

BERNARDS TOWNSHIP **ZONING BOARD OF ADJUSTMENT**

MINUTES

Regular Meeting
April 3, 2019

CALL TO ORDER

Chairman Breslin called the meeting to order at 7:34 PM.

FLAG SALUTE

OPEN PUBLIC MEETINGS STATEMENT – Chairman Breslin read the following 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, Lane, Pochtar, Tancredi, Zaidel
Members Absent: NONE
Also Present: Board Attorney, Steven K. Warner, Esq.; Township/Board Planner, David Schley, PP, AICP;
Board Engineer, Sam Koutsouris, PE; Board Secretary, Cyndi Kiefer

APPROVAL OF MINUTES

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

APPROVAL OF RESOLUTIONS

Hoffman, Kermit & Alyson - Resolution #ZB18-029; Block 1803, Lot 3; 14 Cedar Street; Bulk Variances; (granted) - Mr. Zaidel moved approval of the resolution as drafted. Ms. Genirs seconded.

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

Canady Builders Inc. - Resolution #ZB19-002; Block 1161, Lot 19, 130 South Maple Avenue, Bulk Variances; (granted) – Mr. Zaidel noted that on page 4, paragraph 8, line 5, the word "inhabitable" should be changed to "uninhabitable." He then moved approval of the resolution as revised. Ms. Genirs seconded.

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

COMPLETENESS AND PUBLIC HEARING

Molnar, James & Anne; #ZB19-003; Block 2701, Lot 34; 141 Spencer Road; Bulk Variances

Present: James Molnar, Applicant

James Molnar, applicant residing at 141 Spencer Road, Basking Ridge, NJ, explained that he had received variance approval (#ZB14-010 – side yard setback, combined side yard setback) in 2014 for a two-car garage and breezeway however after the garage was built, it was found to encroach further into the side yard setback than what had been approved. The current application sought approval for the additional setback encroachment and combined side yard setback deviation.

Referring to the as-built survey prepared by *Murphy & Hollows Associates LLC*, last revised 08/06/2018, Mr. Schley noted that there were areas to the side and rear of the garage that were delineated but not identified or included in the lot coverage calculations. Mr. Molnar testified that both areas were dirt and that he occasionally parked a vehicle in the side area. Mr. Schley responded that any surface used for parking must be counted as impervious coverage and that a variance for maximum lot coverage allowed was required. In addition, because the parking area was considered part of the driveway and was located less than five (5) feet from the property line, another variance was required.

Mr. Warner opined that the applicant's public notice was sufficient to consider the additional variances.

Mr. Molnar stipulated to all the comments in both Mr. Quinn's memo dated 04/01/2019 and Mr. Schley's memo dated 03/28/2019. He also confirmed that there would be no plumbing, heating or cooking facilities in the garage and that the plans would be revised to show the additional parking area along with the change in the pitch of the garage roof and an outside fireplace located on an existing patio since the latter two (2) items had not been shown on the final approved plans. Finally, he agreed to abide by the conditions contained in the original resolution (#ZB14-010).

After deliberating, the Board felt that the applicants had satisfied the positive and negative criteria for "c(2)" or "benefits v. detriments" variance relief. Mr. Zaidel 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 applicants subject to the conditions stipulated to by the applicants and as stated during deliberations. Ms. Genirs seconded.

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

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Pareddy, S./Duggirala, J.; #ZB18-005; Block 11401, Lot 5.02; 393 Martinsville Road; Bulk Variances

Present: Frederick B. Zelle, Esq., Attorney for the Applicant
 Shrinath J. Kotdawala, PE, Engineer for the Applicant
 Surandar Pareddy/Janaki Duggirala, Applicants

Frederick B. Zelle, Esq., attorney with *Bisogno, Loeffler & Zelle LLC*, Basking Ridge, NJ, entered his appearance on behalf of the applicants stating that they were requesting the following bulk variance relief for existing improvements to the subject property: minimum width of stabilized berm along both sides of a driveway, maximum lot coverage, minimum fence setback from any property line and maximum fence (gate) height in a front yard. He added that the last two (2) were the subjects of earlier applications (#ZB15-011 and #ZB17-021). In addition, there were two (2) existing solid walls in the front yard that extended from the gate into the Township's right-of-way (ROW) which would require relief if the Board considered them to be free-standing rather than retaining walls.

Mr. Warner read a condition from Resolution #ZB17-021 which stated that the applicants shall obtain all required certificates of approval for the gate, fence and walls within 90 days from the date of the adoption of the Resolution. He noted that that deadline had passed and hence, the variance approval in the Resolution had expired. He opined that if the Board chose to rescind that condition, the relief granted for the gate height would remain available since no additional increase in height was being requested. If not, a variance for that deviation would be required.

Surandar Pareddy, applicant residing at 393 Martinsville Road, Basking Ridge, NJ, testified that the gate was installed at a height which exceeded the maximum allowed because of the grade of the driveway and that the bottom of the gate barely cleared the ground when fully open. In order to install the gate at an allowable height, he stated that he

would have to regrade the entire driveway. Shrinath J. Kotdawala, PE, engineer with the firm of *Kashi Consulting Company, Inc.*, Englishtown, NJ, testified that although it was possible to regrade a portion of the driveway, the result would not be visually pleasing. In addition, that area was already landscaped.

Exhibit A-1, a black-and-white photo taken by Mr. Kotdawala earlier in the day of the wall alongside the end of the driveway, was entered into evidence. He opined that since a majority of one side of each wall was buried, they were considered retaining walls which allowed him to flatten the grade of the driveway. Otherwise, he would have had to "cut" into the neighboring property. He testified that even though the walls were less than four (4) feet high, one (1) course of block could be removed to lower their height.

Mr. Schley noted that another condition of the Board's October 4, 2017 Resolution required the submission of a grading plan within a specified period of time showing how the walls would function as retaining walls. No such submission was made, and the deadline had passed. If these walls were considered freestanding, two (2) additional variances would be required. Mr. Pareddy admitted that the walls were not shown on the plans submitted in 2014 for construction permits.

Mr. Pareddy testified that prior to installing the gate, motorists on Martinsville Road would mistake his driveway for a road and others had dumped trash on his property. By creating a more residential driveway appearance with the gate and walls, he had been able to curtail those activities.

Janaki Duggirala, applicant residing at 393 Martinsville Road, testified that the gate location and height had not changed since the previous application and that since the gate was installed, it was easier for the school bus driver to identify the drop-off point for her children. A discussion ensued about the reasons for locating the mailbox in the pillars as opposed to a location closer to the street.

Mr. Pareddy testified that he did not realize that he had exceeded the maximum allowable coverage until after the as-built survey was prepared. The plans approved for construction indicated that total lot coverage was below the maximum allowed in the zone. Additional walkways, a widening of the driveway at the 90-degree bend, an enlargement of the circular portion of the driveway and the installation of a cement fountain in the center of the circular driveway contributed to the current overage. Mr. Pareddy noted that the enlargement of the circular area of the driveway was at the suggestion of emergency vehicle personnel who had visited the site during construction.

Exhibit A-2, a black-and-white photo of a walkway taken by Mr. Kotdawala was entered into evidence.

Mr. Kotdawala testified that the two (2) areas along the driveway where there were no berms, were completely occupied with water filtration features as required by stormwater management regulations. He stated that the current system could accommodate all of the existing impervious coverage on the subject property. He also confirmed that the subject property was conforming in lot area.

All comments in the Board professionals' memos and in the Environmental Commission's memo were addressed by the applicants during testimony. In addition, the applicants agreed to abide by all conditions outlined in prior approvals that were not inconsistent with any relief that might be granted that evening.

Mr. Pareddy agreed to obtain all required final approvals and certificates for all outstanding items within 90 days of the adoption date of the Resolution.

Ms. Kleinert asked the applicants if they would be willing to remove any of the existing impervious coverage to help lessen the overage. Mr. Zelle asked for a brief recess to discuss the possibility with his clients.

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The meeting was recessed at 9:45 PM and reconvened at 9:52 PM.

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Mr. Zelle advised the Board that the applicants were willing to remove all areas labeled on the plan as "gravel" and replace them with grass. These included the two (2) pinwheel areas and the circuitous walkway. After further discussion, it was agreed that in the pinwheel areas, mulch would be substituted for the gravel.

Mr. Zelley stated that the applicant was also willing to reduce the width of the driveway at the 90-degree curve however because that decrease might lead to difficulty for emergency vehicles trying to access the house, he preferred not to do so. The applicant also offered to remove the top course of the two walls, if necessary.

There were no questions or comments from the public.

Mr. Zelley presented a summary outlining the positive and negative criteria for the variance relief sought.

After deliberations, Mr. Zaidel moved to deem the application complete and to direct the Board Attorney to draft a Resolution extending the 90-day deadline (condition of approval in Resolution #ZB17-021) as it related to the height of the gate and to deny the remainder of the variance relief requested in the application. Absent a second, the motion did not proceed to a vote.

The Board then agreed to vote on each variance request individually and the applicant, through counsel, stipulated to same.

Ms. Genirs moved to approve the request for relief with respect to the driveway berms. Mr. Lane seconded.

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

Motion carried.

Mr. Tancredi moved to extend the 90-day deadline (condition of approval in Resolution #ZB17-021) as it relates to the height of the gate. Mr. Kraus seconded.

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

Motion carried.

Ms. Kleinert moved to deny the request for relief with respect to maximum lot coverage. Mr. Zaidel seconded.

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

Motion failed.

Ms. Genirs moved to grant the request for relief with respect to maximum lot coverage subject to the conditions stipulated to including reducing the coverage to 16.15%. Mr. Lane seconded.

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

Motion carried.

After a discussion, the Board determined that the walls were free-standing, not retaining walls. Ms. Genirs moved to deny the requested relief with respect to allowing solid decorative walls in the front yard and within 6-inches of the property line. Mr. Zaidel seconded.

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

Motion carried.

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The meeting was recessed at 10:33 PM and reconvened at 10:40 PM.

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COMPLETENESS AND PUBLIC HEARING

Utz, John W.; #ZB19-001; Block 11102, Lot 3; 33 Rickey Lane; Bulk Variances, D(1) Variance

Present: Frederick B. Zelle, Esq., Attorney for the Applicant
John W. Utz, Applicant

Frederick B. Zelle, Esq., attorney with *Bisogno, Loeffler & Zelle LLC*, Basking Ridge, NJ, entered his appearance on behalf of the applicant.

Mr. Warner announced that, at the applicant's request, the hearing would be carried with no further notice to June 5, 2019.

COMMENTS FROM MEMBERS OR STAFF

Chairman Breslin announced the cancellation of the April 11, 2019 meeting.

ADJOURN

By unanimous Voice Vote, the meeting was adjourned at 10:43 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Zoning Board of Adjustment

04/18/19 v3 dssw

Approved as amended 05/08/2019