

BERNARDS TOWNSHIP
ZONING BOARD OF ADJUSTMENT

MINUTES

Regular Meeting

May 3, 2017

Chairman Rhatican called the meeting to order at 7:31 PM

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 no new cases heard after 10:00 PM and no new witnesses or testimony will be heard after 10:30 PM."

ROLL CALL:

Members Present: Genirs, Lane, Mastrangelo, Rhatican, Surano, Zaidel

Members Late: Breslin (7:33 PM)

Members Absent: Bellows, Nungester; on motion by Mr. Surano, seconded by Ms. Mastrangelo, Ms. Nungester's absence was excused.

Also Present: Board Counsel Steven K. Warner Esq., Township Engineer Thomas Timko PE, CME, Township Planner David Schley AICP, PP, Board Secretary Cyndi Kiefer

APPROVAL OF RESOLUTIONS

Resolution: Harben, Emily & Chandler; Block 2903, Lot 7; 55 Woodstone Road; Bulk Variances (approved); #ZB17-004.

Ms. Genirs motioned to approve the resolution and Mr. Lane seconded.

Roll Call:

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

Nay: NONE

Abstain: NONE

Motion carried.

Resolution: Board of Trustees of the Presbyterian Church of Liberty Corner; Block 7501, Lot 4; 483 Lyons Road, 45 Church Street; Preliminary/Final Site Plan, Conditional Use Variance, FAR Variance, Bulk Variance (approved); #ZB16-030.

Ms. Mastrangelo motioned to approve the resolution and Ms. Genirs seconded.

Roll Call:

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

Motion carried.

Resolution: B3 LLC (The Vine); Block 704, Lot 1.01; 95 Morristown Road; Preliminary/Final Site Plan, d(2) Variance, Bulk Variances (approved); #ZB16-032.

Mr. Zaidel motioned to approve the resolution and Ms. Mastrangelo seconded.

Roll Call:

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

*Ms. Genirs was ineligible to vote.

Motion carried.

COMPLETENESS HEARING

Pingry Corp; Block 11601, Lot 3.01; 131 Martinsville Rd; Preliminary/Final Site Plan, Bulk Variance, D Variance to construct a fence around a portion of its athletic fields; #ZB17-017.

Present: Roger Mehner, Esq., attorney for the applicant

Mr. Schley advised the board members that Items 1 and 2 listed on his April 27, 2017 memo had been submitted. The applicant was requesting a waiver for Item 3 which was a project/environmental impact assessment.

Roger Mehner, Esq., attorney with *Lindabury, McCormick, Estabrook & Cooper PC*, Westfield, NJ stated that the fencing would have no environmental impact whatsoever. Mr. Schley did not object.

Ms. Genirs motioned to grant the waiver for good cause and to deem the application complete. Mr. Surano seconded.

Roll Call:

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

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Boulder Construction LLC/Pollak; Block 6001, Lot 10.01; 6 Tall Timber Lane; Bulk Variance for Driveway Grade; #ZB16-031.

Present: Vincent K. Loughlin, Esq., attorney for the applicant
William G. Hollows, PE, LS, PP, engineer for the applicant
Victor Huljak, Director of Operations for the applicant

Vincent K. Loughlin, Esq., attorney for *The Loughlin Law Firm*, Scotch Plains, NJ, advised the board members that he would be representing the applicant during this hearing. He stated that the applicant had built all of the houses in this development including 6 Tall Timber Lane and by mistake made this particular driveway too steep. There had never been any intention not to comply with the Township's ordinances. The existing house had been constructed in accordance with the original approvals and a variance for improvable lot area granted

by the Zoning Board of Adjustment in 2012. A Temporary Certificate of Occupancy had been issued so that the owner could occupy the home.

The professionals were duly sworn in by Mr. Warner.

Victor Huljak, Director of Operations for *Boulder Construction LLC*, Scotch Plains, NJ, stated that he had worked for the company for 15 years and added that he was also certified as a Construction Official. He had participated in the construction of all the homes in the development and was unaware that this driveway did not comply when it was being constructed. **Exhibits A-1, A-2, and A-3** were photos of the project during construction (September 2015) and as it currently looked (May 1, 2017) and were entered into evidence. Mr. Huljak explained that the landscape design eliminated the steps from the front door and it was that change that had affected the grade of the driveway.

Mr. Huljak testified that the electrical service crossed underneath the driveway and that there were other utilities under the entrance of the driveway. All of that would have to be excavated in order to modify the driveway so that it would comply with the grade ordinance. Because of the hard rock that existed in the area, they could not lower the driveway. Any attempt to alter the driveway or its location at this point would cause extensive disruption in the street and for the other property owners. The owner of this home did not object to the driveway and supported the application.

In response to a question, Mr. Timko opined that there was little, if any, negative impact. Chairman Rhatican asked if there were any questions from the public. Hearing none, he closed the meeting.

William G. Hollows, PE, LS, PP, engineer with *Murphy & Hollows Associates LLC*, Stirling, NJ, provided his credentials and experience history to Chairman Rhatican. Having appeared before this Board many times, Chairman Rhatican accepted Mr. Hollows as an expert in civil engineering.

Mr. Hollows introduced **Exhibit A-4**, a May 3, 2017 *Driveway Profile – True Scale* drawing, into evidence. He explained that the driveway was steeper as it came off the road and then leveled out towards the middle so that only a portion of the driveway was nonconforming. He noted that because the driveway was paved, he was not concerned that cars would slip. He had visited the site and saw no evidence of cars bottoming out in either the street or the driveway. There was plenty of visibility in front of the driveway so there was no safety issue. He opined that there was no engineering reason to rebuild the driveway since it had been functioning without complaint for the last nine (9) months adding that constructing the driveway at this grade had been of no advantage to the builder. He felt that there would be little if any impact on runoff and stormwater management. Mr. Hollows further stated that in his opinion, widening it would not fix the problem. Lengthening it would help but it would increase impervious coverage.

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.

Mr. Loughlin summarized by stating that the applicant regretted the error however it did not represent a safety issue and did not present a problem for either the homeowner, the neighbors or the Township. Relocating the driveway would be disruptive. Mr. Timko agreed saying that regrading the driveway at this time would be a major undertaking and was not recommended since it was not causing any problems.

After deliberations, the board members felt that the applicant had met the positive criteria for a "c(2)" or "flexible c" variance and had also satisfied the negative criteria.

Mr. Surano 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 the variance relief requested by the Applicant subject to the conditions stipulated to by the Applicant and as stated during deliberations. Mr. Zaidel seconded.

Roll Call:

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

Motion carried.

COMPLETENESS HEARING AND PUBLIC HEARING

Vigeant, Charlotte and Phillip; Block 3501, Lot 1; 117 Cross Road; Bulk Variance for Front Yard Setback; #ZB16-010.

Present: Timothy P. Klesse, AIA, ASID, architect for the applicant

The professionals and the applicants were duly sworn in by Mr. Warner.

Phillip Vigeant, the applicant, explained that he wanted to enlarge his home to accommodate his expanding family.

Timothy P. Klesse, AIA, ASID, architect with *Klesse Architects*, Short Hills, NJ, provided his credentials and experience history to Chairman Rhatican. After confirming that his license was in good standing, Chairman Rhatican accepted Mr. Klesse as an expert in the field of architecture.

Mr. Klesse described the subject property and the proposed project stating that the front portico was the only part of the project that required relief. The house was already well into the front yard setback and the portico exacerbated that deviance by only 1.5 feet. The front yard setback relief was necessary since the property was an irregularly shaped corner lot with insufficient lot width. He added that the proposed addition would not be visible to the neighbors due to the existing buffering and that it created a more desirable visual environment in the proposed location. In response to Mr. Warner's question, Mr. Klesse stated that the applicant would stipulate to Item 7 in Mr. Schley's memo dated April 21, 2017 requiring that both the front porch and the front portico remain open.

Chairman Rhatican asked if there were any further questions from the board members. Hearing none, he opened the meeting to the public. Hearing no further comments or questions, he closed the meeting.

After deliberations, the board members felt that the variance relief could be granted since the applicant had satisfied the positive criteria for both a "c(1)" or "hardship" variance and "c(2)" or "flexible c" variance. In addition, 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 the variance relief requested by the Applicant subject to the conditions stipulated to by the Applicant and as stated during deliberations. Ms. Genirs seconded.

Roll Call:

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

Motion carried.

COMPLETENESS HEARING AND PUBLIC HEARING

Frenkel, Mikhail and Violina; Block 10401, Lot 27; 19 Green Mountain Road; Bulk Variance to construct an in-ground swimming pool that is not behind the rear building line of an adjacent dwelling; #ZB17-001.

The professionals and the applicants were duly sworn in by Mr. Warner.

Mikhail Frenkel, the applicant, addressed the Board and described the proposed project as a 16' X 40' in-ground pool, spa and walkway (573 square feet) along with a 12' X 20' cabana (240 square feet) in the rear of the subject property. He explained that because of the location of the adjacent houses and because of a 75 foot wide utility easement, he was not able to construct the pool in a conforming location. In response to a question from Mr. Breslin, Mr. Frenkel stated that he had spoken to the neighbors on both sides. The 21 Green Mountain Drive property was most affected by the proposed project. The owner requested that the pool equipment be moved to the other side of the cabana (away from his property) and that a privacy fence be installed between the two (2) properties which Mr. Frenkel agreed to. Mr. Frenkel added that the equipment would not be visible from 17 Green Mountain Drive, the neighbor on the other side.

In reference to Item 2 in Mr. Schley's memo dated April 21, 2017, Mr. Frenkel supplied the Board with a specifications sheet from *Pleasant Run Structures* containing information about the proposed cabana. This was marked **Exhibit A-1**. In addition, Mr. Frenkel agreed to stipulate as a condition of approval, to Items 3 and 4 in Mr. Schley's memo pertaining to soil erosion, sediment control measures and the use of "best management practices" when discharging pool water.

Chairman Rhatican asked if there were any further questions or comments from either the board members or the public.

Jun Yang, 21 Green Mountain Drive, was sworn in by Mr. Warner. He confirmed that Mr. Frenkel had agreed to move the pool equipment away from his property to the other side of the cabana and also to install a privacy fence. He also requested that additional trees be planted in the existing buffer. Mr. Frenkel agreed to Mr. Timko's suggestion that two (2) 6'-8' trees be planted to fill in the gap along the property line between lots 26 (Yang) and 27. Mr. Schley advised that the privacy fence would have to be between 4' and 6' in height and Mr. Frenkel agreed to that.

There was no further comment or questions from the public.

After deliberating the board members felt that the applicant had satisfied the positive criteria for a "c(1)" or "hardship" variance and also 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 the variance relief requested by the Applicant subject to the conditions stipulated to by the Applicant and as stated during deliberations. Mr. Breslin seconded.

Roll Call:

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

Motion carried.

COMPLETENESS HEARING AND PUBLIC HEARING

Castronovo, Donna and Steven; Block 2906, Lot 28; 6 Woodstone Road; Bulk Variances for lot coverage and driveway within 1 foot of a sideyard; #ZB17-002.

The professionals and the applicants were duly sworn in by Mr. Warner.

Steven Castronovo, the applicant, testified that subject property was an undersized lot in a neighborhood of undersized properties. He further stated that when he purchased the property, it was completely overgrown

and already exceeded the allowable lot coverage. During the clean up process, he discovered two (2) walkways which were not depicted on the survey further exacerbating the lot coverage deviance.

Mr. Castronovo stated that the proposed pergola would be constructed completely on the existing patio and therefore it would not increase the lot coverage deviance. Mr. Schley concurred.

When questioned by Mr. Zaidel as to why the driveway was positioned right at the side property line, Mr. Castronovo explained that it was located there when he acquired the property. Later, he had rounded off the patio and extended the driveway *to the rear*, not to the side, to facilitate access to the garage.

Mr. Castronovo testified that he had taken the pictures in the application himself in October and he requested that he be able to apply for construction permits prior to the adoption of the resolution.

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

After deliberating, the board members felt that the applicant had satisfied the positive criteria for a "c(1)" or "hardship" variance for the lot coverage and driveway location deviations.

Mr. Surano 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 the variance relief requested by the Applicant subject to the conditions stipulated to by the Applicant and as stated during deliberations. He also moved to allow the Applicant to apply for a building permit immediately. Ms. Genirs seconded.

Roll Call:

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

Motion carried.

COMPLETENESS HEARING AND PUBLIC HEARING

DiSabato, Joseph; Block 702, Lot 10; 10 Brookside Avenue; Bulk Variances for side yard setback, combined side yard setback and lot coverage; ZB17-003.

The professionals and the applicant were duly sworn in by Mr. Warner.

Joseph DiSabato, the applicant, testified that the subject property was very narrow and undersized. He then described the proposed project. The porch in the rear of the dwelling was in disrepair and was to be demolished. It would be replaced by a two story addition for a kitchen and master bedroom. A flagstone patio which would be displaced by the proposed addition would be relocated to the rear of the house. He also added that the proposed addition would not exacerbate the current side yard setback deviation since the project was located solely to the rear of the dwelling.

In response to a comment by Mr. Timko, Mr. DiSabato stipulated to connecting the downspouts on the rear and south side of the addition to the existing drainage inlet on Brookside Avenue to accommodate the additional water runoff.

Mr. DiSabato stated that he had spoken to his neighbor at 11 Brookside Avenue, with whom he shared a driveway, and had gotten a positive response to the project. The neighbor to the right had recently finished a large alteration project. In response to a question from Ms. Mastrangelo, he said that he would stipulate as a condition of approval that the exterior materials would be consistent with those of the existing building.

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

After deliberating, the board members felt that relief could be granted under both the "c(1)" or "hardship" positive criteria and the "c(2)" or "flexible c" positive criteria. They also felt that the applicant 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 the 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, Surano, Zaidel, Rhatican
Nay:	NONE
Abstain:	NONE

Motion carried.

COMPLETENESS HEARING AND PUBLIC HEARING

Krecicki, Keith and Kim; Block 1611, Lot 4; 136 South Maple Avenue; Bulk Variances for front yard setback (South Maple Avenue) and front yard setback (East Lewis Street); #ZB17-005.

Ms. Genirs recused herself and left the room.

The professionals and the applicants were duly sworn in by Mr. Warner.

Keith Krecicki, the applicant, testified that the existing one story, two bedroom house was built in 1955 and that it was situated on a corner lot (South Maple Avenue and East Lewis Street) within the 40' front yard setback for both front yards. He noted that the improvements would encroach only slightly further (1.5 ft) into the primary front yard setback on South Maple Avenue but that there would be no further encroachment into the East Lewis Street setback.

Mr. Krecicki described the proposed project as: (1) a garage extension at the basement level, (2) a study/bedroom expansion and a new front portico on the first floor, (3) new construction of a second floor for bedrooms and bathrooms, (4) a new patio/walkway in the rear yard and (5) removal of an existing shed. He stated that the garage was too small to accommodate a car and that his family had outgrown the existing home. By removing the existing shed, a side yard setback deficiency and a rear yard setback deficiency would be eliminated.

In response to a question from Ms. Mastrangelo, Mr. Krecicki stated that he had discussed the project with several neighbors and everyone supported it. In addition, he confirmed that he had taken the pictures included in the application sometime in late December or early January.

Mr. Krecicki also confirmed that the home would retain its colonial style and that the exterior of the addition would remain similar in style, color and architectural components to the existing exterior.

Mr. Krecicki testified that the proposed portico would remain open.

Mr. Krecicki stipulated as conditions of approval to complying with all comments listed in both Mr. Timko's memo of April 19, 2017 and Mr. Schley's memo of April 27, 2017.

Chairman Rhatican asked the board members if they had any further questions. Hearing none, he opened the meeting to the public for questions or comments. Hearing none, he closed the meeting.

After deliberation, the board members felt that relief could be granted under both the "c(1)" or "hardship" variance positive criteria along with the "c(2)" or "flexible c" variance positive criteria. They also felt that the applicant had satisfied the negative criteria.

Mr. Surano 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 the variance relief requested by the Applicant subject to the conditions stipulated to by the Applicant and as stated during deliberations. Mr. Lane seconded.

Roll Call:

Aye:	Breslin, Lane, Mastrangelo, Surano, Zaidel, Rhatican
Nay:	NONE
Abstain:	NONE

Motion carried.

COMMENTS FROM STAFF

The board members agreed to have Ms. Kiefer schedule a Special Meeting for June 15, 2017 and cancel the July 5, 2017 Regular Meeting.

ADJOURNMENT

On motion by Mr. Breslin, seconded by Mr. Surano, the meeting was adjourned at 9:55 PM by unanimous Voice Vote.

Respectfully submitted,



Cyndi Kiefer, Secretary
Bernards Township
Zoning Board of Adjustment