

# **TOWNSHIP OF BERNARDS** **ZONING BOARD OF ADJUSTMENT**

## **REGULAR MEETING AGENDA v3**

Warren Craft Meeting Room

October 7, 2020

This meeting will be held in person in the Warren Craft Meeting Room. In addition, the public will be able to view the meeting live on Optimum/Cablevision TV – Channel 15 and Verizon FIOS TV – Channel 35 and the meeting will also be streamed live for those interested in watching on their computers. The link will be available at 7:30 PM by clicking on the “Watch the Meeting Live” icon on the Bernards Township homepage. During the meeting, questions and/or comments from the public will be accepted **only** during the public questions and /or comments periods of the meeting. Those questions/comments may be offered in person at the hearing or by calling 908-202-6426. Please use Google “Duo” for your call. You will be required to provide your name and address and be sworn in prior to making comments.

- 1. CALL TO ORDER**
- 2. FLAG SALUTE**
- 3. OPEN PUBLIC MEETING STATEMENT**
- 4. ROLL CALL**
- 5. APPROVAL OF MINUTES**
  - A.** September 9, 2020 – Regular Session
- 6. APPROVAL OF RESOLUTIONS**
  - A.** Trinks, Uwe P.; Block 11601, Lot 30; 50 Long Road; Bulk Variances; ZB20-012
  - B.** Sands, Stephen C. & Laura K.; Block 1204, Lot 20; 141 Washington Avenue; Bulk Variances; ZB20-013
  - C.** Becht, Derek J. & Victoria M.; Block 3801, Lot 16; 26 Normandy Court; Bulk Variances; ZB20-014
  - D.** Heath, Christopher & Renee; Block 10704, Lot 42; 21 Old Stagecoach Road; No Jurisdiction to Eliminate Condition of Approval (Obtain Easement); ZB20-007
- 7. COMPLETENESS AND PUBLIC HEARING**
  - A.** [A. Sposato Realty Company Inc. & Sposato Realty LP](#); Block 1608, Lots 10.02 & 11; 31 & 35 East Craig Street; Bulk Variances; ZB20-016
  - B.** [Silver Living LLC](#); Block 1607, Lot 2; 14 North Maple Avenue; Bulk Variances; ZB20-015
- 8. 2019 ANNUAL REPORT AND RECOMMENDATIONS**
- 9. COMMENTS FROM MEMBERS**
- 10. COMMENTS FROM STAFF**
- 11. ADJOURN**

09/29/2020 dssw  
FINAL

**TOWNSHIP OF BERNARDS  
2019 ZONING BOARD OF ADJUSTMENT APPLICATION**

RECEIVED

AUG 27 2020

PLANNING/ZONING BOARDS

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Bulk or Dimensional ("c") Variance       | <input type="checkbox"/> Appeal of Zoning Officer's Decision     |
| <input type="checkbox"/> Use ("d") Variance                                  | <input type="checkbox"/> Interpretation of Zoning Ordinance      |
| <input type="checkbox"/> Conditional Use ("d") Variance                      | <input type="checkbox"/> Minor Subdivision                       |
| <input type="checkbox"/> Floor Area Ratio, Density, or Height ("d") Variance | <input type="checkbox"/> Major Subdivision - Preliminary / Final |
| <input type="checkbox"/> Site Plan - Preliminary / Final                     | <input type="checkbox"/> Other (specify): _____                  |

**1. APPLICANT:** A. Sposato Realty Co., Inc. and Sposato Realty LP

Address: P.O. Box 393, Westhampton, New York 11977

Phone: (home) (908) 625-4685 (work) Same (mobile) Same

Email (will be used for official notifications): candrews@klsir.com

**2. OWNER** (if different from applicant): \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email (will be used for official notifications): \_\_\_\_\_

**3. ATTORNEY:** Frederick B. Zelley / Bisogno, Loeffler & Zelley, L.L.C.

Address: 88 South Finley Avenue, P.O. Box 408, Basking Ridge, New Jersey 07920

Phone: (908) 766-6666 Email (will be used for official notifications): fzelley@baskingridgelaw.com

**4. OTHER PROFESSIONALS** (Engineer, Architect, etc. Attach additional sheet if necessary):

Name: Craig W. Stires / Stires Associates Profession: Prof. Engineer

Address: 43 W. High St., Somerville, New Jersey 08876

Phone: (908) 439-2277 Email (will be used for official notifications): cstires@stiresassociates.com

**5. PROPERTY INFORMATION:** Block(s): 1608 Lot(s): 11 and 10.02 Zone: R-6

Street Address: 31 and 35 East Craig Street Total Area (square feet/acres): 180,164 sf/ 4.14 ac

**6. ARE THERE ANY PENDING OR PRIOR PLANNING BOARD OR BOARD OF ADJUSTMENT APPLICATIONS INVOLVING THE PROPERTY?** ☐ No ☒ Yes (if yes, explain or attach Board resolution)

Minor Subdivision Application to Bernards Twp. Planning Board (No. PB#07-003) approved December 2, 2008

**7. ARE THERE CURRENTLY ANY VIOLATIONS OF THE ZONING ORDINANCE INVOLVING THE PROPERTY?** ☐ No ☒ Yes (if yes, explain) \_\_\_\_\_

Lot Frontage and Lot Width on Lot 10.02 (variances granted in 2008 but have expired); Lot Frontage and Side Yard Setback on Lot 11 (variances granted in 2008 but have expired).

**8. ARE THERE ANY DEED RESTRICTIONS OR EASEMENTS AFFECTING THE PROPERTY?**

☐ No ☒ Yes (if yes, explain and attach copy) Share driveway easement over Lot 11 for benefit of Lot 10.02

**9. DESCRIPTION OF THE EXISTING PROPERTY AND THE PROPOSAL/REQUEST:** \_\_\_\_\_

Application is for renewal of the Lot Frontage and Lot Width variances granted by the Planning Board in 2008 for Lot 10.02

and of the Lot Width and Side Yard Setback variances granted by the Planning Board in 2008 for Lot 11.

**10. DESCRIPTION OF REQUESTED VARIANCES OR EXCEPTIONS (include Ordinance section no.):**

Ordinance Section 21-15.1(d)(1) and Table 501

**11. THE FOLLOWING ARGUMENTS ARE MADE IN SUPPORT OF THE APPLICATION:** \_\_\_\_\_

Please see reasons set forth in Planning Board Resolution for Application No. PB#07-003 submitted herewith.

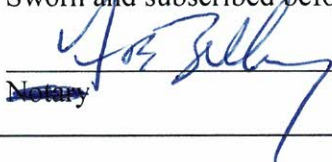
**12. NOTARIZED SIGNATURES (ALL APPLICANTS AND OWNERS MUST SIGN):**

**APPLICANT(S) SIGN HERE:**

I/we, Cynthia Andrews, for A. Sposato Realty Co., Inc. and Sposato Realty LP hereby depose and say that all of the above statements and the statements contained in the materials submitted herewith are true and correct.

Signature of Applicant(s):  8-27-2020

Sworn and subscribed before me, this 27<sup>th</sup> day of August, 2020.

  
Notary

Frederick B. Zelle  
An Attorney at Law of the  
State of New Jersey

**OWNER(S) SIGN HERE (IF APPLICANT IS NOT THE OWNER):**

If the application is made by a person or entity other than the property owner, or by less than all of the property owners, then the property owner or the additional owners must complete the following:

I/we, \_\_\_\_\_ the owner(s) of the property described in this application,

hereby authorize \_\_\_\_\_ to act as my/our agent for purposes of making and prosecuting this application and I/we hereby consent to the variance relief (if any) granted and all conditions of approval thereof.

Signature of owner(s): \_\_\_\_\_

Sworn and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary



**TOWNSHIP OF BERNARDS**  
**2019 ZONING BOARD OF ADJUSTMENT APPLICATION**

RECEIVED

AUG 17 2020

PLANNING/ZONING BOARDS

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Bulk or Dimensional ("c") Variance       | <input type="checkbox"/> Appeal of Zoning Officer's Decision     |
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| <input type="checkbox"/> Floor Area Ratio, Density, or Height ("d") Variance | <input type="checkbox"/> Major Subdivision - Preliminary / Final |
| <input type="checkbox"/> Site Plan - Preliminary / Final                     | <input type="checkbox"/> Other (specify): _____                  |

**1. APPLICANT:** Silver Living LLC

Address: 106 Woodbine Circle, New Providence, New Jersey 07974

Phone: (home) (201) 310-8921 (work) Same (mobile) Same

Email (will be used for official notifications): scarabaggiom@gmail.com

**2. OWNER** (if different from applicant): Same as Applicant

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email (will be used for official notifications): \_\_\_\_\_

**3. ATTORNEY:** Frederick B. Zelley / Bisogno, Loeffler & Zelley, L.L.C.

Address: 88 South Finley Avenue, P.O. Box 408, Basking Ridge, New Jersey 07920

Phone: (908) 766-6666 Email (will be used for official notifications): fzelley@baskingridgelaw.com

**4. OTHER PROFESSIONALS** (Engineer, Architect, etc. Attach additional sheet if necessary):

Name: William G. Hollows (please also see Addendum) Profession: Professional Engineer

Address: Murphy & Hollows Associates LLC, 192 Central Avenue, Stirling, New Jersey 07980

Phone: (908) 580-1255 Email (will be used for official notifications): murphyhollows@gmail.com

**5. PROPERTY INFORMATION:** Block(s): 1607 Lot(s): 2 Zone: R-7

Street Address: 14 North Maple Avenue Total Area (square feet/acres): 8,276sf/0.19ac

**6. ARE THERE ANY PENDING OR PRIOR PLANNING BOARD OR BOARD OF ADJUSTMENT APPLICATIONS INVOLVING THE PROPERTY?** ☒ No ☐ Yes (if yes, explain or attach Board resolution) \_\_\_\_\_

**7. ARE THERE CURRENTLY ANY VIOLATIONS OF THE ZONING ORDINANCE INVOLVING THE PROPERTY?** ☒ No ☐ Yes (if yes, explain) \_\_\_\_\_  
The following non-conformities exist but are all believed to predate the zoning ordinance: lot area, lot width, front yard setbacks (both streets), rear yard setback and improvable lot area.

**8. ARE THERE ANY DEED RESTRICTIONS OR EASEMENTS AFFECTING THE PROPERTY?**

[ ] No [ X ] Yes (if yes, explain and attach copy) Sight easement for intersection of East Allen Street and North Maple Avenue

**9. DESCRIPTION OF THE EXISTING PROPERTY AND THE PROPOSAL/REQUEST:** \_\_\_\_\_

\_\_\_\_\_  
Please see Addendum  
\_\_\_\_\_

**10. DESCRIPTION OF REQUESTED VARIANCES OR EXCEPTIONS (include Ordinance section no.):**

\_\_\_\_\_  
Ordinance Section 21-15.1(d)(1) and Table 501  
\_\_\_\_\_

**11. THE FOLLOWING ARGUMENTS ARE MADE IN SUPPORT OF THE APPLICATION:**

\_\_\_\_\_  
Please see Addendum  
\_\_\_\_\_  
\_\_\_\_\_

**12. NOTARIZED SIGNATURES (ALL APPLICANTS AND OWNERS MUST SIGN):**

**APPLICANT(S) SIGN HERE:**

I/we, Silver Living LLC by Marco Scarabaggio, Managing Member hereby deposes and says that all of the above statements and the statements contained in the materials submitted herewith are true and correct.

Signature of Applicant(s): Marco Scarabaggio and \_\_\_\_\_

Sworn and subscribed before me, this 31<sup>st</sup> day of July, 2020.

405 [Signature]  
Notary Frederick B. Zelle  
An Attorney at Law of the  
State of New Jersey

**OWNER(S) SIGN HERE (IF APPLICANT IS NOT THE OWNER):**

If the application is made by a person or entity other than the property owner, or by less than all of the property owners, then the property owner or the additional owners must complete the following:

I/we, \_\_\_\_\_ the owner(s) of the property described in this application,

hereby authorize \_\_\_\_\_ to act as my/our agent for purposes of making and prosecuting this application and I/we hereby consent to the variance relief (if any) granted and all conditions of approval thereof.

Signature of owner(s): \_\_\_\_\_

Sworn and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary

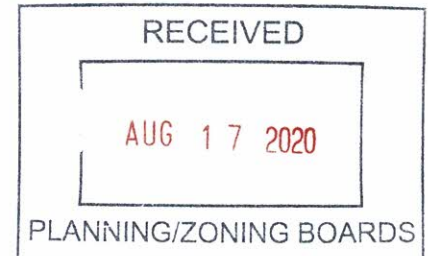


**ADDENDUM TO BOARD OF ADJUSTMENT APPLICATION**  
**SILVER LIVING LLC**  
**14 NORTH MAPLE AVENUE, BLOCK 1607, LOT 2**

The following are responses to the respective Application Items noted "Please see Addendum":

4. [Additional Professionals]

Douglas Battersby, R.A.  
Battersby Architecture and Design  
P.O. Box 370  
4 Ramapo Valley Road  
Oakland, New Jersey 07436  
201-316-7478  
Doug@BattersbyAD.com



9. [Description of the Existing Property and the Proposal/Request]

The subject property is the southwest corner lot at the intersection of North Maple Avenue and East Allen Street. The property is surrounded by the Presbyterian Church's cemetery to its south, a single family residence to its west, East Allen Street and the lawn of Lot 23 to its north and North Maple Avenue and single family homes thereon to its east. The only structure on the property is a single family, two and one half story frame residence, which is in a severe state of disrepair. The Applicant recently purchased the property from the survivor of two related women (mother and daughter or sisters) who had owned it since 1983. While the Applicant has no direct knowledge of the history of the home, the existence of three (3) separate electric meter cases on its exterior (only one holding a meter presently), suggests that the home was at some point used as a multi-family residence, presumably without legal authority.

The Applicant proposes to raze the existing single family home down to the foundation and to replace it with a modern home of similar architecture to the existing home, utilizing the existing foundation provided it is structurally sound. As noted, the existing home has fallen into a state of extreme disrepair, and in any event its internal configuration is not reasonably conducive to reconfiguration to meet the needs of a modern family. The proposed new home would better meet the needs and desires of a present day family in Bernards Township, given the number, types and layout of the interior rooms and given the inclusion of an attached two car garage and a two car driveway (the existing home has no onsite parking, requiring parking on the very narrow East Allen Street).

10. [Description of Requested Variances or Exceptions]

This is an application for bulk variances for front, side and rear yard setbacks and for lot coverage. The subject lot is also non-conforming as to area, width and improvable area, but these are existing non-conformities that would not be exacerbated by the Applicant's proposal.

With the exception of the aforementioned variances, the Applicant believes that no other variance, waiver or exception is required in order to grant the approval requested. However, if the Board directs that additional variance(s), waiver(s) or exception(s) is/are needed, the Applicant may seek the same in accordance with such direction.

11. [Arguments in Support of Application]

The variances requested are "C-1" variances, based upon the hardship created by the lot being undersized and being a corner lot, and by the location of the lawfully existing home, the foundation of which the Applicant hopes to preserve. The variances are also supported under "C-2" a/k/a "flexible C" analysis, in that the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-1, *et seq.*, would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment. Specifically, the proposed redevelopment of the lot would serve the following purposes of the MLUL: (h) (to encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight); (i) (to promote a desirable visual environment through creative development techniques and good civic design and arrangement); and (j) (to promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land). Furthermore, the replacement of the existing deteriorated and outdated home with a modern home would assist in conserving property values in the neighborhood as whole, which remains a purpose of land use regulation even though that goal is not expressly stated in N.J.S.A. 40:55D-2. Home Builders League of S. Jersey, Inc. v. Township of Berlin, 81 N.J. 127, 144-45 (1979).

The Negative Criteria are also satisfied as the variances can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance. Like the existing home, the proposed home will be one of only three homes on East Allen Street, with open space to its south (cemetery) and to its north (large lawn area on Lot 23). While the home to its west (which was recently constructed with similar variance relief) will obviously be in close proximity, the two homes together will be surrounded to the south and west by the openness of the cemetery. Given these surroundings, having a larger home on this particular undersized lot will not have a detrimental effect upon the public good or the zone plan.

Respectfully Submitted,

BISOGNO, LOEFFLER & ZELLEY, LLC

  
By: Frederick B. Zelley, Esq.  
Attorneys for the Applicant Silver Living LLC

Dated: August 16, 2020