

BERNARDS TOWNSHIP **ZONING BOARD OF ADJUSTMENT**

MINUTES

Regular Meeting
May 9, 2018

CALL TO ORDER

Chairman Rhatigan called the meeting to order at 7:31 PM.

OPEN MEETING STATEMENT

Chairman Rhatigan read the following statement:

"In accordance with the requirements of the Open Public Meetings Law, notice of this meeting of the Board of Adjustment of the Township of Bernards was posted on the bulletin board in the reception hall of the Municipal Building, Collyer Lane, Basking Ridge, New Jersey, was sent to the Bernardsville News, Bernardsville, NJ, and the Courier News, Bridgewater, NJ, and was filed with the Township Clerk all on January 11, 2017 and was electronically mailed to all those people who have requested individual notice."

"The following procedure has been adopted by the Bernards Township Board of Adjustment. There will be no new cases heard after 10:00 PM and no new witnesses or testimony heard after 10:30 PM."

ROLL CALL:

Members Present: Breslin, Genirs, Lane, Mastrangelo, Pozner, Rhatigan, Zaidel.
Members Late: NONE
Members Absent: Kleinert.
Also Present: Board Attorney, Steven K. Warner, Esq.; Township Planner, David Schley, PP, AICP;
Board Engineer, Thomas Quinn, PE, CME; Board Secretary, Cyndi Kiefer.

Ms. Genirs motioned, Mr. Lane seconded and by unanimous Voice Vote, the absence of Ms. Kleinert on May 9, 2018 was excused. Ms. Mastrangelo motioned, Mr. Lane seconded and by unanimous Voice Vote, the absences of Mr. Breslin and Ms. Pozner on April 4, 2018 were excused.

APPROVAL OF MINUTES

April 4, 2018 - Regular Session - Ms. Mastrangelo moved approval of the minutes as drafted. Ms. Genirs seconded.

Roll Call:

Aye: Genirs, Lane, Mastrangelo, Rhatigan, Zaidel.
Nay: NONE

Motion carried.

APPROVAL OF RESOLUTIONS

Resolution #ZB17-043 - Calise, Joseph & April; Block 1002, Lot 8; 40 Sunnybrook Road; Bulk Variances; (approved).

Ms. Mastrangelo moved approval of the resolution as drafted. Ms. Genirs seconded.

Roll Call:

Aye: Genirs, Lane, Mastrangelo, Rhatigan, Zaidel.
Nay: NONE

Motion carried.

Resolution #ZB18-008 - Laird, Jean/Kendall, Martin; Block 1611, Lot 24; 80 South Maple Avenue; Bulk Variances; (approved).

Mr. Zaidel moved approval of the resolution as drafted. Mr. Lane seconded.

Roll Call:

Aye: Genirs, Lane, Mastrangelo, Rhatigan, Zaidel.

Nay: NONE

Motion carried.

Resolution #ZB18-003 - Kavouras, Thomas & Maria; Block 1701, Lots 16 & 17; 16 Lord Stirling Road; Bulk Variances; (approved).

Ms. Genirs moved approval of the resolution as drafted. Ms. Mastrangelo seconded.

Roll Call:

Aye: Genirs, Lane, Mastrangelo, Rhatigan, Zaidel.

Nay: NONE

Motion carried.

COMPLETENESS HEARING

Verizon Corporate Services Group Inc.; Block 803, Lots 2, 3, 5, 6, 23; 300 North Maple Avenue; Bulk Variances; #ZB18-006.

Present: Robert C. Moschello, PE, Engineer for the Applicant
Salvatore Roccaro, Esq., Attorney for the Applicant

Mr. Moschello, Mr. Quinn and Mr. Schley were duly sworn by Mr. Warner.

Mr. Schley referred to his Completeness Review Memo (Revised Submission) dated March 28, 2018 and advised the Board that the two (2) applicable items listed involving delineation of both wetlands areas and stream buffer conservation areas and a stream buffer management plan (if required), had still not been submitted.

Robert C. Moschello, PE, Director of Engineering with *Gladstone Design Inc.*, Gladstone, NJ, introduced himself to the Board as the engineer for the applicant. He stated that the applicant was requesting submission waivers for those two (2) items. The property had been surveyed and the applicant would present the limits for the necessary easements at the public hearing to be held June 6, 2018.

Mr. Schley supported the request.

Ms. Mastrangelo motioned to deem Application #ZB18-006 *complete* with the understanding that the items listed in Mr. Schley's March 28, 2018 memo would be satisfied at the public hearing. Mr. Zaidel seconded.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Pozner, Rhatigan, Zaidel.

Nay: NONE

Motion carried.

COMPLETENESS HEARING

J. Nan Realty; Block 3603, Lot 1; 18 Columbia Road; Preliminary/Final Site Plan Approval, D-1 Use Variance, Bulk Variances; #ZB18-011.

Mr. Schley referred to his Completeness Review Memo (Revised Submission) dated May 4, 2018 and advised the Board that there were still multiple items outstanding. Frederick B. Zelle, Esq., attorney for the applicant, had informed him that the applicant planned on satisfying all the items either by submission or by request of waiver in time for the next public meeting scheduled for June 6, 2018.

Mr. Lane motioned to deem Application #ZB18-011 *incomplete*. Ms. Genirs seconded.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Pozner, Rhatican, Zaidel.

Nay: NONE

Motion carried.

COMPLETENESS HEARING

Site Aquisitions LLC (Tesla); Block 8501, Lot 39; 403 King George Road; Preliminary/Final Site Plan, D-1 Use Variance; [#ZB18-013](#).

Mr. Schley referred to his Completeness Review Memo dated April 25, 2018 and advised the Board that there were still multiple items outstanding. Robert Kasuba, Esq., attorney for the applicant, had informed him that the applicant planned on satisfying all the items either by submission or by request of waiver in time for the next public meeting scheduled for June 6, 2018.

COMPLETENESS AND PUBLIC HEARING

Carney, John J. & Patricia; Block 2101, Lot 11; 57 Berkeley Circle; Bulk Variances; [#ZB18-001](#).

Present: John J. Carney, Applicant

Mr. Carney, Mr. Schley and Mr. Quinn were duly sworn by Mr. Warner.

John J. Carney, applicant residing at 57 Berkeley Circle, Basking Ridge, NJ, explained to the Board that he was requesting a variance for fence height in the front yard. The fence was black aluminum and 4'-6" high which exceeded the maximum height for a fence in the front yard and added that since he had a corner lot, there were actually two (2) front yards. He testified that there was a bear who frequently visited his yard where his three (3) dogs ran loose and then showed the Board a picture of the bear which he had on his cell phone. Mr. Warner advised him that the picture would have to be submitted in paper form and would be marked **Exhibit A-1**.

In addition, Mr. Carney proposed to install a hot tub at the back of an existing deck which would be used by his daughter for physical therapy. Based on the definition provided in §21-3.1, the proposed spa was considered a pool which required relief for not being "located behind the rear building line of existing residential structures on adjoining lots." Mr. Carney noted that because his lot was on a cul-de-sac, there was no conforming location on the property for the spa.

Mr. Carney testified that no trees would be removed and that he would plant shrubs along portions of the fencing to act as a buffer. He added that there would be no significant visual change in the property and that the spa would be barely visible from Carteret Street and not visible at all from Berkeley Circle.

In response to a question from Ms. Genirs, Mr. Carney testified that he had spoken to the neighbors and that they had no issues with the proposed projects. He added that he had taken the photos submitted with the application some time during the past winter and that they accurately depicted the property as it existed at the time of the hearing.

Mr. Carney stipulated, as a condition of approval, to all of the items listed in Mr. Schley's General Comments Memo, dated April 25, 2018.

Hearing no further questions or comments from the board members, Chairman Rhatican opened the hearing for comments or questions from the public. Hearing none, he closed that portion of the hearing.

After deliberating, the board members felt that the applicants had satisfied the positive criteria required for a "c(1)" or "hardship" variance for the spa and a "c(2)" or "flexible c" variance for the di minimis nature of the nonconformity in fence height. They also felt that the applicants had satisfied the negative criteria.

Ms. Genirs moved to deem the application complete and to direct the Board Attorney to draft a Resolution memorializing the Board's decision to grant the application for variance relief requested by the applicants subject to the conditions stipulated to by the applicants and as stated during deliberations. Ms. Pozner seconded.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Pozner, Rhatican, Zaidel.

Nay: NONE

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Surett, Richard & Kimberly; Block 5504, Lot 5; 5 Runyon Drive; Bulk Variance; [#ZB18-009](#).

Present: Richard Surett, Applicant

Mr. Surett, Mr. Schley and Mr. Quinn were duly sworn by Mr. Warner.

Richard Surett, applicant residing at 5 Runyon Drive, Basking Ridge, NJ, stated that he was requesting relief from §21-18.1 which requires that pools be located "behind the rear building line of existing residential structures on adjoining lots." Because of the orientation of the neighboring house on Lot 6, Mr. Surett testified that there was no conforming location on his property for placement of the pool.

Mr. Surett further testified that he had taken the pictures submitted with the application and that they accurately depicted property as it existed at the time of the hearing. In addition, he had spoken to the neighbors and they had no issues with the proposed pool location.

Mr. Breslin and Ms. Genirs questioned why there was no landscaping proposed to buffer the pool. Mr. Surett responded that he had offered that option to both neighbors and they were not concerned.

Mr. Quinn noted that there was a discrepancy between the "Existing Lot Coverage" numbers on the plan. Mr. Surett agreed to have the plans revised to eliminate the discrepancy and to include revisions requested in Comment #3 in Mr. Schley's General Comments Memo dated April 25, 2018. As a condition of approval, Mr. Surett stipulated to complying with all the remaining comments in that memo.

Hearing no further questions or comments from the board members, Chairman Rhatican opened the hearing for comments or questions from the public. Hearing none, he closed that portion of the hearing.

After deliberating, the board members felt that the applicants had satisfied the positive criteria required for a "c(1)" or "hardship" variance. They also felt that the applicants had satisfied the negative criteria.

Mr. Zaidel moved to deem the application complete and to direct the Board Attorney to draft a Resolution memorializing the Board's decision to grant the application for variance relief requested by the applicants subject to the conditions stipulated to by the applicants and as stated during deliberations. Ms. Mastrangelo seconded.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Pozner, Rhatican, Zaidel.

Nay: NONE

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Lavoura, Carlos & Liliana; Block 706, Lot 8; 14 Glen Avenue.; Bulk Variance; [#ZB18-010](#).

Present: Carlos & Liliana Lavoura, Applicants

Mrs. Lavoura, Mr. Lavoura, Mr. Schley and Mr. Quinn were duly sworn by Mr. Warner.

Carlos Lavoura, applicant residing at 14 Glen Avenue, Basking Ridge, NJ, stated that he and his wife, Liliana, were requesting relief for maximum lot coverage in the R-6 Residential Zone for an existing pool and proposed patio. He testified that when the pool was installed, the concrete decking around the pool was enlarged from 1' wide to 3' wide to allow for the safety cover's anchoring system. He also testified that in order to comply with §21-18.1 ("pool shall be located behind the rear building line of existing residential structures on adjoining lots"), the pool had been placed farther back on the property requiring a longer walkway and hence, more impervious coverage. He noted that there was no walkway from the existing patio to the pool.

Chairman Rhatican, Mr. Breslin, Mr. Zaidel and Ms. Genirs expressed concern that the amount of impervious coverage requested by the applicant was excessive. Given the fact that the existing lot coverage already exceeded the maximum for the zone, they asked the applicants to reduce the additional requested amount. A discussion ensued and the applicants stipulated to an overall 400 square foot reduction in the amount of impervious coverage requested. The applicants would be allowed to make that reduction however they saw fit.

In response to questions from Ms. Mastrangelo, Mr. Lavoura testified that he had spoken to the neighbors and they had no issues with the project. He also stated that he had taken the photos submitted with the application and that they accurately depicted the property as it existed at the time of the hearing.

Hearing no further questions from the board members, Chairman Rhatican opened the hearing for questions and comments from the public. Hearing none, he closed that portion of the hearing.

After deliberating, the majority of the board members felt that the applicants had satisfied the positive criteria required for a "c(2)" or "flexible c" variance. They also felt that the applicants had satisfied the negative criteria.

Ms. Genirs moved to deem the application complete and to direct the Board Attorney to draft a Resolution memorializing the Board's decision to grant the application for variance relief requested by the applicants subject to the conditions stipulated to by the applicants and as stated during deliberations. Ms. Pozner seconded.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Pozner, Rhatican, Zaidel.

Nay: NONE

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Snyder, Gregory; Block 2001, Lot 11; 26 Ash Street; Bulk Variance; [#ZB18-008](#).

Present: Gregory Snyder, Applicant

Mr. Snyder, Mr. Schley and Mr. Quinn were duly sworn by Mr. Warner.

Gregory Snyder, applicant residing at 26 Ash Street, Basking Ridge, NJ, advised the Board that he was requesting relief for the maximum lot coverage allowed in the R-7 Residential Zone in order to construct a patio behind the existing home and to widen his driveway. He added that he was removing a portion of the driveway which was currently nonconforming (within 5' of a side property line) to bring it into conformity.

Responding to a question from Mr. Zaidel, Mr. Snyder testified that he had taken the pictures that were submitted with the application and that they accurately depicted the property as it existed at the time of the hearing.

Mr. Zaidel noted that if the application were approved as is, the property would be significantly over the maximum allowable lot coverage and questioned the need for widening the driveway all the way down. Mr. Snyder responded that because the property had no public street frontage and it was a shared single lane driveway, there was no room for visitors to park except on the grass.

In order to decrease the proposed amount of lot coverage, Mr. Quinn suggested that the driveway remain narrow until it passed the house line. After further discussion, Mr. Snyder agreed to remove 500 square feet of impervious coverage from the proposed project. It would be left up to the applicant as to exactly where that reduction in coverage would take place although the Board encouraged him to apply the bulk of the reduction to the driveway size.

In addition, Mr. Snyder stipulated, as a condition of approval, to comply with all of the comments listed in Mr. Schley's April 25, 2018 memo and Mr. Quinn's May 7, 2018 memo.

Hearing no further questions from the board members, Chairman Rhatican opened the hearing for questions and comments from the public. Hearing none, he closed that portion of the hearing.

After deliberating, the majority of the board members felt that the applicant had satisfied the positive criteria required for a "c(2)" or "flexible c" variance. They also felt that the applicant had satisfied the negative criteria.

Mr. Zaidel moved to deem the application complete and to direct the Board Attorney to draft a Resolution memorializing the Board's decision to grant the application for variance relief requested by the applicant subject to the conditions stipulated to by the applicant and as stated during deliberations. Ms. Mastrangelo seconded.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Pozner, Rhatican, Zaidel.
Nay: NONE

Motion carried.

COMMENTS FROM MEMBERS OR STAFF

After confirming with Ms. Kiefer that there was no business scheduled on May 17, 2018, Chairman Rhatican cancelled that meeting.

Ms. Kiefer reminded the board members that they had to complete the stormwater management online training class before the June 30, 2018 deadline. She noted that a laptop computer would be set up at the 277 South Maple Avenue facility for those who were unable to access the site on their personal computers.

Chairman Rhatican advised the Board that, effective immediately, he was resigning his position on the Board since he was moving out of the Township and the Board expressed its appreciation for his service to the Township over the years.

ADJOURNMENT

Mr. Lane motioned, Ms. Pozner seconded and by unanimous Voice Vote, the meeting was adjourned at 8:55 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Zoning Board of Adjustment