

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

**MINUTES**

Regular Meeting  
August 9, 2017

Vice Chairman Breslin called the meeting to order at 7:34 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: Lane (7:43 PM)  
Members Absent: Rhatican, Surano; on motion by Ms. Mastrangelo, seconded by Ms. Nungester, the absences of Chairman Rhatican and Mr. Surano were excused.  
Also Present: Board Attorney, Steven K. Warner Esq.; Board Engineer, Thomas Quinn PE; Board Planner, David Schley AICP, PP; Board Secretary, Cyndi Kiefer.

**APPROVAL OF RESOLUTIONS**

**Resolution: Canady, David; Block 706, Lot 3; 53 Madisonville Road; Bulk Variances to construct a new dwelling; #ZB17-006 (approved).**

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

Roll Call:

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

\*Ineligible to vote.

Motion carried.

**Resolution: Alvarez, Michael & Hakimzadeh, Parisa; Block 5701, Lot 27; 102 Atlas Road; Bulk Variance to construct an addition; #ZB17-007 (approved).**

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

## Roll Call:

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

\*Ineligible to vote.

Motion carried.

**Resolution: Kim, Edward & Lori; Block 11004, Lot 9; 11 Sentry Court; Bulk Variance for fence; #ZB17-009 (approved).**

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

## Roll Call:

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

\*Ineligible to vote.

Motion carried.

**Resolution: Mulvihill, Brian & Kristin; Block 7602, LOT 3; 418 Lyons Road; Bulk Variance to construct a new dwelling; #ZB17-011 (approved).**

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

## Roll Call:

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

\*Ineligible to vote.

Motion carried.

**Resolution: Sanchez, Frank & Doriann; Block 501, Lot 22; 25 Van Dorn Road; Bulk Variance to construct an addition; #ZB17-012 (approved).**

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

## Roll Call:

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

\*Ineligible to vote.

Motion carried.

**Resolution: Tufariello Family 2012 Trust; Block 1506, Lot 9; 37 West Oak Street; Bulk Variance to construction additions; #ZB17-013 (approved).**

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

## Roll Call:

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

\*Ineligible to vote.

Motion carried.

**Resolution: Richter, Gregory & Nicole; Block 6001, Lot 3.01; 69 Stonehouse Road; Bulk Variance to construct a pool, patio and pool house; #ZB17-015 (approved).**

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

Roll Call:

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

\*Ineligible to vote.

Motion carried.

**Resolution: Li, Wei & Yan, Shu; Block 7902, Lot 22; 65 Goltra Drive; Bulk Variances to construct a new dwelling; #ZB17-016 (approved).**

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

Roll Call:

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

\*Ineligible to vote.

Motion carried.

#### **COMPLETENESS AND PUBLIC HEARING**

**Loughnane, Phillip L. and Eileen R.; Block 1509, Lot 1; 2 Lee Place; Bulk Variances for Front Yard and Rear Yard Setbacks to construct an addition; #ZB17-014.**

Present: Phillip L. Loughnane, Applicant

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

Phillip L. Loughnane, applicant residing at 2 Lee Place, testified that he and his wife proposed to construct a two story addition completely to the rear of the existing house which is located on an undersized corner lot, fronting on both West Oak Street and Lee Place. In order to do so, the project required relief for front yard (secondary - West Oak Street) and rear yard setback deviances.

(Mr. Lane arrived at 7:43 PM.)

Mr. Loughnane addressed comments made in Mr. Schley's memo dated July 27, 2017 and stipulated to Item #2, revision of lot coverage calculations as a condition of approval. Mr. Quinn referred to his memo dated August 7, 2017 which noted a correction to the rear yard setback and Mr. Loughnane agreed.

Vice Chairman Breslin asked the board members if there were any further questions for either the applicant or the board professionals. Hearing none, he opened the meeting to the public for questions or comments. There were none and Vice Chairman Breslin closed the meeting to the public.

After deliberating, the board members felt that the applicant 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 applicant 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 Applicant subject to the conditions stipulated to by the Applicant and as stated during deliberations. Ms. Nungester seconded.

Roll Call:

|          |   |
|----------|---|
| Aye:     | Bellows, Breslin, Genirs, Mastrangelo, Nungester, Zaidel. |
| Nay:     | NONE  |
| Abstain: | Lane*   |

\*Ineligible to vote.

Motion carried.

**COMPLETENESS AND PUBLIC HEARING**

**Swan, Kenneth and Karen; Block 5901, Lot 13; 60 Linden Drive; Floor Area Variance to construct an addition; #ZB17-018.**

Present: Kenneth and Karen Swan, Applicants

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

Kenneth Swan, applicant residing at 60 Linden Drive, testified that he and his wife proposed to construct an addition to the rear of their home to improve access, to create a functional laundry room and to increase the size of the existing small bedrooms. Because the property was located in the RC-4 residential cluster zone, the increase in floor area required a variance for floor area deviation despite the fact that the applicant had already removed an existing greenhouse which was larger than the proposed addition. Mr. Schley explained that because the greenhouse was not considered living space, it was not incorporated into the floor area calculations.

With reference to Mr. Schley's July 27, 2017 memo, Mr. Swan stipulated, as a condition of approval, to the recommendations made.

In response to a question from Mr. Zaidel, Mr. Swan testified that the existing trees would remain.

Mr. Swan testified that he had taken the photos that were included with the application and that they depicted the property as it currently exists. He also noted that he had spoken to several neighbors about the proposed project and there were no negative comments.

Vice Chairman Breslin asked the board members if there were any further questions for either the applicants or the board professionals. Hearing none, he opened the meeting to the public for questions or comments. There were none and Vice Chairman Breslin closed the meeting to the public.

After deliberating, the board members felt that the applicant had satisfied the positive criteria for a "c(2)" or "flexible c" variance. They also felt that 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. Nungester seconded.

Roll Call:

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|----------|---|
| Aye:     | Bellows, Breslin, Genirs, Lane, Mastrangelo, Nungester, Zaidel. |
| Nay:     | NONE  |
| Abstain: | NONE  |

Motion carried.

**PUBLIC HEARING** (application was declared complete during the May 3, 2017 meeting)  
**The Pingry School; Block 11601, Lot 3.01; 131 Martinsville Road; Site Plan, Bulk Variances, Conditional Use; #ZB17-017.**

Present: Roger Mehner, Esq., Attorney for the Applicant  
Michael Waelz, Director of Facilities at Pingry  
Christopher Borinski, PE, Engineer for the Applicant  
Christine Nazzaro-Cofone, PP, AICP, Planner for the Applicant

Ms. Nungester recused herself and left the room.

Roger Mehner, Esq., attorney with *Lindabury, McCormick, Estabrook, Cooper PC*, Summit, New Jersey, advised the board members that he would be representing the applicant during the hearing.

Mr. Warner advised Mr. Mehner that there were only six (6) board members eligible to hear this application which involved both Bulk ("c") variances and Conditional Use ("d-3") variances. Mr. Mehner responded that he would proceed with the application.

Mr. Mehner gave a brief description of the project. He then stated that the applicant was seeking relief for the height of fences located on the Varsity Softball Field, the Junior Varsity Softball Field and the Synthetic Turf Field along with other pre-existing conditions requiring "d" variances for recreational areas and parking areas located in the front yard, recreational activities continuing beyond 8:00 PM and decreased screening of recreational and parking areas. Proposed improvements included new dugouts, portable bleachers and a shed at the Varsity Softball Field. He noted that the property was located in the R-3 Zone and that all of their activities had to be located in the front and side yards thus triggering the "d" variances because the rear yard was encumbered by wetlands.

Mr. Mehner advised the board members that the original application included a request for variance relief for a temporary running track however that request was withdrawn. The temporary running track had been removed and the previously approved permanent track was in use.

The Board's professionals and Michael Waelz, Director of Facilities at Pingry were duly sworn by Mr. Warner.

Mr. Waelz provided his credentials and experience for the Board. He testified that the new 8' high vinyl coated chain link fencing was required for safety purposes. He also opined that the all black vinyl fencing would not be visible from the street and would be more aesthetically pleasing. He stated that he had taken the photos that had been supplied with the application and that they were an accurate depiction of the property as it currently exists. In response to a question from Ms. Mastrangelo, he testified that the fencing would be all black.

Vice Chairman Breslin asked if the board members had any further questions. Hearing none, he asked the public if there were any questions for this witness. There were none and he closed the public portion of the meeting.

Christopher Borinski, PE, engineer with *CHA Consulting*, Parsippany, New Jersey was duly sworn by Mr. Warner and qualified as an expert in civil engineering. He described the various improvements. A discussion between Mr. Waelz, Mr. Borinski and the board members ensued as to how the applicant's professionals had arrived at the proposed fence heights and locations. The applicant stipulated, as a condition of approval, to prohibit baseball from being played on the turf field. It was then determined that a backstop was not necessary and therefore the 8' high fencing along the sidelines and 20' high fencing behind the goal areas was sufficient.

Mr. Borinski stipulated, as a condition of approval, to all of the comments and recommendations in

Mr. Schley's memo dated July 31, 2017 and in Mr. Quinn's memo dated August 7, 2017.

Vice Chairman Breslin opened the meeting to the public for questions. Hearing none, he closed the public portion of the meeting.

Christine Nazzaro-Cofone, PP, AICP, planner with *Cofone Consulting Group*, Red Bank, New Jersey, was duly sworn by Mr. Warner and qualified as an expert in the field of professional planning.

Ms. Nazzaro-Cofone opined that the applicant had satisfied its burden of proof for the positive criteria for the "d(3) conditional use" variance relief as well as the "c(1)" or "hardship" and "c(2)" or "flexible c" variance relief. As to the negative criteria, she reminded the board members that the school was considered an "inherently beneficial use" which presumptuously promoted the general welfare. Finally, she saw no substantial impairment to the intent and purpose of the zone plan and zone ordinances.

In response to concerns voiced by the board members, Ms. Nazzaro-Cofone opined that the proposed fencing was more aesthetically pleasing than the existing chain link fence and that the two (2) foot increase in height would not be detrimental to the surrounding community. The applicant stipulated as a condition of approval that all the relevant landscaping conditions in the 2015 approval would also apply to the proposed development.

Mr. Mehner gave a brief summary of the application.

Vice Chairman Breslin asked the board members if there were any further questions. Hearing none, he opened the meeting to the public for question or comment. Hearing none, he closed the meeting to the public.

After deliberating, the board members felt that the applicant had satisfied the positive criteria for both "c(2)" or "flexible c" and "d(3)" variance relief. They also felt that the applicant had satisfied the negative criteria for both.

Mr. Zaidel moved to direct the Board Attorney to draft a Resolution memorializing the Board's decision to grant the application for Preliminary and Final Site Plan Approval and 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:

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| Aye:     | Bellows, Breslin, Genirs, Lane, Mastrangelo, Zaidel. |
| Nay:     | NONE   |
| Abstain: | NONE   |

Motion carried.

#### **COMPLETENESS AND PUBLIC HEARING**

**Beaudry, Nancy; Block 3703, Lot 3; 96 Lyons Place; Bulk Variances; #ZB17-020.**

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| Present: | Vincent T. Bisogno, Esq., Attorney for the Applicant |
|          | David E. Fantina, PE, Engineer for the Applicant     |
|          | Teddy Beaudry, son of the Applicant                  |

Ms. Nungester rejoined the Board.

The Board's professionals and Mr. Fantina were duly sworn by Mr. Warner.

Vincent T. Bisogno, Esq., attorney with *Bisogno, Loeffler & Zelley LLC*, Basking Ridge, New Jersey, advised the board members that he would be representing the applicant during the hearing. He explained that the applicant, Nancy Beaudry, owned both the property on which her current home is located and the vacant subject property next door. The original property had been purchased by her family in 1946 and the vacant lot had been created and approved in 1987 by the Planning Board as a conforming minor subdivision. Subsequently, through various zoning changes in 1990, 1999 and 2006, the property had become nonconforming and encumbered by substantial wetlands restrictions. The applicant sought to construct a 5,332 square foot single family house with an attached three-car garage requiring relief for pre-existing lot area, pre-existing lot width, front yard setback and minimum improvable lot area. Because the building envelope was completely consumed by wetlands, the applicant had already applied for a Freshwater Wetlands Individual Permit from the New Jersey Department of Environmental Protection (NJDEP). Any approval from this Board would be conditioned upon receipt of that permit. He noted that the only variance created by this application was for the front yard setback deviation.

Mr. Bisogno stated that the applicant had sent out letters to neighbors offering the vacant property for sale or offering to purchase property to bring the subject lot into conformance. He entered into evidence as **Exhibit A-1**, a letter to the Township and as **Exhibit A-2**, a letter to New Jersey Transit outlining those offers.

**Exhibit A-3** was a letter sent to JCP&L advising them that the applicant proposed to install a driveway within its 25 foot wide right-of-way which ran along the entire east property line.

David E. Fantina, PE, 15 Sunset Drive, Bernardsville, New Jersey, was qualified as an expert in the field of civil engineering.

Mr. Fantina gave a brief description of the property and surrounding area noting that the property was heavily encumbered by wetlands. In response to a question by Mr. Zaidel, he noted that the wetlands transition area regulations were not retroactive and did not apply to properties owned in 1987 or earlier provided that the ownership remained unchanged as was the case here.

Mr. Fantina referred to Item #4 of Mr. Schley's memo of July 27, 2017 and stated that there would be no roof over any porch or stoop. Mr. Schley advised that the front yard setback dimension must be measured from the steps of the porch/stoop, not the house line which would bring the number to 44 feet, not 50 feet as listed on the plan.

Mr. Fantina stipulated to all of the recommendations as stated in Mr. Schley's as well as those listed in Mr. Quinn's memo dated August 7, 2017.

Vice Chairman Breslin asked if there were any further questions from the board members. Hearing none, he opened the meeting to the public for questions. There were none and he closed the meeting to the public.

Teddy Beaudry, son of the applicant and also residing at 96 Lyons Place, was duly sworn by Mr. Warner.

Mr. Beaudry testified that the new house was to be occupied by him, his wife and three (3) children. He had taken photos earlier that day of the newer homes in the area and they were entered into evidence as **Exhibits A-4 through A-12**. All of those houses were larger than the one proposed however the lot sizes were similar. A picture of the front stoop at 22 Lyons Place was entered into evidence as **Exhibit A-13**. Mr. Beaudry testified that the picture represented the exact profile of the proposed stoop noting that there was no roof. Finally, he stated that the house had been designed to accommodate his parents when they were no longer able to live on their own.

Vice Chairman Breslin asked if there were any further questions from the board members. Hearing none, he asked if there were any questions or comments from the public.

Alison Petersen, 5 Gerard Avenue was duly sworn in by Mr. Warner. She inquired about the ownership of the property and also expressed concern about additional disturbance of the wetlands.

Hearing no further questions or comments from the public, he closed the public portion of the meeting.

Mr. Bisogno summarized the application.

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

Mr. Lane 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:

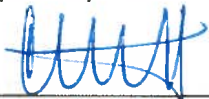
|          |   |
|----------|---|
| Aye:     | Bellows, Breslin, Genirs, Lane, Mastrangelo, Nungester, Zaidel. |
| Nay:     | NONE  |
| Abstain: | NONE  |

Motion carried.

#### **ADJOURNMENT**

Hearing no further business, Ms. Genirs moved to adjourn the meeting and by unanimous Voice Vote, the meeting was adjourned at 10:29 PM.

Respectfully submitted,



Cyndi Kiefer, Secretary  
Bernards Township  
Zoning Board of Adjustment