

BERNARDS TOWNSHIP
ZONING BOARD OF ADJUSTMENT

MINUTES
Regular Meeting
September 6, 2017

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

OPEN MEETING STATEMENT

Vice Chairman Breslin 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: Bellows, Breslin, Genirs, Mastrangelo, Nungester, Zaidel.
Members Late: NONE
Members Absent: Rhatican, Lane; on motion by Mr. Surano, seconded by Ms. Nungester, the absences of Chairman Rhatican and Mr. Lane were excused.
Also Present: Board Attorney, Steven K. Warner Esq.; Board Planner, David Schley AICP, PP;
Board Secretary, Cyndi Kiefer.

APPROVAL OF MINUTES

The minutes listed in this consent agenda portion of the meeting have been referred to the board members for review and will be approved by one motion of the Board with no separate discussion.

Begin Consent Agenda

Mr. Surano moved approval of the consent agenda and Ms. Nungester seconded.

Roll Call:

Aye: Bellows, Breslin, Genirs, Mastrangelo, Nungester, Surano, Zaidel.
Nay: NONE
Abstain: Lane, Rhatican (both absent).

Motion carried.

Approval of minutes as drafted for the November 19, 2016 Regular Session.

Abstain: Bellows, Genirs, Mastrangelo (all ineligible).

Approval of minutes as drafted for the May 3, 2017 Regular Session.

Abstain: Bellows, Nungester (all ineligible).

Approval of minutes as drafted for the June 7, 2017 Regular Session.

Approval of minutes as amended for June 15, 2017 Regular Session.

End Consent Agenda

PUBLIC HEARING

T-Mobile Northeast, LLC; Block 3604, Lot 4; 25 Stonehouse Road; Extension of Approvals for Preliminary/Final Site Plan and Variances (ZB09-022RA).

Present: Gregory D. Meese, Esq., Attorney for the Applicant

Gregory D. Meese, Esq., attorney with *Price, Meese, Shulman & D'Arminio PC*, Woodcliff Lake, New Jersey, advised the board members that he was representing the applicant during these proceedings. The applicant was seeking two (2) one-year extensions of approval for Preliminary and Final Site Plan and Variances for Application #ZB09-022R: (1) from June 30, 2016 through June 30, 2017 and (2) from June 30, 2017 through June 30, 2018.

Mr. Meese stated that the applicant was granted approval to construct a 120 foot tall tower, extendable to 140 feet to allow for collocation with an equipment compound at the base of the tower pursuant to a resolution adopted by this board on May 8, 2013 (#ZB09-022R). Construction was postponed due to ongoing merger talks with AT&T. The merger never materialized and the applicant wished to move forward with construction. He advised the board members that the applicant intended to comply with all the conditions stipulated to in the original approval (#ZB09-022R).

Mr. Surano moved approval of both extensions and Ms. Mastrangelo seconded.

Roll Call:

Aye:	Bellows, Breslin, Genirs, Mastrangelo, Nungester, Surano, Zaidel.
Nay:	NONE
Abstain:	NONE

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Jani, Salil and Nileem; Block 4102, Lot 17; 34 Fairview Drive East; Bulk Variances to construct a new house; #ZB17-022.

Present: Vincent T. Bisogno, Esq., Attorney for the Applicant
Rudy Holzmann, PE, Engineer for the Applicant
Kenneth R. Quabeck, RA, Architect for the Applicant
Salil Jani, Applicant

Vincent T. Bisogno, Esq., attorney with *Bisogno, Loeffler & Zelley LLC*, Basking Ridge, New Jersey, advised the board members that he was representing the applicant during these proceedings. The applicants sought to raze the existing house which had been abandoned for at least three (3) years and in disrepair, and to construct a new 5,580 square foot multi-generational house. Mr. Bisogno stated that when the property was purchased, both the Multiple Listing Service (MLS) and the tax office listed the property as .72 acres. When the applicants received an actual survey of the property, it was only .60 acres and they were advised by counsel that litigation proving misrepresentation would be fruitless.

Mr. Bisogno stated that there were three (3) pre-existing conditions requiring variance relief (lot area, lot width and improvable lot area) and two new deficiencies (combined side-yard setback and maximum lot coverage). He noted that an existing deficiency, side-yard setback on the south side, would be eliminated.

Mr. Schley and Salil Jani were duly sworn by Mr. Warner.

Salil Jani, residing at 12 Revere Drive, Basking Ridge, New Jersey, testified that he and his wife had purchased the property to construct a house for themselves, their three (3) children, his mother, the au pair and at times, his in-laws. He gave a brief history of the property purchase and the problems caused by the discrepancy in the lot size. Finally, Mr. Jani stated that he had spoken to at least four (4) of the neighbors who all supported the application.

Mr. Jani testified that the two large trees in the front would remain and two (2) trees in the rear of the yard would be removed. He proposed to plant six (6) trees and to install a fence along the side and rear of the property. Mr. Schley noted that there was no specificity about the fence on the plans other than it would be six (6) feet high. Mr. Jani stipulated, as a condition of approval, to comply with the ordinances for fences.

Mr. Bisogno responded to Comment #3 in Mr. Schley's memo dated August 30, 2017 by stating that the applicants could not purchase property from any of the surrounding properties.

Ms. Mastrangelo felt that the existing house was consistent with those in the area which had one (1) or two (2) car garages whereas the proposed house had four (4). Mr. Jani responded that although the homes immediately adjacent were smaller in size, those behind the subject property were much larger with three (3) and four (4) car garages. He added that he had taken the pictures submitted with the application and that they were an accurate depiction of the property as it currently exists.

There were no further questions from either the board members or the public.

Rudy Holzmann, PE, engineer with *Yannaccone, Villa & Aldrich LLC*, Chester, New Jersey, was duly sworn by Mr. Warner and accepted by the Board as an expert in the field of civil engineering.

Mr. Holzmann described the subject property as pie-shaped and slightly sloping to the rear (5%). The applicant proposed to replace the existing house with a new house having a footprint of 3,183 square feet. He opined that the proposed stormwater management plan exceeded the township's ordinance and represented a significant improvement over what currently existed. It would collect water from the roof and direct it to two (2) drywells whereas currently there was no stormwater management since the roof leaders simply drained to the ground.

Mr. Holzmann testified that the applicants would comply with all the comments in Mr. Schley's August 30, 2017 memo.

The meeting was recessed at 8:48 PM.

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The meeting was reconvened at 8:55 PM.

Mr. Bisogno advised the board members that his client would stipulate to all the items in Board Engineer, Thomas Quinn's memo of September 5, 2017.

There were no further questions from either the board members or the public.

Kenneth R. Quabeck, RA, architect having a business in Hillsborough, New Jersey, was duly sworn by Mr. Warner and accepted as an expert in the field of architecture by the Board. He gave a brief description of the subject property and the surrounding area and described the floor plans of the proposed six (6) bedroom, four (4) car garage house using **Exhibit A-1** (Preliminary Architectural Plans by Kenneth R. Quabeck RA dated 03/22/17 and revised 06/14/17 – Sheet A-5 "Proposed Front and Rear Elevations"), **Exhibit A-2** (Sheet A-1 of same, "Proposed Basement Plan"), **Exhibit A-3** (Sheet A-2 of same, "Proposed First Floor Plans"),

Exhibit A-4 (Sheet A-3 of same, "Proposed Second Floor Plans"), and **Exhibit A-5** (Sheet 4 of same, "Proposed Attic Floor Plan"), all entered into evidence. He testified that three (3) of the four (4) garage bays were "tucked under" the house. The fourth was an undersized bay to be used primarily for storage. The placement of that bay was meant to mitigate the appearance of massing from the rear and to improve the aesthetic nature overall.

Mr. Quabeck opined that both the architectural style and the size of the proposed house were in character with the overall neighborhood.

There were no further questions or comments from either the board members or the public.

Mr. Bisogno summarized the relief sought by the applicants and opined that that relief was justified under both "c(1)" and "c(2)" variance criteria. He also felt that the negative criteria had been satisfied.

After deliberating, the board members felt that the applicants had satisfied the positive criteria for both a "c(1)" or "hardship" variance and a "c(2)" or "flexible c" variance. They also felt that the applicants had satisfied the negative criteria.

Ms. Mastrangelo 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 applicants subject to the conditions stipulated to by the applicants and as stated during deliberations. Ms. Nungester seconded.

Roll Call:

Aye:	Bellows, Breslin, Mastrangelo, Nungester, Zaidel.
Nay:	Genirs, Surano.
Abstain:	NONE

Motion carried.

By straw poll, the board members voted to waive the rule stating that no new applications would be heard after 10:00 PM and agreed to hear the next application.

COMPLETENESS AND PUBLIC HEARING

Simons, Christa; Block 1206, Lot 28; 81 Conkling Street; Conditional Use Variance to permit a home office; #ZB17-023.

Present:	Vincent T. Bisogno, Esq., Attorney for the Applicant Christa Simons, Applicant
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Vincent T. Bisogno, Esq., attorney with *Bisogno, Loeffler & Zelle LLC*, Basking Ridge, New Jersey, advised the board members that he was representing the applicant during these proceedings. He stated that the applicant was seeking a "d(3) Conditional Use" variance for a home office. The only condition that could not be met was that which required no parking in the front yard. The proposal met all the other conditions.

Mr. Schley and Christa Simons were duly sworn by Mr. Warner.

Christa Simons, applicant residing at 81 Conkling Street, Basking Ridge, New Jersey, testified that she was a licensed professional counselor specializing in anxiety and obsessive-compulsive disorders. The proposed office would be 144 square feet in size and located in the front of the house with its own separate entrance. The home practice was currently proposed to be part time (15 patients/week), however, she hoped to make it full time in the future.

With reference to the front yard parking deviation, Ms. Simons testified that in order to conform, she would have to construct a new driveway and parking lot in the rear of the property which would require removal of

trees and significant disturbance. The existing driveway was 20 feet wide and 60 feet long and could accommodate three (3) to six (6). She further testified that both her car and her husband's car would be parked in the garage and that she would instruct each patient to park in the driveway, not on the street. Finally, there would be no additional employees and her appointment schedule was such that at most, two cars at a time would be parked in the driveway.

Ms. Simons testified that she had taken the pictures that were submitted with the application and that they accurately depicted the property as it currently exists. There would be no external construction and no exterior signs. She stipulated, as a condition of approval, to advising future buyers of the property that they would have to appear before the Board for approval of a home office use. This would be a written representation included with the contract of sale.

There were no further questions or comments from the board members or the public.

Mr. Warner advised the board members that since this was a "d(3)" variance, a super-majority of five (5) affirmative votes was required to approve the application.

After deliberating, the board members felt that the applicant had satisfied the positive criteria required to grant a "d(3) Conditional Use" variance. 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. Mr. Surano seconded.

Roll Call:

Aye:	Bellows, Breslin, Genirs, Mastrangelo, Nungester, Surano, Zaidel.
Nay:	NONE
Abstain:	NONE

Motion carried.

A straw poll was taken and the board members decided to hear the final application despite the late hour.

COMPLETENESS AND PUBLIC HEARING

Pareddy, Surandar & Duggirala, Janaki; Block 11401, Lot 5.02; 393 Martinsville Road; Amendment of #ZB15-011 to increase the height of approved driveway gate and to add retaining walls; #ZB17-021.

Present: Surandar Pareddy, Janaki Duggirala, Applicants

Mr. Schley, Surandar Pareddy and Janaki Duggirala were duly sworn by Mr. Warner

Mr. Warner advised the board members that the applicants had received approval for a 6 foot high fence with a 7.5 foot high gate in the front yard in 2015 (#ZB15-011).

Mr. Pareddy testified that the fence would remain at the same height and the size of the gate was the same however it had to be mounted higher so that it could open inward properly. He was requesting a height of 8.5 feet from grade to the top of the gate. He noted that both the pool fence ordinance and the fire department required that the gate open inward. Because of the grade of the driveway, when the gate opened inward, it dragged on the ground.

In response to Comment #2 of Mr. Schley's memo dated August 30, 2017, Mr. Pareddy advised the board members that although the walls on each side of the driveway were currently freestanding, they would be backfilled and become retaining walls once the landscaping was completed.

In response to Comment #3, Mr. Pareddy stipulated, as a condition of approval, to secure approval for the retaining walls from Somerset County since they are partially located in the Martinsville Road right-of-way.

Ms. Mastrangelo noted that the fence surrounding the subject property encroached on the neighbor's property in several places. Mr. Pareddy responded that he would have that remedied. He asked that he not be required to relocate fencing that was on his property but less than six (6) inches from the property line (as required by ordinance) and sought variance relief for insufficient fencing setback.

In response to Comment #5, the applicants stipulated, as a condition of approval to bring the fence and gate into compliance with the pool fencing regulations.

The applicants stipulated, as a condition of approval, to ensuring that within 90 days from the date of the adoption of the resolution, all items discussed during the hearing and in the professionals' memos would be corrected, inspected and approved. They also stipulated to Comments #7 and #8 in Mr. Schley's memo.

In summary, Mr. Pareddy testified that the gate height error was inadvertent in that neither he nor his professionals anticipated the problem.

There were no comments or questions from either the board members or the public.

After deliberating, the board members felt that the applicant had satisfied the positive criteria required to grant a "c(2)" or "flexible c" variance. 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 applicants subject to the conditions stipulated to by the applicants and as stated during deliberations. Ms. Mastrangelo seconded.

Roll Call:

Aye:	Bellows, Breslin, Genirs, Mastrangelo, Nungester, Surano, Zaidel.
Nay:	NONE
Abstain:	NONE

Motion carried.

COMMENTS FROM MEMBERS AND STAFF

Vice Chairman Breslin instructed Ms. Kiefer to cancel the Special Meeting scheduled for September 14, 2017.

Hearing no further business, Mr. Surano moved to adjourn the meeting and by unanimous Voice Vote, the meeting was adjourned at 10:42 PM.

Respectfully submitted,



Cyndi Kiefer, Secretary
Bernards Township
Zoning Board of Adjustment