

BERNARDS TOWNSHIP **ZONING BOARD OF ADJUSTMENT**

MINUTES

Regular Meeting
February 6, 2019

CALL TO ORDER

Chairman Breslin called the meeting to order at 7:38 PM and read the following Open Public Meetings statement:

"In accordance with the requirements of the Open Public Meetings Law, notice of this 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, Whippany, NJ, and the Courier News, Bridgewater, NJ, and was filed with the Township Clerk all on January 10, 2019 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: Breslin, Genirs, Kleinert, Kraus, Pochtar, Pozner, Tancredi, Zaidel
Members Late: NONE
Members Absent: Lane
Also Present: Board Attorney, Steven K. Warner, Esq.; Township/Board Planner, David Schley, PP, AICP;
Board Engineer, Thomas Quinn, PE, CME; Board Secretary, Cyndi Kiefer

On motion made by Mr. Zaidel, seconded by Ms. Kleinert, all in favor and carried, Mr. Lane's absence was excused.

APPROVAL OF MINUTES

January 9, 2019 – Regular & Reorganization Session— On motion made by Ms. Genirs, seconded by Mr. Zaidel, all in favor and carried, the minutes were approved as drafted. Chairman Breslin and Ms. Pozner abstained from voting.

APPROVAL OF RESOLUTION

Mowen, William & Lisette - Resolution #ZB18-019; Block 8101, Lot 41; 95 Blackburn Road; Bulk Variance (granted) - Mr. Zaidel moved approval of the resolution as drafted. Ms. Genirs seconded.

Roll Call: Aye: Genirs, Kleinert, Tancredi, Zaidel
Nay: NONE
Abstain: NONE
Ineligible: Breslin, Kraus, Pochtar, Pozner

Motion carried.

APPROVAL OF RESOLUTION

Chabad Center of Somerset County Inc - Resolution #ZB18-022; Block 8201, Lot 25; 3048 Valley Road; Preliminary/Final Site Plan, Bulk Variances, D-3 Conditional Use Variance; (granted) - Ms. Genirs moved approval of the resolution as drafted. Mr. Zaidel seconded.

Roll Call: Aye: Genirs, Kleinert, Pochtar, Tancredi, Zaidel
Nay: NONE
Abstain: NONE
Ineligible: Breslin, Kraus, Pozner

Motion carried.

APPROVAL OF RESOLUTION

Resolution #19-06 – Release of Closed Session Minutes - Ms. Kleinert moved approval of the resolution as drafted. Mr. Zaidel seconded.

Roll Call: Aye: Breslin, Genirs, Kleinert, Kraus, Pozner, Tancredi, Zaidel
 Nay: NONE
 Abstain: NONE
 Ineligible: Pochtar

Motion carried.

COMPLETENESS HEARING

Utz, John W.; #ZB19-001; Block 11102, Lot 3; 33 Rickey Lane; Bulk Variances, Use Variance

Present: Frederick B. Zellej, Esq., Attorney for the Applicant

Frederick B. Zellej, attorney with *Bisogno, Loeffler & Zellej LLC*, Basking Ridge, NJ, referred to Mr. Schley's Revised Submission Completeness Review memo dated 02/04/2019. He stated that the authorization to file the application from the owner of Block 11301, Lot 1 and the septic system documents would be submitted prior to the scheduled 04/03/2019 public hearing. It was agreed that the last outstanding item, confirmation that all taxes are paid, would become a condition of approval and satisfied prior to the issuance of permits.

Ms. Genirs moved to grant the submission waiver request for the tax certification and deem the application *incomplete* pending receipt of the final two (2) items. Ms. Pozner seconded.

Roll Call: Aye: Breslin, Genirs, Kleinert, Kraus, Pozner, Tancredi, Zaidel
 Nay: NONE
 Abstain: NONE
 Ineligible: Pochtar

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Grob, Oscar F.; #ZB18-027; Block 4002, Lot 19; 38 Galloping Hill Road; Bulk Variances

Present: Frederick B. Zellej, Esq., Attorney for the Applicant
 David E. Fantina, PE, Engineer for the Applicant
 Oscar Grob, MD, Applicant

Frederick B. Zellej, attorney with *Bisogno, Loeffler & Zellej LLC*, Basking Ridge, NJ, stated that the proposed project, installation of an in-ground swimming pool, requires relief for excess coverage and for location of a pool not behind the rear building line of an adjoining dwelling (Lot 20, 30 Galloping Hill Road). He opined that the house on Lot 20 is situated so that there is realistically no location on the subject property where a conforming pool could be located.

Dr. Grob, Mr. Fantina and the Board's professionals were duly sworn.

After the applicant, Oscar Grob, residing at 38 Galloping Hill Road, testified about the proposed project, Chairman Breslin opened the meeting to the public for questions. Hearing none, he closed that portion of the hearing.

David E. Fantina, a professional engineer with an address of Bernardsville, NJ, was accepted by the Board as an expert in the field of civil engineering after outlining his professional credentials and confirming that his New Jersey license is current.

Mr. Fantina described the project which includes an in-ground pool, hardscaping around a portion of the pool and ipe decking. He noted that the plans would be revised so that the project would conform to the rear yard setback and that an erroneous elevation marked at the lowest step would be corrected. **Exhibit B-1**, an aerial photo of both the applicant's property and adjoining Lot 20, dated 02/06/2019, was entered into evidence. A yellow line on the photo showed the rear building line of the dwelling on Lot 20 and illustrated that between that line and the setback lines of

the subject property, installation of a pool in a compliant location is a practical impossibility. Mr. Fantina opined that the project is located in an area as close to compliance as possible. He also noted that although the entire pool area is counted towards impervious coverage, the bulk of that coverage is water surface area which is considered neutral from a stormwater management perspective. Also, because the proposed deck is an open deck, it is not counted towards impervious coverage.

Mr. Fantina addressed all items in Mr. Schley's memo dated 02/01/2019 and Mr. Quinn's memo dated 02/05/2019.

Hearing no further questions or comments, Chairman Breslin opened the hearing to the public for questions.

Thomas Eicher, 30 Galloping Hill Road, Basking Ridge, NJ, and Michael D. Melillo, 24 Galloping Hill Road, Basking Ridge, NJ, questioned Mr. Fantina about the project.

Hearing no further questions, Chairman Breslin opened the hearing for public comment.

Mr. Eicher and Mr. Melillo were duly sworn and spoke in opposition to the project. Michael W. Dyszler, 60 Galloping Hill Road, Basking Ridge, NJ, was duly sworn and spoke in favor.

After deliberating, the Board members felt that the applicant had satisfied the positive criteria for a "c(1)" or "hardship" variance for impervious coverage and for both a "c(1)" and a "c(2)" or "flexible c" variance for location not behind a rear building line. 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. Ms. Pozner seconded.

Roll Call:	Aye:	Breslin, Genirs, Kleinert, Kraus, Pozner, Tancredi, Zaidel
	Nay:	NONE
	Abstain:	NONE
	Ineligible:	Pochtar

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Duffy, Paul & Faith; #ZB18-028; Block 1503, Lot 2; 62 North Finley Avenue; Bulk Variances

Present: Paul Duffy, Esq., Applicant

Mr. Duffy and the Board's professionals were duly sworn.

Paul Duffy, applicant residing at 47 Rankin Avenue, Basking Ridge, NJ, stated that as part of a larger renovation, he was requesting variances for minimum front yard setback and minimum side yard setback to expand the existing front porch and to extend a front wall of the dwelling. He opined that because the house was located on a corner lot and angled to the street, a hardship existed. He added that most of the surrounding dwellings were similarly situated and that by transitioning the house from a two-family to a single-family dwelling, he was bringing it closer to conformity. Also, he was making every effort to preserve the historical integrity of the house and after the renovation was complete, the currently dilapidated structure would become an asset to the area. Finally, he saw no negative impact to the public or to the intent of the ordinance.

Mr. Duffy testified that the porch would remain open and addressed the comments in Mr. Schley's memo of 02/01/2019 and in Mr. Quinn's memo dated 02/05/2019.

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

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 applicants 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 variance relief requested by the applicants subject to the conditions stipulated to by the applicants and as stated during deliberations. Ms. Kleinert seconded.

Roll Call: Aye: Breslin, Genirs, Kleinert, Kraus, Pozner, Tancredi, Zaidel
 Nay: NONE
 Abstain: NONE
 Ineligible: Pochtar

Motion carried.

Ms. Pozner and Mr. Zaidel recused themselves from the next application. Chairman Breslin stated that Ms. Pozner was retiring from the Board after this meeting and thanked her for her service.

PUBLIC HEARING

Hollo, Erno t/a Basking Ridge Animal Hospital; #ZB18-025; Block 2801, Lot 23; 340 South Finley Avenue; Amended Preliminary and Final Site Plan

Present: Frederick B. Zelle, Esq., Attorney for the Applicant
 Ralph L. Finelli, RA, Architect for the Applicant
 Erno Hollo, DVM, Applicant

Frederick B. Zelle, attorney with *Bisogno, Loeffler & Zelle LLC*, Basking Ridge, NJ, stated that the applicant is seeking to amend the 2014 site plan approvals so as to permit an existing cupola on top of an approved accessory building (garage) to remain. As part of the original approvals, a "c" variance was granted allowing the detached garage to exceed the maximum height permitted for an accessory building and he opined that since the cupola is strictly ornamental, it meets the criteria for an exception to the height provisions of the Land Development Chapter. No changes to the previously granted approvals or additional variances are required.

Mr. Finelli, Dr. Hollo and the Board's professionals were duly sworn.

Ralph L. Finelli, architect with an address of Sergeantsville, NJ, was accepted by the Board as an expert in the field of architecture after outlining his professional credentials and confirming that his New Jersey license is current.

Exhibit A-1, a compendium of seven (7) pictures of the subject property was entered into evidence. Mr. Finelli testified that the cupola matches the building, does not emit any light and is strictly decorative. He addressed the comments listed in Mr. Schley's memo of 02/01/2019 and in Mr. Quinn's memo dated 02/05/2019.

Hearing no further questions, Chairman Breslin opened the hearing to the public for questions or comments.

Gloria Borchert, 61 West Oak Street, Basking Ridge, NJ, was duly sworn and supported the application.

Ronald L. Signorino, 8 Homestead Road, Basking Ridge, NJ, was duly sworn and entered the following into evidence: **Exhibit O-1**, a color photo taken 02/06/2019 of the subject garage and cupola; **Exhibit O-2**, a compendium of ten (10) photos dated 12/20/1018 through 02/06/2019, taken of the subject property; and **Exhibit O-3**, a photo dated 01/28/2019 showing an illuminated flag on a wall of the animal hospital, all taken from his back yard. He spoke in opposition to the original project however he stated that he had no objection to the cupola itself.

Dr. Hollo agreed to remove the flag and spotlight pictured in **Exhibit O-3**.

Ms. Genirs moved to direct the Board Attorney to draft a Resolution memorializing the Board's decision to grant the application for amended preliminary and final site plan subject to the conditions stipulated to by the applicant and as stated during deliberations. Ms. Pochtar seconded.

Roll Call: Aye: Breslin, Genirs, Kleinert, Kraus, Pochtar, Tancredi
 Nay: NONE
 Abstain: NONE
 Ineligible: NONE

Motion carried.

COMMENTS FROM MEMBERS OR STAFF

Chairman Breslin announced the cancellation of the February 14, 2019 meeting.

ADJOURN

On motion made by Mr. Tancredi, seconded by Mr. Kraus, all in favor and carried, the meeting was adjourned at 10:11 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Zoning Board of Adjustment

02/15/19v2ds

Approved as drafted 03-06-2019