

BERNARDS TOWNSHIP
ZONING BOARD OF ADJUSTMENT
MINUTES^{v2}
Regular Meeting
March 8, 2017

Chairman Rhatican called the meeting to order at 7:30 p.m.

OPEN MEETING STATEMENT

Chairman Rhatican read the following statement:

"In accordance with the requirements of the Open Public Meetings Law, notice of this regular 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 mailed to the Bernardsville News, Bernardsville, New Jersey; the Courier News, Bridgewater, New Jersey; and was filed with the Township Clerk all on January 11, 2017, and was mailed electronically 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 n new cases heard after 10:00 p.m. and no new witnesses or testimony will be heard after 10:30 p.m."

ROLL CALL:

Members Present: Bellows, Breslin, Genirs, Lane, Mastrangelo, Nungester, Rhatican, Surano, Zaidel
Members Late: NONE
Members Absent: NONE
Also Present: Steven K. Warner, Esq., Township Engineer Thomas Timko PE, Township Planner David Schley AICP PP, Board Secretary Cyndi Kiefer

APPROVAL OF RESOLUTION

Resolution: Verizon Corporate Services Group Inc. (ZB-16-026); Block 804, Lots 2.01 & 16; 295 North Maple Avenue; Floor Area Ratio Variance, Bulk Variances, Preliminary & Final Site Plan.

Counselor Warner advised the Board that he had received a letter from Stephen E. Barcan, attorney for the applicant, in which he noted that on page 1, Item #2 should read, "83.12 feet" instead of "83.2 feet." Counselor Warner stated that he would make that change.

Ms. Nungester motioned to approve the resolution as amended and Mr. Breslin seconded.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Nungester, Zaidel, Rhatican
Nay: NONE
Abstain: NONE

Motion carried.

COMPLETENESS and PUBLIC HEARING

**Kalafer, Joshua & Rachel; Block 5801, Lot 13; 55 Lyons Place; Bulk Variances;
#ZB16-017**

Anthony E. Koester, attorney with *Dilts & Koester*, Flemington, NJ, advised the Board that he was representing the applicant who was requesting relief for exceeding maximum lot coverage. The applicant sought to install a pool with filter equipment, a fence and walkway. In addition, the applicant would replace an existing slate patio and contiguous slate walk with mulch and remove an existing rear slate walk. The proposed lot coverage would be 18.28% which was a reduction in the current existing lot coverage of 18.36%. The subject property was located in the R-4 Zone which allowed 15% maximum lot coverage.

Counselor Warner swore in the professionals.

Robert B. Heibell, PE, LS, engineer with *Van Cleef Engineering Associates*, Hillsborough, NJ, informed the Board that he was a civil engineer and that his license was valid. In addition, he listed his educational and experience qualifications and was accepted as an expert witness in civil engineering by Chairman Rhatican.

Mr. Heibell stated that an as-built survey was done which included everything on the property and added up to 18.36% lot coverage. The house was built in 1990 and at that time zoning allowed 18% maximum lot coverage. There were also several pre-existing conditions such as minimum lot area and setbacks which were currently in violation of the R-4 bulk requirements. After reviewing the plan, he had advised the applicant to remove as much existing impervious cover as possible to bring about a net reduction in coverage in order to bring it closer to compliance.

Counselor Warner asked Chairman Rhatican if he would accept Mr. Heibell as an expert in professional planning also and Chairman Rhatican agreed.

Mr. Heibell responded to the memo dated October 6, 2016 from Board Engineer, Thomas Timko, PE, CME and stated that the applicant would stipulate to all four (4) points listed in the memo.

Mr. Heibell had received the memo dated February 27, 2017 from Township Planner, David Schley, PP, AICP and stated that the applicant had no objection to any of the four (4) points listed. The applicant agreed to the easement that was requested for the stream buffer on the easterly side of the property.

Counselor Warner asked Mr. Heibell if in his professional opinion as a planner, the benefits outweighed the detriments (C-2 variance criteria) and that the application also met the C-1 variance hardship criteria. Mr. Heibell agreed.

Chairman Rhatican asked the board members if they had any questions. Hearing none, he asked if any members of the public had any questions. Hearing none, he closed the meeting to the public.

Joshua Kalafer, applicant, advised the Board that he and his family had lived in the house for some time and had wanted a pool. He had discussed this with the neighbors and there had been no objections.

Chairman Rhatican asked if there were any questions or comments from the public.

Michael Menza, 42 Lyons Place, was sworn in by Counselor Warner. He advised the Board that he lived across the street and had a clear view of the pool. He encouraged the Board to vote favorably on the application especially in light of the fact that several others in the neighborhood had pools.

After deliberating, Ms. Genirs moved to deem the application complete and approve the application and Mr. Lane seconded.

Roll Call:

Aye:	Breslin, Genirs, Lane, Mastrangelo, Nungester, Zaidel, Rhatican
Nay:	NONE
Abstain:	NONE

Motion carried.

Nuotare Investments, LLC; Block 202, Lot 16; 154 Old Farm Road; Bulk Variance; #ZB16-029

Mr. Zaidel recused himself.

Frederick B. Zelle, attorney with *Bisogno, Loeffler & Zelle LLC*, Basking Ridge, NJ, advised the Board that he represented the applicant who was requesting a front yard setback variance in order to construct a rear addition and front portico to the home. He noted that the house predated the current ordinance and was constructed entirely in the front yard setback. The bulk of the addition would also be located in the front yard setback.

Counselor Warner swore in the board professionals along with the applicant's professionals.

Jonathon E. Booth, architect for the applicant, listed his educational and experience credentials and was accepted by Chairman Rhatican as a professional architect.

Mr. Booth gave a brief history of the property. The project totaled three (3) additions and resulted in a 46 foot setback from the front property line. The only portion of the project that was closer to the street was the front portico. The remainder of the additions were of minimal impact to neighbors and only visible from a very oblique angle from the street.

Mr. Booth stated that the applicant would comply with the points raised in a memo dated February 27, 2017 from Township Planner, David Schley, PP, AICP.

Chairman Rhatican asked if there were any questions from either the board members or the public. Hearing none, he closed the meeting to the public.

Counselor Zelle stated that this was a classic C-1 variance given the existing location of the house. There was no detriment whatsoever.

After deliberating, Mr. Surano motioned to deem the application complete and to approve the application. Ms. Mastrangelo seconded.

Roll Call:

Aye:	Breslin, Genirs, Lane, Mastrangelo, Nungester, Surano, Rhatican
Nay:	NONE
Abstain:	NONE

Motion carried.

**Ward, Susan Stocker; Block 2903, Lot 8; 49 Woodstone Road; Bulk Variance;
#ZB16-028**

Frederick B. Zelle, attorney with *Bisogno, Loeffler & Zelle LLC*, Basking Ridge, NJ, advised the Board that he represented the applicant who was requesting a front yard setback variance in order to construct a covered open front portico extending 1.3' closer to the front line than did the original uncovered stoop. He noted that the house was built prior to the current ordinance and a large portion of it was located in the front yard setback.

Counselor Warner swore in the professionals for both the applicant and the Board.

Cathy Mueller, PE, CME, engineer with *Page Mueller Engineering Consultants LLC*, Warren, NJ, listed her educational and experience qualifications and was accepted by Chairman Rhatican as an expert in engineering.

Ms. Mueller stated that she had been involved with the renovations of the home including the 4 X 8 covered front porch which replaced the uncovered landing in front of the house. She confirmed that the covered portico was 1.3 feet closer to the front line. Referring to Item #4 in a memo dated February 27, 2017 by Township Planner, David Schley, PP, AICP, Ms. Mueller also confirmed that the porch would remain open.

Chairman Rhatican asked if there were any questions or comments from either the public or the board members. Hearing none, he closed the meeting to the public.

Counselor Zelle stated that this was a classic C-1 variance because of the pre-existing non-conforming location of the existing dwelling. There was no detriment whatsoever.

After deliberating, Mr. Lane motioned to deem the application complete and to approve the application. Ms. Nungester seconded.

Roll Call:

Aye:	Breslin, Genirs, Lane, Mastrangelo, Nungester, Zaidel, Rhatican
Nay:	NONE
Abstain:	NONE

Motion carried.

Rockridge Court LLC; Block 2903, Lot 4; 84 Culberson Road; Bulk Variances; #ZB-16-027

Frederick B. Zelle, attorney with *Bisogno, Loeffler & Zelle LLC*, Basking Ridge, NJ, advised the Board that he represented the applicant who was requesting variances for a front yard setback, lot width and improvable area; the latter two were existing non-conforming conditions which could not be cured. The applicant proposed to raze the existing house which was in violation of the side yard setback requirements and construct a new home. Only the proposed front steps and covered porch related to the need for a front yard setback variance.

Counselor Zelle noted that, in error, he had submitted the mirror design of the proposed house and subsequently distributed sets showing the correct orientation to the board members and professionals.

Counselor Zelle stated that the proposed house eliminated the existing side yard setback issue and that it would have a much smaller footprint. The house could not be pushed back to bring the portico out of the front yard setback since the home would then be much closer to the wetlands.

Counselor Warner swore in the professionals for both the applicant and the Board.

Cathy Mueller, PE, CME, engineer with *Page Mueller Engineering Consultants LLC*, Warren, NJ, was accepted by Chairman Rhatican as an expert in engineering based on the credentials given during the previous application.

Robert Horowitz, *Horowitz & Sons Construction Co. Inc.*, Basking Ridge, NJ, advised the board members that he had built the home next door to the subject property. He added that although the property was 2.5 acres, not all of it was available due to environmental constraints. The existing pool was to remain which placed additional constraints as to where the house could be placed.

In response to a question from Township Planner, David Schley, PP, AICP, Ms. Mueller stated that upon approval, a tree replacement plan would be provided.

Chairman Rhatican asked if there were any further questions from the board members for Mr. Horowitz. Hearing none, he asked the public if there were any questions for Mr. Horowitz. Hearing none, he closed the meeting to the public.

Ms. Mueller stated that the existing house would be demolished and a new house would be built. They had identified the environmental issues including the wetlands, flagged them and incorporated them onto the survey. Because there was developed property in the 150 foot buffer associated with the wetlands, all improvements had to be contained in that same disturbed area. She noted that the existing house footprint was 3,775 sq. ft. while the proposed new house foot print was 2,761 sq. ft. The proposed new home and the majority of the driveway were going to fit in the existing footprint. Ms. Mueller addressed the pool by noting that because it was existing, it had no impact as far as the N.J.D.E.P. was concerned. In fact, it would be a detriment if the pool were to be filled in.

Ms. Mueller stated that unlike the existing house, the proposed new house would be in compliance with the side yard setback requirements and the overall project decreased the total impervious coverage by 1,443 sq. ft.

Ms. Mueller outlined the three (3) variances that were being requested. First, although the main part of the house was 101 feet from the front property line (where 100 ft. is required), the 4' X 10' front porch encroached on the front yard setback requiring relief. Second, the property did not meet the minimum lot width requirements and Ms. Mueller noted that the adjacent properties were also undersized. Third, the property did not meet the total improvable area requirement. She stressed that the latter two (2) were existing non-conforming conditions that could not be remedied.

Ms. Mueller then referred to Item #4 of Mr. Schley's memo dated February 27, 2017 and confirmed that the front porch would remain open. She also agreed to Item #5 of that memo which requested a wetlands conservation easement after Mr. Schley explained that it was standard practice for the township to request such an easement.

Ms. Mueller then advised the board members that the applicant would agree to the remainder of the items in the memo that were under her purview.

Counselor Zelle added that the applicant would stipulate to Item Nos. 10, 13 and 14. He concluded by stating that the environmental concerns on the property dictated what the applicant could and could not do. There was no control over that so the application could be approved under the C-1 hardship variance criteria. There was no detriment to the public good (C-2 variance criteria). In fact, the new house eliminated an existing non-conformity (side yard setback) and enhanced the neighborhood as a whole.

Chairman Rhatican asked if there were any further questions for any of the witnesses from the board members. Hearing none, he asked if there were any questions from the public. Hearing none, he closed the meeting to the public and began deliberations.

Once the deliberations concluded, Ms. Mastrangelo moved to deem the application complete and to approve the application with the conditions as outlined. Mr. Breslin seconded.

Roll Call:

Aye:	Breslin, Genirs, Lane, Mastrangelo, Nungester, Zaidel, Rhatican
Nay:	NONE
Abstain:	NONE

Motion carried.

2016 ANNUAL REPORT AND RECOMMENDATIONS OF THE ZONING BOARD OF ADJUSTMENT

Counselor Warner advised the board members that he had prepared the report which summarized all the applications and Mr. Schley's February 22, 2017 memo showed the application statistics over the past seven (7) years. The Board discussed whether to revisit recommendations they had made in recent years relative to residential lot coverage, historic properties and pool locations (last table on page 2 of Mr. Schley's memo) and ultimately decided not to make any recommendations this year.

Counselor Warner read the resolution adopting the report into the record. Mr. Zaidel moved approval of the resolution and Mr. Breslin seconded.

Roll Call:

Aye: Breslin, Genirs, Lane, Mastrangelo, Nungester, Zaidel, Rhatican

Nay: NONE

Abstain: NONE

Motion carried.

There being no further business, the meeting was adjourned at 9:08 p.m. by unanimous consent.

Respectfully submitted,

Cyndi Kiefer, Secretary
Bernards Township
Zoning Board of Adjustment