

**WHEREAS**, the Applicant submitted the following documents in support of his Application prior to the Hearing:

- a. Unsigned and unsealed architectural plan set consisting of three (3) sheets, entitled “Interior Retrofit and Addition, 216 Randolph Avenue, Emerson, New Jersey, Block 728, Lot 5” prepared by DCDA Design Services, dated March 16, 2024;

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- b. Drainage Calculations, for 216 Randolph Avenue, Lot 5 in Block 728, Borough of Emerson, Bergen County, New Jersey, prepared by Thomas G. Stearns III, of GB Engineering, LLC, dated July 11, 2024;
- c. Borough of Emerson Application for Development, dated May 14, 2024;
- d. Borough of Emerson Appeal to Municipal Land Use Board, dated March 7, 2024;
- e. A copy of the transmittal letter outlining the bulk variances for the Application, dated May 28, 2024;
- f. Borough of Emerson Mandatory Submission Items and Application Checklists, undated;

**WHEREAS**, the following additional documents also were marked for review and accepted into evidence; and

**Exhibits October 17, 2024 Hearing**

A-1 Unsigned and unsealed architectural plan set consisting of three (3) sheets, entitled “Interior Retrofit and Addition, 216 Randolph Avenue, Emerson, New Jersey, Block 728, Lot 5” prepared by DCDA Design Services, dated March 16, 2024;

**WHEREAS**, this matter was opened to the public at the October 17, 2024 hearing, and whereas members of the public spoke of their believed opinion of the Application at said hearing, this matter was closed to the public; and

**WHEREAS**, pursuant to N.J.S.A. 40:55D-10g, a decision must be reduced to writing and shall include findings of facts, based upon the evidence presented at its public hearings; and

**WHEREAS**, the Board has made the following findings of fact and conclusions of law.

**NOW THEREFORE BE IT RESOLVED** by the Municipal Land Use Board of the Borough of Emerson that the following facts are made and determined:

**FINDINGS OF FACT**

1. The Property is located at 216 Randolph Avenue, New Jersey, Block 728, Lot 5, in the R-7.5 (Residential Single Family) Zone.

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2. The Applicant is the owner of the subject Property, and therefore has standing to bring this matter before the Board.

3. The Applicant provided proper mailed and published notices of the hearing, and jurisdiction is proper in the Board.

4. The Applicant seeks a Residential Site Improvement Plan with multiple Variance approval to remove the existing dwelling's enclosed porch, stucco frame garage, frame shed, metal lid, paver area and rear concrete walkways in order to construct a two (2)-story addition to the existing dwelling as well as remove the existing concrete driveway about the premises and install a replacement macadam driveway, steps and a paver patio as well as install a seepage pit as a means of alleviating and reducing stormwater runoff, all said improvements and alterations to occur upon the premises of 216 Randolph Avenue, Emerson, New Jersey ("Project").

5. The Application results in a non-conforming lot requiring the following "c" bulk variance relief:

- A. "Maximum Building Coverage for all Structures" Variance pursuant to N.J.S.A. 40:55-D-70c and further specified by the conditions of Ordinance §290-2, Attachment 2- Schedule 1: Lot, Yard, Height and Setback Requirements.  
28.0 percent is permitted, 13.44 percent is existing, and 30.86 percent is proposed. While still a non-conforming use requiring "c" bulk variance relief, the Project works to include a seepage pit situated upon the Property to alleviate drainage and stormwater runoff in the Property and surrounding property parcels which are positioned adjacent to the Property.
- B. "Minimum Side Yard Setback – Each – Interior Lot" Variance pursuant to N.J.S.A. 40:55-D-70c and further specified by the conditions of Ordinance § 290-2, Attachment 2-Schedule 1: Lot, Yard, Height and Setback Requirements.  
8 feet is required, 22.4 feet is existing, 4.9 feet is proposed.
- C. "Minimum Side Yard Setback – Each – Side Street" Variance pursuant to N.J.S.A. 40:55-D-70c and further specified by the conditions of Ordinance § 290-2, Attachment 2-Schedule 1: Lot, Yard, Height and Setback Requirements.

22 feet is required, 3.7 feet is existing, 3.7 feet remains after completion of the Project.

- D. “Minimum Side Yard Setback - Both” Variance pursuant to N.J.S.A. 40:55-D-70c and further specified by the conditions of Ordinance § 290-2, Attachment 2-Schedule 1: Lot, Yard, Height and Setback Requirements.

A total of 30 feet for both side yard setbacks is permitted, a total of 26.1 feet for both side yard setbacks is existing, and a total of 8.6 feet is proposed.

6. The Applicants called owner, Dwayne Roberts, as the first witness. Mr. Lyons testified that he currently owns the existing property at 216 Randolph Avenue in Emerson, New Jersey, and is desirous of maintaining residency in the municipality. Mr. Roberts testified as to his awareness of the comments, remarks and recommendations contained with the March 16, 2024 architectural plan entitled “Interior Retrofit and Addition, 216 Randolph Avenue, Emerson, New Jersey, Block 728, Lot 5” prepared by DCDA Design Services. Mr. Roberts further testified as to his willingness to abide by and maintain the Property in accordance with the comments and specifications set forth in said site plan as presented to the Board on October 17, 2024.

7. The Applicant called Architect, David Agne, A.I.A., as the second witness. Mr. Agne testified that the proposed Project presents as a retrofit of the existing dwelling structure situated upon the property’s premises as well as an addition to same. Said retrofit and addition effort was explained to be the initial removal of the existing dwelling’s enclosed porch, stucco frame garage, frame shed, metal lid, paver area and rear concrete walkways. Once said removal effort had concluded, or approached near conclusion, work would begin to construct a two (2)-story addition to the existing dwelling. During and or subsequent to such efforts, the removal of the existing concrete driveway about the premises would occur and the installation of a replacement macadam driveway would be undertaken along with the creation of steps and a paver patio. Additionally, a seepage pit would be installed upon the property’s exterior premises as a means of reducing stormwater runoff emanating from the property and alleviating said stormwater runoff’s occurrence upon the property parcels adjacent to 216 Randolph Avenue.

8. The combined testimony of Dwayne Roberts and David Agne, A.I.A., presented that if the “c” variances were granted, the positive criteria of the proposed Project outweighs any negative criteria, and that the application can be granted without any substantial detriment to the public

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good. The Project represents a positive reinvestment of a longstanding use, with little to no negative impact.

9. The matter was opened to the public generally to comment either in favor of or against the Application. There was a public comment from a neighboring resident.

**BE IT FURTHER RESOLVED** by the Municipal Land Use Board of the Borough of Emerson that based upon the above findings of fact, that the following conclusions are made and determined.

### **CONCLUSIONS OF LAW**

1. The Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq, gives the Board the power when reviewing applications for bulk variances, to grant variances in accordance with N.J.S.A. 40:55D-70(c). In order for the Board to grant variances, however, the applicant must demonstrate either: (1) hardship arising out of exceptional narrowness, shallowness, shape or exceptional topographic conditions of a specific piece of property; or (2) that the purposes of the Municipal Land Use law would be advanced by a deviation from the requirements of the ordinances and that the benefits of granting a variance would outweigh any detriment to the public good (the “positive criteria”). The applicant must further demonstrate that granting the requested variance relief will not impair the intent and purposes of the zone and master plan and the zoning land use ordinances (the “negative criteria”). As in all variance cases, the applicant has the burden of establishing both criteria to the satisfaction of the Board.

2. The Board has considered the Application seeking relief from existing “c” variances.

3. The Board, voting in favor of the Application, concludes that the relief pertaining to the “c” bulk variance relief can be granted without substantial detriment to the zoning plan and zoning ordinance of the Borough of Emerson, nor substantial detriment to the public good.

4. The Board finds that the proposed use is compatible with the character of the area in which the Property is located, and the approval of the variances will not change the character of the neighborhood, which has been zoned as a R-7.5 (Residential Single Family) Zone.

5. The Board finds that the proposed Project meets the objectives of the Borough of Emerson 2007 Master Plan and the 2015 Master Plan Amendment because the Project improves the site overall.

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6. The Board further finds that the Applicant met his burden of demonstrating that the “c” bulk variances can be granted without substantial detriment to the public good, while not substantially impairing the intent and purpose of the zoning plan and zoning ordinance.

7. As the Application seeks “c” bulk variances, the MLUL requires an affirmative five (5) votes to approve the application.

**NOW, THEREFORE, BE IT RESOLVED** that the Municipal Land Use Board of the Borough of Emerson, for the foregoing reasons as well as those stated on the record by the Board members, which are incorporated herein by reference, approves the within application for residential approval with applicable “c” bulk variances permitting the addition to and the alteration of the residential Property located at 216 Randolph Avenue, Emerson, New Jersey, and also identified on the Borough of Emerson Tax Map as Block 728, Lot 5, all in accordance with the plans and testimony submitted to the Board, subject to the following conditions:

1. Adherence to all representations made by the Applicant and the documentary materials submitted by the Applicant’s engineer prior to and during the course of the public hearing, which representations are made conditions of the within approval.
2. Adherence to plans, renderings and engineering drawings and other exhibits submitted by the Applicant. Any deviation from such submissions shall require the Applicant to return to the Board for further review and any necessary approvals.
3. The Applicant shall conform with all requirements of the Construction Official, Board Engineer, Police and Fire Departments and any other official having jurisdiction with respect to the use of the subject premises.
4. Applicant shall provide “as built” plan certified by the applicant’s engineer to the Emerson Construction Department upon the completion of the Project reflecting the plot improvements noted hereto.
5. Applicant shall be responsible for any other governmental approvals associated with the site (plot) improvements.
6. All testimony given by the Applicant and Applicant’s professional(s) in accordance with this application shall be binding, even if not specifically noted herein.
7. The Board shall maintain jurisdiction of the application as to any of the conditions above in which Applicant seeks clarification or amendment.

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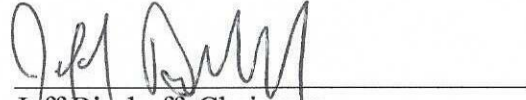


The undersigned, Secretary of the Municipal Land Use Board of the Borough of Emerson, hereby certifies that the above is a true copy of a Resolution duly memorialized by said Board on October 17, 2024 and that the within Resolution was adopted by the Board and memorialized pursuant to N.J.S.A. 40:55D-10(g) at its December 5, 2024 monthly meeting.

pursuant to N.J.S.A. 40:55D-10(g).



Marie Shust, Secretary  
Borough of Emerson  
Municipal Land Use Board



Jeff Bischoff, Chairman  
Borough of Emerson  
Municipal Land Use Board

Resolution Approved Motioned December 5, 2024 by: Anthony Khiami

Seconded by: Mike Cimino

Ayes 3

Nays 0

Abstentions: 0

Ineligible 4