

BERNARDS TOWNSHIP

ZONING BOARD OF ADJUSTMENT

MINUTES

Regular Meeting
November 8, 2017

CALL TO ORDER

Vice Chairman Breslin called the meeting to order at 7:33 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 special 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 sent to the Bernardsville News, Bernardsville, NJ, and the Courier News, Bridgewater, NJ, and was filed with the Township Clerk all on January 11, 2017 and was electronically mailed 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 heard after 10:30 PM"

ROLL CALL:

Members Present: Bellows, Breslin, Genirs, Lane, Mastrangelo Nungester, Surano, Zaidel.
Members Late: NONE
Members Absent: Rhatican; on motion by Mr. Surano, seconded by Mr. Lane, the absence of Mr. Rhatican was excused.
Also Present: Steven K. Warner Esq., Board Attorney; David Schley, PP, AICP, Township/Board Planner; Thomas Quinn, PE, CME, Board Engineer; Cyndi Kiefer, Board Secretary.

APPROVAL OF MINUTES

December 7, 2016 - Ms. Mastrangelo moved approval of the minutes as drafted. Ms. Genirs seconded.

Roll Call:

Aye: Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel.
Nay: NONE

Motion carried.

October 4, 2017 - Ms. Nungester moved approval of the minutes as drafted. Ms. Genirs seconded.

Roll Call:

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

Motion carried.

APPROVAL OF RESOLUTIONS

Resolution (revised) - Loughnane, Philip L. & Eileen R.; Block 1509, Lot 1; 2 Lee Place; Bulk Variances; Application #ZB17-014 (approved).

Ms. Mastrangelo moved approval of the resolution as drafted and Ms. Nungester seconded.

Roll Call:

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

Motion carried.

Resolution (revised) - Swan, Kenneth & Karen; Block 5901, Lot 13; 60 Linden Drive; Bulk Variance; Application #ZB17-018 (approved).

Ms. Mastrangelo moved approval of the resolution as drafted and Ms. Genirs seconded.

Roll Call:

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

Motion carried.

Resolution (revised) - Beaudry, Nancy; Block 3703, Lot 3; 96 Lyons Place; Bulk Variances; Application #ZB17-020 (approved).

Mr. Zaidel moved approval of the resolution as revised (on page 1, Item 1, "40,560" changed to "43,560") and Ms. Nungester seconded.

Roll Call:

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

Motion carried.

Resolution - Ireland, Brian & Sara; Block 1617, Lot 4; 17 Ashwood Lane; Bulk Variances; Application #ZB17-024 (approved).

Ms. Mastrangelo moved approval of the resolution as drafted and Ms. Genirs seconded.

Roll Call:

Aye: Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel.
Nay: NONE

Motion carried.

Resolution - Beadle, Tim & Carol; 1204, Lot 23.01; 137 Washington Avenue; Bulk Variances; Application #ZB17-025 (approved).

Mr. Zaidel moved approval of the resolution as drafted and Mr. Lane seconded.

Roll Call:

Aye: Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel.
Nay: NONE

Motion carried.

Resolution - Doliner, Brian & Samantha; Block 401, Lot 19.01; 105 Childs Road; Bulk Variance; Application #ZB17-026 (approved).

Ms. Nungester moved approval of the resolution as revised (references to "c2" variance removed) and Ms. Mastrangelo seconded.

Roll Call:

Aye: Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel.
Nay: NONE

Motion carried.

Resolution - Reale, Stephen; Block 1205, Lots 1, 2, 3, 4, 12; Washington Avenue/Conkling Street Extension; Bulk Variances; Application #ZB17-027 (approved).

Ms. Genirs moved approval of the resolution as drafted and Ms. Nungester seconded.

Roll Call:

Aye: Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel.
Nay: NONE

Motion carried.

Resolution - Gannon, John & Kristen; Block 2906, Lot 27; 4 Woodstone Road; Bulk Variances; Application #ZB17-028 (approved).

Mr. Lane moved approval of the resolution as drafted and Ms. Mastrangelo seconded.

Roll Call:

Aye: Genirs, Lane, Mastrangelo, Nungester, Surano, Zaidel.

Nay: NONE

Motion carried.

COMPLETENESS & PUBLIC HEARING**Mertz, Andrew; Block 3301, Lot 6; 21 Riverside Drive; Bulk Variances; #ZB17-029.**

Present: Andrew Mertz, Applicant

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

Andrew Mertz testified that he was requesting variance relief for exacerbating a previously approved deficiency in the rear yard setback (75 feet required, 61.1 feet existing, 56.6 proposed) and for exceeding the maximum lot coverage (15% required, 14.1% existing, 16.14% proposed) in order to replace an existing deck with a larger covered deck and patio. He added that the lot itself was undersized which was why relief was required. Had the lot been conforming, he opined that there would be no need to appear before the Board.

Mr. Mertz further testified that the back of the dwelling faced south making the existing deck unusable during the summer months because of the heat. The proposed roof over the new deck would provide shade so that he and his family could enjoy the deck and back yard.

In response to questions about buffering, Mr. Mertz referred the board members to photos #3 and #4 which were submitted with the application and stated that neighboring Lot 7 would be shielded from a view of the deck by the bump out of his house. On the other side, Lot 5 was buffered by pine trees. There was significant wooded buffering between the subject property and the property to the rear (Lot 3). In addition, Mr. Mertz noted that his house was located approximately 200 feet from the garage on that rear property.

When asked if he had spoken to neighbors, Mr. Mertz replied that those he had spoken to did not have any issues with the project.

In reference to Item #2 in Mr. Schley's memo dated October 27, 2017, Mr. Mertz responded that he would like the option to close the deck in with screening to protect against bugs. A discussion ensued and the applicant stipulated, as a condition of approval, that the deck would not be closed in other than with screening and a chair rail high wall to which the screening would be attached. The roofing would be asphalt shingles as depicted on the architect's drawing (Nick Bensley, RA with *East/West Architecture LLC* dated 09/02/17).

In reference to additional runoff, Mr. Mertz testified that when he built the dwelling in 2007, he had to appear before this same Board which required that a drywell be installed. Mr. Quinn opined that the existing drywell was sized adequately to accommodate a portion of the additional runoff resulting from the proposed deck and patio.

Hearing no further questions or comments from the board members, Vice Chairman Breslin opened the hearing to the public for questions or comments. Hearing none, he closed that portion of the hearing.

After deliberating, the board members felt that the applicant had satisfied the positive criteria required for a "c(1)" or "hardship" 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 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, Nungester, Surano, Zaidel.
Nay: NONE
Abstain: NONE

Motion carried.

COMPLETENESS & PUBLIC HEARING

Kosakowski, William & Gina; Block 4101, Lot 13; 42 Eton Place; Bulk Variance; #ZB17-030.

Present: William & Gina Kosakowski, Applicants

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

Mr. Kosakowski testified that he was requesting relief for exceeding the allowable lot coverage (18% required, 18% existing, 19.25% proposed) in order to replace an existing 112 square foot shed with a 336 square foot shed and to add 192 square feet to an existing patio. He explained that storage space had become extremely limited since he, his wife, his wife's mother, and their three teenagers lived in the home.

In response to a question from Ms. Mastrangelo, Mr. Kosakowski stated that he had spoken to the neighbors on either side (Lots 12 and 14) and no concerns were voiced. He noted that the house to the back on Lot 2 was located far away and that there was a significant wooded area of buffering between the subject property and Lots 2, 3 and 14 which were the properties most impacted by the projects.

Ms. Mastrangelo questioned the reason for electricity in the proposed new shed and Mr. Kosakowski responded that his two (2) sons were film enthusiasts and would use the shed to construct props. He confirmed that the electricity was strictly for lighting.

Ms. Bellows expressed concern that the location of the proposed shed seemed closer to the neighbor than the existing shed. Mr. Schley confirmed that the new location did not create any setback issues and Mr. Kosakowski explained that if the shed were moved away from the neighbor, it would endanger the existing trees. After further discussion, the board members decided to defer to the applicants for the location of the shed because they were satisfied that the applicants had demonstrated a significant interest in protecting the trees. The applicants stipulated, as a condition of approval, that they would make every practical effort to locate the shed in an area that would be least detrimental to the trees.

Mrs. Kosakowski testified that she had taken the photos submitted with the application and that they depicted the property conditions as they currently existed.

Mr. Kosakowski addressed the comments in Mr. Quinn's memo dated November 7, 2017. In reference to stormwater run-off from the shed, Mr. Kosakowski testified that it would move towards Lot 2 and be absorbed in the tree line.

Hearing no further questions or comments from the board members, Vice Chairman Breslin opened the hearing to the public for questions or comments. Hearing none, he closed that portion of the hearing.

After deliberating, the board members felt that the applicants had satisfied the positive criteria required for a "c(2)" or "flexible c" variance. They also felt that the applicants 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 variance relief requested by the applicants subject to the conditions stipulated to by the applicants and as stated during deliberations. Mr. Lane seconded.

Roll Call:

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

Motion carried.

COMPLETENESS & PUBLIC HEARING**Garden State Property Management (GSPM) XX LLC; Block 3501, Lot 13; 105 Cross Road; Bulk Variance; #ZB17-031.**

Present: A. Gregory Rao, Esq., attorney for and sole member of GSPM XX LLC
William G. Hollows, PE, PLS, PP, engineer for the Applicant

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

Mr. Rao explained to the board members that the only relief sought was that for insufficient lot width (200 feet required, 150 feet existing). He added that originally, the lot width was conforming however in 1999 the minimum lot width was increased from 150 feet to 200 feet. He described the existing dwelling and shed as in total disrepair. He planned to construct a new dwelling (set back 150 feet from the road) with a side loading attached three car garage and a circular driveway.

Mr. Zaidel questioned the need for the increased front setback distance (150 feet) since the rest of the houses in the area were set back approximately 80 feet from the road. He also questioned the need for a circular driveway since there were virtually no others in that area.

Mr. Rao testified that there was substantial wooded screening between the subject property and the lot to the east (Lot 14) and that there was a small opening in the buffer line of trees between the subject property and the lot to the west (Lot 12). He planned to provide whatever was necessary to enhance that area. In addition, there was a substantial wooded area to the rear which would completely obscure the proposed dwelling from those properties in the rear.

A discussion ensued as to the reasons for the proposed location of the new house and the need for a circular driveway. Mr. Rao entered two photos of the house on Lot 10 which he had taken earlier in the day into evidence as **Exhibit A-1** and **Exhibit A-2**. He acknowledged that this house along with the one on Lot 11 were renovations and not complete knockdowns, as he was proposing. He opined that moving the proposed house back 150 feet from the road would give it more protection from street noise and the dangers of motorists exceeding the speed limit and would also allow room for the circular driveway.

Mr. Rao testified that he had not sent letters to the neighbors offering the property for sale since it had been on the market for several months. He opined that had anyone been interested in purchasing the property, they would have done so. He had tried to discuss the project with the two adjacent lot owners on two occasions however he was unable to find them at home and left letters of explanation instead. He had received no response to those letters.

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

William G. Hollows, PE, PLS, PP, with the firm of *Murphy & Hollows LLC*, Stirling, NJ was accepted as an expert in the field of engineering after confirming that his license was valid. He was duly sworn by Mr. Warner.

Mr. Hollows testified that the property had been zoned into non-conformity in 1999 and that most of the lots on the street were similar in width (150 feet) to the subject property. **Exhibit A-3**, a colorized version of Sheet 2 of 3 of his engineering plans dated September 6, 2017 was entered into evidence. He noted that there was no other request for relief other than that for lot width. The rest of the proposed project was in conformance.

Mr. Hollows stipulated that the applicant would comply with Comment #5 of Mr. Schley's memo dated October 27, 2017 which suggested that the proposed dwelling be shifted five (5) feet to the east to allow more landscaping on the west side between the driveway and Lot 12. Mr. Hollows noted that there was never any intent to disturb the dense wooded area to the rear of the property other than to remove those trees near the house that were diseased or dead. Finally, he stated that the applicant would stipulate, as a condition of approval, to the rest of the comments in Mr. Schley's memo along with those in Mr. Quinn's memo dated November 7, 2017.

A discussion between the applicant, Mr. Hollows and the board members ensued about the location of the proposed dwelling. The applicant agreed to reduce the front yard setback to no more than 120 feet and to eliminate the circular driveway. Approval of the driveway redesign was left to the discretion of the Board's professionals.

Mr. Rao testified that with the revisions, the footprint of the proposed dwelling would remain the same or even a bit smaller. He also affirmed that the siding would be hardi plank with stone on the front and high end vinyl on the sides, all consistent in color with other homes in the neighborhood.

Hearing no further questions or comments from the board members, Vice Chairman Breslin opened the hearing to the public for questions or comments. Hearing none, he closed that portion of the hearing.

After deliberating, the board members felt that the applicant had satisfied the positive criteria required 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.

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 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, Lane, Mastrangelo, Nungester, Surano, Zaidel.
Nay:	NONE
Abstain:	NONE

Motion carried.

COMMENTS FROM MEMBERS OR STAFF

Ms. Kiefer advised Vice Chairman Breslin that there were no applications for the special meeting scheduled for November 16, 2017 and by unanimous Voice Vote, the meeting was cancelled.

Ms. Kiefer advised the board members that she would be sending out an invitation for the 2017 Annual Holiday Party which would be held at 6:30 PM before the meeting on December 6, 2017.

ADJOURNMENT

Mr. Surano motioned and by unanimous Voice Vote, the meeting was adjourned at 9:38 PM.

Respectfully submitted,



Cyndi Kiefer, Secretary
Zoning Board of Adjustment