

BERNARDS TOWNSHIP **ZONING BOARD OF ADJUSTMENT**

MINUTES v3
Regular Meeting
March 6, 2019

CALL TO ORDER

Vice Chairman Zaidel called the meeting to order at 7:31 PM.

FLAG SALUTE

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: Genirs, Kleinert, Kraus, Pochtar, Tancredi, Zaidel
Members Absent: Breslin, 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 Ms. Genirs, seconded by Ms. Kleinert, all in favor and carried, the absences of Mr. Lane and Chairman Breslin were excused.

APPROVAL OF MINUTES

February 6, 2019 – Regular Session— On motion made by Ms. Kleinert, seconded by Mr. Tancredi, all in favor and carried, the minutes were approved as drafted.

APPROVAL OF RESOLUTIONS

Grob, Oscar R. – Resolution #ZB-027; Block 4002, Lot 19; 38 Galloping Hill Road; Bulk Variances; (granted) - Mr. Tancredi moved approval of the resolution as drafted. Ms. Kleinert seconded.

Roll Call: Aye: Genirs, Kleinert, Kraus, Tancredi, Zaidel
Ineligible: Pochtar
Motion carried.

Duffy, Paul & Faith – Resolution #ZB18-028; Block 1503, Lot 2; 62 North Finley Avenue; Bulk Variances; (granted) - Ms. Genirs moved approval of the resolution as drafted. Ms. Kleinert seconded.

Roll Call: Aye: Genirs, Kleinert, Kraus, Tancredi, Zaidel
Ineligible: Pochtar
Motion carried.

Hollo, Erno t/a Basking Ridge Animal Hospital – Resolution #ZB18-025; Block 2801, Lot 23; 340 South Finley Avenue; Amended Preliminary/Final Site Plan (granted) - Ms. Genirs moved approval of the resolution as drafted. Mr. Tancredi seconded.

Roll Call: Aye: Genirs, Kleinert, Kraus, Pochtar, Tancredi
Ineligible: Zaidel

Motion carried.

PUBLIC HEARING

Millington Quarry Inc.; #ZB18-026; Block 6001, Lot 6; 135 Stonehouse Road; Minor Subdivision, Bulk Variances, D(2) Variance

Present: Michael T. Lavigne, Esq., Attorney for the Applicant

Mr. Warner stated that he had received documents from Township Attorney, John P. Belardo, on behalf of the Township Committee, expressing opposition to the application on multiple grounds including jurisdictional grounds.

Michael T. Lavigne, attorney with *Fox Rothchild LLP*, Morristown, NJ, entered his appearance on behalf of the applicant and stated that the applicant would consent to an adjournment as requested by Mr. Belardo.

Mr. Warner opined that the jurisdictional issue had to be resolved before the Board could act on the merits of the application and Mr. Lavigne agreed with said opinion on behalf of the applicant. After confirming that no members of the public would be represented by counsel during the hearing, the Board, on the advice of Mr. Warner, set forth the following briefing schedule: Initial brief from the applicant establishing that the right to jurisdiction would not constitute an arrogation of the Township Committee's and the Planning Board's authority, due March 27, 2019; Township Attorney's response, due April 17, 2019; Applicant's reply to the Township Attorney's comments, due April 29, 2019. Mr. Lavigne, on behalf of the applicant, agreed to all of the briefing dates and actually requested a reply briefing opportunity from the Board, which request the Board granted, on the advice of Mr. Warner. During the May 16, 2019 public meeting, based on the submissions and the advice of Mr. Warner, the Board will decide if it does have jurisdiction and, if so, it will proceed with the public hearing on the merits of the application. Mr. Lavigne agreed to the schedule and to an extension of the Time to Act to May 17, 2019. Mr. Warner announced that the application would be carried to May 16, 2019, at 7:30 PM in the same location, with no further notice.

Suzanne Van Loon, 11 North Brook Avenue; Harry Carr, 65 Overlook Avenue and Donald A. Simone, 4 High Hill Court, enquired about the procedure that the Board would follow.

PUBLIC HEARING – Extension of Variance Approval

Dreyling, E./Aron, J. – #ZB17-038A; Block 7201, Lot 5.01; 128 South Stone Hedge Drive; Extension of Variance Approvals

Present: Jesse Aron, MD, Applicant

Jesse Aron, MD, applicant, testified that due to unforeseen delays caused in part by design revisions and weather, he was requesting a one-year extension of his variance approval.

Ms. Genirs moved to approve the resolution granting the extension of variance approvals for one (1) year to March 15, 2020 as requested by the applicant subject to the conditions stipulated to in the original resolution and by the applicant. Ms. Kleinert seconded.

Dreyling, E./Aron, J. – Resolution #ZB17-038A; Block 7201, Lot 5.01; 128 South Stone Hedge Drive; Extension of Variance Approval (granted)

Roll Call: Aye: Genirs, Kleinert, Kraus, Pochtar, Tancredi, Zaidel
Motion carried.

COMPLETENESS AND PUBLIC HEARING

Hoffman, Kermit & Alyson; #ZB18-029; Block 1803, Lot 3; 14 Cedar Street; Bulk Variances

Present: Frederick B. Zelle, Esq., Attorney for the Applicant
Alyson Hoffman, Applicant

Frederick B. Zelle, Esq., attorney with *Bisogno, Loeffler & Zelle LLC*, Basking Ridge, NJ, entered his appearance on behalf of the applicant and noted that the applicant had received bulk variance approval last year for a similar project. He described the current project which included a second story addition, a roof over an existing front stoop, a bump-out for a fireplace in the family room and an open deck.

Alyson Hoffman, applicant, testified as to the reasons for the changes in the project from the original approval.

After deliberating, the Board felt that the applicant had satisfied the positive and negative criteria for a "c(1)" or "hardship" variance. Ms. Genirs moved to deem the application complete and to direct the Board Attorney to draft a Resolution memorializing the 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. Kleinert seconded.

Roll Call: Aye: Genirs, Kleinert, Kraus, Pochtar, Tancredi, Zaidel
Motion carried.

COMPLETENESS AND PUBLIC HEARING

Canady Builders Inc.; #ZB19-002; Block 1161, Lot 19, 130 South Maple Avenue, Bulk Variances

Present: Frederick B. Zelle, Esq., Attorney for the Applicant
James J. Mantz, PE, LS, Engineer for the Applicant
David Canady, Owner, Canady Builders Inc., Applicant

Frederick B. Zelle, Esq., attorney with *Bisogno, Loeffler & Zelle LLC*, Basking Ridge, NJ, entered his appearance on behalf of the applicant and explained that the applicant sought to raze the existing house and shed and replace them with a single-family dwelling. He opined that the project required relief from numerous bulk standards, most significantly, maximum lot coverage, because the subject property had less than half of the minimum lot area required in the zone.

Mr. Warner counseled the Board that even though there were inaccuracies in the public notice, there was sufficient information available for the public to understand what relief was required.

David Canady, owner and president of *Canady Builders Inc.*, Warren, NJ, testified that the original structure was built sometime in the early 1800's and that two (2) additions were built in the mid 1900's. During the design process, he had attempted to salvage some of the historical portions of the house and repurpose materials, however both proved to be unfeasible. He added that the house had been vacant for years and was uninhabitable.

Ryan Kettler, 122 South Maple Avenue (adjacent property), confirmed that the subject house had been vacant for several years.

Exhibits A-1(1), A-1(2) and A-1(3), color photographs of the interior of the house taken by the architect, Richard Kyle, RA, approximately one (1) week prior, illustrating the low ceilings, collapsing hearth and narrow steep staircase, were entered into evidence.

James H. Rickey, 150 Manchester Drive, agreed with Mr. Canady's assertion that the structure was uninhabitable.

Exhibit A-2, a one-page color rendering of the proposed dwelling was entered into evidence. Mr. Canady described the interior and exterior features along with the efforts made to design the house to be consistent with the historical character of the neighborhood. Mr. Zelle consulted with Daniel W. Lincoln, RA, former president of the Historical Society of Somerset Hills about the viability of relocating the house which proved to be unfeasible. Mr. Schley confirmed that the area was not zoned as a historical area.

Mr. Kettler enquired about the height of the proposed structure and hazardous materials removal.

John Crane, 39 Decker Street, enquired about materials used in the existing structure. **Exhibit P-1**, a photograph of 136 South Maple Avenue which he had taken two days prior, was entered into evidence. Mr. Crane pointed out architectural features that were similar to the proposed dwelling and in keeping with the historic nature of the area.

Todd Edelstein, 172 Riverside Drive, enquired about the size and design of the proposed house.

James J. Mantz, PE, LS, with a business address of Bridgewater, NJ, was accepted as an expert in the fields of engineering and land surveying.

Exhibit A-3, a colorized revised portion of Sheet 2 of 2 of plans prepared by Mr. Mantz, dated 01/04/2019, was entered into evidence. He testified that efforts had been made to keep the driveway which exited to East Lewis Street, as short as possible to minimize lot coverage however the topography of the property limited the options. Attempts had been made to purchase property from adjacent Lot 18 and although the owner expressed support for the project, he was unwilling to sell any portion of his property or purchase the subject property.

In reference to stormwater management, it was agreed that a gravity drainage design would be utilized in the proposed drywell and that the water would be piped to a storm inlet located in front of Lot 18.

After discussing potential modifications, the applicant agreed to reduce the total lot coverage to no more than 30% by narrowing the width of the driveway and by reducing the size of the turnaround area. Mr. Quinn agreed that retaining some portion of the turnaround area was preferable because it would allow cars to exit the driveway safely.

In addition, the applicant agreed to lower the house one (1) foot to mitigate the impact of its height on the streetscape and confirmed that no trees would be removed.

With the exception of the ACM and LBP surveys requested in Item #5 of the Environmental Commission's memo dated 02/21/2019, the applicant agreed to all items in the Board's professionals' review memos.

A straw poll was conducted to determine if the Board was comfortable with the applicant's efforts to reduce lot coverage. A majority felt that the reductions as proposed were adequate.

Mr. Mantz testified as to the positive and negative criteria required for variance relief.

During the public comments portion of the hearing, Mr. Crane spoke in favor of the project. Mr. Kettler requested that the applicant adhere to the construction hours as outlined in the ordinance.

Mr. Zelley gave a brief summary.

After deliberating, the Board felt that the applicant had satisfied the positive and negative criteria for both a "c(1)" or "hardship" variance and a "c(2)" or "flexible c" variance. Ms. Pochtar moved to deem the application complete and to direct the Board Attorney to draft a Resolution memorializing the 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. Kraus seconded.

Roll Call: Aye: Genirs, Kleinert, Kraus, Pochtar, Tancredi, Zaidel
Motion carried.

COMMENTS FROM MEMBERS OR STAFF

Vice Chairman Zaidel announced the cancellation of the March 14, 2019 meeting.

ADJOURN

By unanimous Voice Vote, the meeting was adjourned at 11:29 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Zoning Board of Adjustment

Approved as written 04/03/19

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