

BERNARDS TOWNSHIP
ZONING BOARD OF ADJUSTMENT

MINUTES
Special Meeting
June 15, 2017

Chairman Rhatican called the meeting to order at 7:45 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: Bellows, Breslin, Genirs, Mastrangelo, Nungester, Rhatican, Surano, Zaidel
Members Late: NONE
Members Absent: Lane; on motion by Mr. Surano, seconded by Mr. Zaidel, Mr. Lane'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 MINUTES

Ms. Nungester moved approval as written of the draft minutes for the April 5, 2017 regular session meeting of the Zoning Board and Ms. Genirs seconded the motion.

Roll Call Vote:

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

Motion carried.

APPROVAL OF RESOLUTIONS

Resolution: Graham, Holly & Nicholas; Block 2904, Lot 2; 57 Peachtree Road; Bulk Variances (approved); #ZB17-008.

Ms. Mastrangelo motioned to approve the resolution as written and Mr. Surano seconded.

Roll Call:

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

Motion carried.

Resolution: Montuori, Raffaello; Block 7501, Lot 10; 511 Lyons Road; Bulk Variances (approved); #ZB17-010.

Mr. Surano motioned to approve the resolution as written and Mr. Breslin seconded.

Roll Call:

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

Motion carried.

APPROVAL OF RESOLUTION 17-05 – Appointment of Thomas J. Quinn, PE, as Board Engineer

Mr. Breslin moved approval of the resolution as written and Ms. Nungester seconded.

Roll Call:

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

Motion carried.

COMPLETENESS AND PUBLIC HEARING**Mulvihill, Kristin & Brian; Block 7602, Lot 3; 418 Lyons Road; Bulk Variance for front yard setback; #ZB17-011.**

Present: Brian & Kristin Mulvihill, Applicants
Craig W. Stires, Engineer for the Applicants
Richard Maddaluna, General Contractor for Applicants

The Board's professionals, the applicants' professionals and the applicants were duly sworn in by Mr. Warner.

Brian Mulvihill, applicant residing at 282 Thistle Lane, Bedminster, NJ, told the board members that he and his wife, Kristin, wanted to build a two-story house with a two car attached garage to replace the existing 1-1/2 story rental dwelling with single car attached garage, which had already been demolished. The only relief sought was for lot width. The original structure encroached on the front yard setback however the proposed house would be in conformance so an existing nonconformity was being eliminated.

Mr. Mulvihill testified that many of the surrounding properties were also deficient in lot width and after speaking with several neighbors, he found that he could not purchase any additional property to bring the subject property into conformance. He added that those neighbors were happy that the property would no longer be a rental property.

Mr. Zaidel asked Mr. Mulvihill if he had read Mr. Schley's memo dated June 12, 2017 and Mr. Mulvihill stated that he would stipulate to all the comments contained therein.

In response to a question by Ms. Mastrangelo, Mr. Mulvihill stated that Richard Maddaluna, general contractor with *Maddaluna Modular Homes*, Bernardsville, NJ, had taken the pictures that were distributed with the application. He stated that they were a reasonable representation of the property as it currently existed. Mr. Mulvihill also noted that as shown by the renderings in the application packet, the house would be substantially similar to the houses in the surrounding neighborhood.

Mr. Schley reiterated that the entire structure, including the front porch, would be located behind the setback.

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

William Hannis, 410 Lyons Road, was sworn in by Mr. Warner. His question pertained to the location of the house and driveway. After viewing the documents, he commented that he thought the project was "great."

Hearing no further questions or comments, Chairman Rhatican closed the public portion of the meeting.

After deliberations, the board members felt that the applicant had met the positive criteria for both a "c(1)" or hardship variance or a "flexible c" variance and had also 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 Applicant subject to the conditions stipulated to by the Applicant and as stated during deliberations. Ms. Genirs seconded.

Roll Call:

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

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Sanchez, Frank & Doriann; Block 501, Lot 22; 25 Van Dorn Road; Bulk Variances to alter a roof height in reconstructing a second floor and to remove a tennis court; #ZB17-012.

Present: Frank & Doriann Sanchez, Applicants
Stanley J. Kufel, AIA, Architect for the Applicants

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

Stanley J. Kufel, AIA, architect with *S. J. Kufel Associates/Architects*, Oradell, NJ, provided his education and professional experience credentials. After confirming that his license was in good standing, Chairman Rhatican accepted Mr. Kufel as an expert in the field of architecture.

Frank Sanchez, the applicant, testified that he currently lived at 25 Van Dorn Road and that he had lived in the township at other addresses for 20 years. He proposed to increase the roof height in order to reconstruct existing space in areas of both the two story and one story portions of the house. The proposal would increase usable living space with no increase in the actual footprint of the house. He stated that because the property was located on a cul-de-sac, there was an existing rear yard encroachment.

Mr. Kufel testified that there were three (3) uncontrollable constraints associated with the property. There were two (2) drainage easements and the cul-de-sac. He stated that the property was fairly wet and that the removal of the tennis court and associated impervious coverage would eliminate some of that wetness. Mr. Warner added that removal of the tennis court would also eliminate two (2) setback deviations and a lot coverage issue. Mr. Sanchez stipulated, as a condition of approval, to complete removal of the tennis court prior to the issuance of a Certificate of Occupancy and within six (6) months. It would be replaced by grass or some other permeable ground cover.

Mr. Kufel stated that the proposed gable style roof would not add any additional impervious or building coverage. It was also more conforming to other houses in the neighborhood than the existing barn style roof. Mr. Sanchez added that the house would be completely resided in the same color and architectural style.

In response to a question from Ms. Mastrangelo, Mr. Sanchez testified that he had taken the pictures submitted with the application and that they were an accurate depiction of the property as it currently existed.

Chairman Rhatican opened the hearing for public questions and comment.

Michael and Maria Paxton, 200 Childs Road, were sworn in by Mr. Warner. They introduced into evidence, **Exhibit O-1** which was an aerial picture of the back of the Sanchez house. They expressed concern that because of the loss of trees on their property due to Hurricane Sandy, their privacy would be further compromised by this project. The Board was not inclined to require the applicant to plant additional vegetation on the Paxton's property and after further discussion, the Paxtons expressed their support.

Hearing no further comments or questions from the public, Chairman Rhatican closed that portion of the meeting.

After deliberations, the board members felt that the requested relief could be granted under both the "c(1)" or "hardship" variance positive criteria and the "c(2)" or "flexible c" variance positive criteria. In addition, they felt that the applicant had satisfied his burden of proof for 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:	Breslin, Genirs, Mastrangelo, Nungester, Surano, Zaidel, Rhatican
Nay:	NONE
Abstain:	NONE

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Tufariello Family 2012 Trust; Block 1506, Lot 9; 37 West Oak Street; Bulk Variance for front yard setback; #ZB17-013.

Present:	Jonathan E. Booth, RA, Architect for the Applicant
	Susan Tufariello, Vincent Tufariello, representing Applicant

The Board's professionals, the representatives for the applicant and the applicant's architect were duly sworn in by Mr. Warner.

Jonathan E. Booth, RA, Basking Ridge, NJ, provided his education and professional experience credentials. After confirming that his license was in good standing, Chairman Rhatican accepted Mr. Booth as an expert in the field of architecture.

Vincent Tufariello, representing the applicant, Tufariello Family 2012 Trust, described the proposed project to the board members. There would be an expansion of bedroom living space of 114 square feet over the existing first floor. On the first floor, there would be a new open front porch (272 square feet) replacing the old porch (136 square feet). He explained that because of the slope of the property, the basement was open. An open porch (62 square feet) on that level would be replaced by an 84 square foot breakfast room. Finally, 244 square feet of unfinished space would be converted to a laundry/mud/mechanical room. The proposed increase in roof height was to allow more headroom on the second floor.

Mr. Tufariello testified that the 200 year old house was located in the historic district of the Township. He stated that renovations completed on the house 100 years ago were not done in the same style as the original house and opined that the proposed improvements would bring the dwelling back to the correct style with minimal expansion of the footprint. He referred to the 2010 Historic Element of the Master Plan and explained that his goal was to restore the dwelling to reflect the correct period. To that end, he was also replacing the asphalt roof with hand split cedar shakes. Despite the age of the dwelling, Mr. Tufariello stated that there was no indication that there was any issue with the structural integrity.

Mr. Tufariello stated that the front yard setback deviation was not going to be exacerbated and he also noted that most of the homes in the area were much closer to the road than this house.

Mr. Tufariello stipulated as a condition of approval to all the comments made in Mr. Schley's memo dated June 12, 2017.

In response to a question from Ms. Mastrangelo, Mr. Tufariello advised that the pictures submitted with the application were taken by Mr. Booth and were an accurate depiction of the property as it existed.

Responding to a question from Mr. Zaidel, Mr. Booth testified that he had worked on historic projects in the past. He added that he was a trustee of the Somerset Hills Historical Society and served as an expert regarding preservation of historic architecture in Long Valley.

Chairman Rhatican asked the board members if they had any other questions for the witnesses. The meeting was opened for questions or comments from the public. Hearing none, Chairman Rhatican closed that portion of the meeting.

After deliberations, the board members felt that the requested relief could be granted under both the "c(1)" or "hardship" variance positive criteria and the "c(2)" or "flexible c" variance positive criteria. In addition, they felt that the applicant had satisfied his burden of proof for 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. Ms. Genirs seconded.

Roll Call:

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

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Richter, Nicole & Gregory; Block 6001, Lot 3.01; 69 Stonehouse Road; Bulk Variance for proposed lot coverage; #ZB17-015.

Present:	Gregory Richter, Applicant
	Scott M. Bleeker, PLS, surveyor for the Applicant

Scott M. Bleeker, PLS, Haledon, NJ, advised Chairman Rhatican that he was here on behalf of the applicant's engineer who was unable to attend and he provided his education and professional experience credentials. After confirming that his license was in good standing, Chairman Rhatican accepted Mr. Bleeker as an expert in the field surveying but not in the field of engineering.

The Board's professionals, the applicant and the applicant's consultant were duly sworn in by Mr. Warner.

Gregory Richter, the applicant residing at 69 Stonehouse Road, testified that he and his wife were seeking variance relief for lot coverage in order to construct a pool, patio and pavilion totalling 2,514 square feet of new impervious coverage. The subject property, a flag lot located in the R-4 Zone, already exceeded the maximum allowable lot coverage by 812 square feet (1.7%). The proposed new impervious lot coverage would result in an additional 5.3% bringing the total impervious lot coverage to 22%.

Mr. Timko testified that because the area behind the Stonehouse property (Millington Quarry) is subject to New Jersey Department of Environmental Protection (NJDEP) restrictions, no houses could be built there. This is also true of the areas to the east and south where there was a big berm.

Mr. Richter stipulated as a condition of approval to submitting a plan to replace the trees that were dead or dying.

Mr. Richter testified that there is a huge detention basin on the north side of the subject property and that the property slopes down to that basin. Mr. Bleeker added that the pool would be tucked into the berm and none of the surrounding properties would be able to see it.

In response to a question by Mr. Zaidel, Mr. Schley advised the board members that the applicant would have to provide additional drainage improvements since the proposed project exceeds the 1,000 square feet of new impervious coverage threshold.

Mr. Richter stipulated as a condition of approval to the comments in Mr. Schley's memo of June 12, 2017 and Mr. Timko's memo of May 12, 2017.

Several board members expressed concern over the substantial increase in lot coverage. They asked the applicant to confer with Mr. Bleeker in an attempt to reduce the numbers. Mr. Richter and Mr. Bleeker left the room to discuss the issue and the next application was heard.

COMPLETENESS AND PUBLIC HEARING

Li, Wei & Yan, Shu; Block 7902, Lot 22; 65 Goltra Drive; Bulk Variances for minimum lot area, minimum lot width, minimum improvable lot area and steep slope disturbance; #ZB17-016.

Present: Shu Yan & Wei Li (h&w), Applicants
Stephen E. Parker, PE, Engineer for the Applicants
Douglass Asral, AIA, Architect for the Applicants

The Board's professionals, the applicants' professionals and the applicants were duly sworn in by Mr. Warner.

Chairman Rhatican noted that Stephen E. Parker, PE, had appeared before this Board and after confirming that his license was in good standing, he was accepted by Chairman Rhatican as an expert in the field of engineering.

Douglass Asral, AIA, presented his education and professional experience credentials and after confirming that his license was in good standing, Chairman Rhatican accepted Mr. Asral as an expert in the field of architecture.

Shu Yan, the applicant, testified that she and her husband had moved into the house in 2016. They had initially considered expanding the existing dwelling to accommodate her family however because the structure was in poor condition, they decided to completely replace the existing single story house (1,480 square feet) and an attached two car garage with a two story home (4,040 square feet) and attached three car garage.

Stephen E. Parker, PE, engineer with *Parker Engineering and Surveying PC*, Somerville, NJ, testified that most of the variances being requested, namely lot width, lot size and minimum improvable area, were pre-existing conditions based on the lot itself. The proposed house would meet all of the setbacks and would be similar in size to the newer homes in the area. The overall footprint would be increased by approximately 600 square feet. He noted that the steep slope line runs through the middle of the subject property so nothing could be built without disturbance of the steep slope which was the final variance sought by the applicants. The new house had been designed to minimize that disturbance by pushing it to the front and right of the property as much as possible so that it was located on the edge of the line. In addition, the basement was designed as a walk-out to take advantage of the slope and to prevent further disturbance.

Mr. Parker stipulated, as a condition of approval, to the comments made in Mr. Schley's memo dated June 12, 2017 and in Mr. Timko's memo dated June 2, 2017.

Douglass Asral, AIA, Whippany, NJ, described the various areas of the proposed house.

In response to a question by Mr. Surano, Mr. Parker noted that the driveway would be relocated from the left side of the property to the right side to stay away from the steep slope area.

Mr. Parker agreed to work with Mr. Timko to move the proposed drywell location out of the 20 to 25% slope area farther down the hill to the 15 to 20% slope area as long as the soil in that area was favorable.

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

Denis R. Scheper, 59 Goltra Drive, was duly sworn in by Mr. Warner. He testified that the house had been an eyesore in the neighborhood and that the applicants were "great" neighbors. He then questioned the actual location of a large oak tree depicted on the plan between his house and the applicants' house and whether it would survive the disturbance created by the re-grading in that area. In response to his concerns, the applicants stipulated, as a condition of approval, to make every reasonable effort to save the tree and to submit a tree removal and replacement plan.

Mr. Scheper also questioned the relocation of the driveway to the right side of the property which was adjacent to his. Mr. Parker advised him that this was done to avoid the steep slopes on the left. Mr. Schley advised him that the applicants would have to provide replacement trees and some of those could be used as a buffer on that side of the driveway.

In response to a question from Mr. Scheper, the applicants stipulated as a condition of approval that the façade would be as indicated on the plans drawn by the architect.

Hearing no further questions from the public, Chairman Rhatican closed that portion of the meeting.

After deliberations, the board members felt that the requested relief could be granted under both the "c(1)" or "hardship" variance positive criteria and the "c(2)" or "flexible c" variance positive criteria. In addition, they felt that the applicant had satisfied his burden of proof for 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. Ms. Mastrangelo seconded.

Roll Call:

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

Motion carried.

COMPLETENESS AND PUBLIC HEARING (continued from earlier in the evening)

Richter, Nicole & Gregory; Block 6001, Lot 3.01; 69 Stonehouse Road; Bulk Variance for proposed lot coverage; #ZB17-015.

Chairman Rhatican reopened the application. Mr. Richter stipulated as a condition of approval, to capping the total impervious lot coverage at 19%. That was agreeable to the board members and on advice from Mr. Timko they allowed Mr. Richter the flexibility to remove coverage wherever he felt appropriate.

Chairman Rhatican opened the meeting to the public for comments on the modified plan. Hearing none, he closed that portion of the meeting.

After deliberations, the board members felt that the requested relief could be granted under both the "c(1)" or "hardship" variance positive criteria and the "c(2)" or "flexible c" variance positive criteria. In addition, they felt that the applicant had satisfied his burden of proof for 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. Mr. Surano seconded.

Roll Call:

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

Motion carried.

COMMENTS FROM MEMBERS

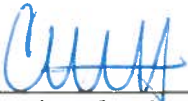
Mr. Zaidel reminded the board members that that they had to complete the form certifying that they had read the settlement agreements associated with the Islamic Society of Basking Ridge application.

Chairman Rhatican advised the board members that Mr. Timko was stepping down at the end of June as Board Engineer. Thomas Quinn, PE, Board Engineer for the Planning Board had been appointed earlier to replace him. Chairman Rhatican and the board members thanked Mr. Timko for his service.

ADJOURNMENT

Ms. Mastrangelo motioned, Mr. Surano seconded and by unanimous Voice Vote, the meeting was adjourned at 10:22 PM.

Respectfully submitted,



Cyndi Kiefer, Secretary
Bernards Township
Zoning Board of Adjustment