

**BOROUGH OF BOGOTA**

	Aye	Nay	Absent	Abstn.	No Vote
Reiper (Class I)			X		
Liriano (Class II)			X		
Murphy (Class III)	x				
Mancini		x			
Frias	x				
Foster		x			
Fede	x				
Napolitano		x			
Schnipp	x			x	
Hordern (Alt. 1)					
Youla (Alt. 2)					x
Vote Total	4	3			

DATE: October 10, 2023

RESOLUTION: 2023-8

MOTION BY: Fede

SECOND BY: Frias

**RE: RESOLUTION REGARDING Application of Anthony Then & Eric Valerio**  
 163 Queen Anne Rd., Bogota, New Jersey  
**Block 75.01, Lot 5**  
**Site Plan and Variance Approvals**

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**RESOLUTION 2023-8**  
**PLANNING/ZONING BOARD OF BOROUGH OF BOGOTA**

**WHEREAS**, Anthony Then & Eric Valerio, as the applicant has applied to the Planning Board configuration of the Planning/Zoning Board of the Borough of Bogota for bulk Variance relief N.J.S.A. 40:55D-70(C), and Preliminary and Final Site Plan Approval pursuant to, specifically seeking to convert an existing one family house into a two-family house, and provide site improvements and landscaping; and

**WHEREAS**, public hearings, upon the requisite statutory notice, were held by the Planning Board configuration of the Planning and Zoning Board of the Borough of Bogota, on the application on August 8, 2023, and the Applicant, represented by counsel, John Lencis, Esq. appearing;

**WHEREAS**, during all hearings the applicant presented testimony and/ or reports from a witness who was accepted by the Board as an expert in his respective field, specifically: Albert Arencipia, AIA who was qualified as an architectural expert and testified before the board; and

**WHEREAS**, the Board having reviewed the entire record and exhibits and heard and considered the comments, both written and oral, of all experts; and

**WHEREAS**, the public was given the opportunity to question each witness and make comments at the conclusion of the testimony; and

**WHEREAS**, based upon the testimony, stipulations of the applicant and evidence presented, including all exhibits presented and all the plans, and the comments of the aforesaid municipal representative and the public; and

**NOW THEREFORE BE IT RESOLVED** the Zoning Board configuration of the Planning/Zoning Board of the Borough of Bogota has made findings of fact and conclusions of law:

1. The applicant is seeking to convert a single-family house to a two-family house.
2. A two-family house is permitted in the zone.
3. The expansion of the house requires a variance due to the garage encroaching in the side yard setback.
4. The applicant proposes to install a two-car garage on the property.
5. The building on the property is currently in poor condition. The applicant intends to improve the building. The applicant will also add landscaping; improve drainage and install appropriate fencing.
6. Applicant will install a dry well on the site to address drainage issues.
7. There is a pre-existing front yard setback encroachment on site, which is required because the applicant needs the stairs to comply with existing code.

8. The proposed application requires four (4) off-street parking spaces. The garage will be noncompliant with RSIS standards, which require 18 feet width. As such the application requires a de minimis waiver of RSIS standards
9. The property currently has a 10-foot curb cut which will be increased to an 18-foot curb cut to accommodate both garages. There will also be parking available in front of the garage. The proposed application provides a total of 3.5 spaces on site. There will be a loss of one off-street parking space in the area due to the expansion of the curb cut.
10. The applicant is installing a significant landscape plan in the front yard where currently none exists.
11. The applicant is proposing to install shrubs every three (3) feet in accordance with the landscape plan. In addition, a two and one half (2.5) inch caliper shade tree will be installed in the front yard.
12. The applicant stipulated it will not disturb the street tree in front of the house that was recently planted by the Borough.
13. The applicant is installing ground lighting around the perimeter of the house, which will comply with all Borough lighting standards.
14. The applicant proposes to install white vinyl fence in the rear yard and side yard of the property.
15. Due to the fact that impervious coverage is being increased, the applicant is installing a seepage pit. The proposed system is designed to the 50-year storm. The applicant

stipulated it will perform a percolation test and provide the test results to the board engineer prior to construction. In the event board engineer determines the test to be inadequate, the applicant will redesign the proposed system and seek an amendment to the site plan to install a system that can accommodate a 100-year storm.

16. The applicant stipulated it will provide a telescopic inspection of the sewer lateral and sewer line to the board engineer to confirm the integrity of the sewer as well as the lateral. In the event either is damaged or does not have sufficient capacity to service the property the applicant will replace the lateral or sewer if necessary.

17. Applicant stipulated that the garage will be reserved for parking and not for storage.

18. The application proposes a crawl space under the house that has one access point.

This crawl space access point will be located in the center of the building.

19. The applicant will also move the location of the HVAC units and pad to the center of the building so as to mitigate the impact of noise on neighboring properties.

20. The application requires a front yard setback variance; a side yard setback variance; variance due to lot size; variance due to lot depth; off-street parking variance; RSIS design waiver due to parking space size.

21. The zoning ordinance permits a two-family house where the lot is 6000 square feet or greater, and lots under 4000 square feet permit a one family house. The site of the application contains an irregularly shaped lot that exceeds 4000 square feet but is less than 6000 square feet. The Board finds the site is able to accommodate the variance and improves the current building in a manner that is commensurate with the neighborhood.

22. The application will have no adverse impact to the neighborhood, the zoning ordinance, the master plan or the Municipal Land Use Law.
23. The application meets the positive criteria in that it is uniquely suitable for the site as it will enhance the appearance of the lot and the neighborhood. This was corroborated by the Borough planner. The Board finds that the goals of Municipal Land Use Law are met by this application in that it promotes appropriate population densities and concentrations and contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment. This application will serve to clean up the site, which currently contains a large overgrown lot and replaces it with a finished aesthetically pleasing building with appropriate landscaping.
24. The application meets the goals of the Zoning Code and Master Plan and promotes the general welfare.
25. The negative criteria have been met in that there is no detriment to the public good and there is no impairment to the zone plan. The Board finds the applicant has attempted to minimize the parking impact on the neighborhood and has addressed any board concerns. In addition, the site is oversized and large enough to accommodate the expansion of the building.
26. The Board finds that the positive effect outweighs any negative effect to the neighborhood. The applicant has presented proof that the purpose of the Municipal Land Use Law will be advanced by a deviation from the zoning ordinance requirements.
27. The applicant has demonstrated both the positive and negative criteria necessary for a

bulk variance relief. The applicant has demonstrated that a benefit that will be provided by a deviation from the Municipal Land Use Law, would outweigh any detriment to the Municipal Land Use Law.

**WHEREAS**, the Planning /Zoning Board of the Borough of Bogota has determined the applicant has presented evidence that establish the positive criteria for granting bulk variance relief unde NJSA 40:55D-70 (c) 1 and 2 as well as Preliminary and Final Site Plan Approval;

**NOW THEREFORE BE IT RESOLVED THAT THE PLANNING/ZONING BOARD OF THE BOROUGH OF BOGOTA**, hereby grants applicant's application as presented. This approval is subject to the following conditions:

1. This approval is specifically granted based upon the testimony of the applicant, the exhibits, and the application submitted to the Planning/Zoning Board of the Borough of Bogota, all of which have been relied upon by the Board.
2. The applicant shall comply with all stipulations made on the record to the board.
3. The relief granted to the Applicant is specifically made subject to any conditions referred to herein. In the event any condition is held to be invalid, unenforceable, or unlawful, the approval shall be unenforceable. It is the intent of the Board that the application not be approved if any condition is invalid and that the conditions are not severable from any relief granted herein.
4. Any violation of these conditions would result in a rescission of the approval, and result in the revocation of any certificate of occupancy for the subject site.
5. The applicant shall pay all professional fees incurred by the Board because of this application. In the event any professional escrow of the applicant has been exhausted, said escrow shall be replenished prior to the issuance of any certificates of occupancy.

6. Applicant shall enter into a developer's agreement with the Borough of Bogota regarding all public improvements and shall post-performance bonds to ensure all public improvements will be completed, will be posted by the applicant as a condition of approval.
7. All Plans including the final site plan plat of the applicant shall be subject to the final review and approval of the Board Engineer, Borough Planner to ensure compliance with all stipulations of applicant made on the record as well as applicable standards and codes.
8. The applicant will provide the Board Engineer with confirmation that the current sanitary sewer, water service and other utilities are adequate for the site. This shall include a telescopic inspection of the building sewer lateral before and after construction, and video of the inspection of the lateral shall be provided to the board engineer.
9. Applicant shall comply with the general comments and requirements set forth in the review letters of the board engineer and board planner.
10. The applicant stipulated:
  - a. The tree located in the front yard will be a 2.5 inches caliper tree.
  - b. Applicant will locate the crawl space access door in the center of the building.
  - c. Applicant will locate the HVAC units and pad in the center of the building.
  - d. Applicant will perform a percolation test prior to construction and test results shall be submitted to the board engineer for review and approval to confirm that the proposed drainage system adequately addresses a 50-year storm. In the event

does not the applicant will apply to the board for an amendment to the site plan approval and this amendment shall include a drainage system that will satisfy the 100-year storm.

11. The applicant will maintain Borough Shade trees in front of the house and will not damage same.
12. All construction shall comply with all controlling construction, environmental, engineering and fire safety codes. The applicant shall obtain all necessary state, county and municipal approvals and building permits. Applicant shall comply with all resolutions issued by the Governing Body regarding the subject site.
13. The applicant shall obtain all necessary municipal and county approvals and building permits required for the site including: Soil Moving Permit; Bergen County Soil Conservation District; Treatment Work Approval; Bergen County Planning Board.
14. Applicant shall enter into a Developer's Agreement with the Borough to address maintenance of trees and off-site improvements, said agreement shall be prepared by the Board Attorney, and is subject to review of Borough Attorney.

**PLANNING/ZONING BOARD OF THE BOROUGH OF BOGOTA**

Patricia Morrone  
Patricia Morrone, Secretary

Corrado Mancini  
Corrado Mancini, Chairman

I hereby certify the foregoing to be a true copy of a resolution adopted by the Planning Zoning Board of the Borough of Bogota at a meeting held on Oct 16, 2023.

ATTEST: Patricia Morrone  
Patricia Morrone, Clerk of the Board