

BERNARDS TOWNSHIP **ZONING BOARD OF ADJUSTMENT**

MINUTES

Regular Meeting
May 8, 2019

CALL TO ORDER

Chairman Breslin called the meeting to order at 7:30 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, Kleinert, Kraus, Pochtar, Tancredi, Zaidel
Members Absent: Genirs, Lane
Also Present: Board Attorney, Steven K. Warner, Esq.; Township/Board Planner, David Schley, PP, AICP;
Board Engineer, Thomas Quinn, PE; Board Secretary, Cyndi Kiefer

On motion made by Mr. Zaidel, seconded by Ms. Kleinert, all in favor and carried, the absences of Mr. Lane and Ms. Genirs were excused.

APPROVAL OF MINUTES

April 3, 2019 – Regular Session - On motion made by Ms. Kleinert, seconded by Mr. Zaidel, all in favor and carried, the minutes were approved as revised.

APPROVAL OF RESOLUTIONS

Molnar, James & Anne – Resolution - #ZB19-003; Block 2701, Lot 34; 141 Spencer Road; Bulk Variances (granted) - Mr. Zaidel moved approval of the resolution as drafted. Mr. Tancredi seconded.

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

Motion carried.

COMPLETENESS HEARING

LCB Senior Living Holdings II LLC; Block 2301, Lot 31, 219 Mount Airy Road; Preliminary/Final Site Plan; Bulk Variances, D(1) Use Variance; #ZB19-010

Present: Brooke L. Kaplan, Esq., Attorney for the Applicant
Robert Moschello, PE, Engineer for the Applicant

Brooke L. Kaplan, Esq., attorney with *Day Pitney LLP*, Parsippany, NJ, provided the Board with a brief synopsis of the application and the request for two (2) checklist submission waivers.

Robert Moschello, PE, engineer with *Gladstone Design Inc.*, Gladstone, NJ, testified that the applicant was requesting a checklist submission waiver for final plans and profiles of all sanitary sewers and water mains since the applicant is proposing to utilize the existing structures. A checklist submission waiver for a driveway profile was being sought since the existing driveway is proposed to remain. Mr. Quinn supported the requests, adding that waiving them for completeness purposes would not preclude the Board from requesting them during the hearing if necessary.

Mr. Zaidel moved to grant the two (2) checklist submission waivers and to deem the application complete. Mr. Tancredi seconded.

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

COMPLETENESS AND PUBLIC HEARING

Heinze, Bradley & Sarah; Block 11401, Lot 32; 100 Emerald Valley Lane; Bulk Variances; #ZB19-007

Present: Bradley Heinze, Applicant

Bradley Heinze, applicant residing at 100 Emerald Valley Lane, stated that variance relief for maximum lot coverage and maximum building height would be required to construct a two-story addition to his home. He testified that the height of the existing dwelling was a pre-existing nonconformity. Even though the roof height of the proposed addition would be lower than the roof height of the existing house, relief was required because the average grade would be lowered thus increasing the "calculated" height. He stated that efforts to mitigate the excess coverage by redesigning the addition or by reducing the size of the driveway proved unworkable.

Mr. Heinze confirmed that there is septic approval for all the bedrooms proposed. He stipulated, as a condition of approval, that the additional runoff would be tied into the existing system or directed to a new area to be created.

Exhibit A-1, an 8.5 X 11 copy of a survey prepared by John Cilo Jr. Associates, dated 07-05-2007 and updated in 2014 with improvements, was entered into evidence. Mr. Heinze testified that the survey is accurate. Mr. Quinn confirmed that the coverage calculations are correct and that the exhibit represents all of the improvements.

Mr. Heinze addressed the comments contained in both Mr. Schley's memo dated May 2, 2019 and Mr. Quinn's memo dated May 7, 2019.

The hearing was opened to the public for comment. Hearing none, that portion of the hearing was closed.

After deliberating, the Board felt that the positive and negative criteria for "c(2)" or "benefits v. detriments" variance relief had been satisfied. Mr. Zaidel moved to deem the application complete and to direct the Board Attorney to draft a Resolution memorializing the decision to grant the variance relief as requested subject to the conditions stipulated to by the applicant and as stated during deliberations. Mr. Kraus seconded.

Roll Call: Aye: Breslin, Kleinert, Kraus, Pochtar, Tancredi, Zaidel
Nay: NONE
Motion carried.

COMPLETENESS AND PUBLIC HEARING

Bentley, Robert & Nicole; Block 2903, Lot 16; 13 Woodstone Road; Bulk Variances; #ZB19-009

Present: A. Gregory D'Alessandro, Esq., Attorney for the Applicants
Rudolf L. Holzmann, PE, Engineer for the Applicants
Robert Bentley, Applicant

A. Gregory D'Alessandro, Esq., attorney with *D'Alessandro & D'Alessandro LLC*, Basking Ridge, NJ, entered his appearance on behalf of the applicants. He gave a summary of the various proposed improvements and the relief sought for minimum side yard setback, minimum combined side yard setback and maximum allowable lot coverage.

Noting that the spa and covered side entrance were the only items being added, he stated that the proposal would actually reduce the overall coverage although not to the level approved by a 2007 resolution.

Robert Bentley, applicant, residing at 13 Woodstone Road, testified that when he purchased the subject property in 2018, he was unaware that it exceeded the maximum lot coverage approved by the Board in 2007. In addition to removing several structures and walkways, he proposed to realign the driveway resulting in a reduction in total lot coverage and elimination of an existing non-conformity (driveway setback to the property line). He discussed the improvements proposed for the front steps, side entry and deck, all of which he opined are currently dilapidated and in need of replacement.

Mr. Bentley stated that the hydro-therapy spa, which is used for medical purposes, is proposed to be located in the back near the detached garage. He noted that the application had been amended to move the spa from the side of the house which eliminated one variance request. Mr. Schley confirmed that the spa would be fully conforming with the exception of lot coverage.

Mr. Bentley described the landscaping he proposed to install to ensure privacy for both him and his neighbors, adding that he had spoken to all the affected neighbors and all were in favor of the projects.

Rudolf L. Holtzmann, PE, engineer with *Yannaccone, Villa and Aldrich LLC*, Chester, NJ, discussed the proposal.

The hearing was opened to the public for comment. Hearing none, that portion of the hearing was closed.

Mr. D'Alessandro provided a summary of the application.

After deliberating, the Board felt that the positive and negative criteria for "c(1)" or "hardship" and "c(2)" or "benefits v. detriments" variance relief had been satisfied. Ms. Pochtar moved to deem the application complete and to direct the Board Attorney to draft a Resolution memorializing the decision to grant the variance relief as requested subject to conditions stipulated to by the applicants and as stated during deliberations. Mr. Kraus seconded.

Roll Call:	Aye:	Breslin, Kleinert, Kraus, Pochtar, Tancredi, Zaidel
	Nay:	NONE

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Vohden, Robert & Gina; Block 1403, Lot 7; 7 Evergreen Place; Bulk Variances; #ZB19-006

Present:	Robert & Gina Vohden, Applicants
	Frederick B. Zelle, Esq., Attorney for the Objector
	Marybeth Garry, Objector

Robert Vohden, applicant residing at 7 Evergreen Place, proposed to relocate an existing detached garage/shed, to renovate an existing single-story dwelling into a two-story house and to add an attached garage requiring relief for minimum side yard setback and for minimum combined side yard setback. By repositioning an existing driveway, the application would *eliminate* an existing minimum driveway setback non-conformity.

Exhibit A-1 consisting of an alternative plot plan and two (2) pages of additional photos, all prepared by Mr. Vohden, was entered into evidence. The plan showed the attached garage replaced with a detached garage located in a conforming location farther back on the property. Mr. Vohden opined that although this scenario would eliminate the need for the two setback variances, it would require a larger addition to accommodate the master bedroom (planned for above the attached garage) and a much longer driveway, thus increasing the impervious coverage to the point where a variance for maximum lot coverage would be required. In addition, a fairly large tree would be jeopardized.

Frederick B. Zelle, Esq., attorney with *Bisogno, Loeffler & Zelle LLC*, Basking Ridge, NJ, entered his appearance on behalf of an objector, Marybeth Garry, owner of 3 Evergreen Place (Block 1403 Lot 8), adjacent and to the east of the subject property.

Responding to Mr. Zelle's question, Mrs. Vohden testified about the difficulties involved with redesigning the project to attach the garage to the back of the house in a conforming location.

Exhibit O-1, a 11 X 17 copy of page 14 of the Township of Bernards Tax Map, dated August 2004, was entered into evidence by Mr. Zelle. He opined that since the majority of lots on Evergreen Place were deficient in lot width, the narrowness of the Vohden's lot did not constitute a unique situation in this application. A discussion ensued about the character and size of the houses. Mr. Vohden noted that he had spoken to several neighbors who were all in support of the application.

Exhibit O-2, a compendium of four (4) photos marked A, B, C and D, taken by Ms. Garry a few days earlier was entered into evidence. Ms. Garry opined that the proposed project would negatively impact her home because of its mass and noted that there were no other two-car attached garages in the neighborhood. She said that if the garage were to be detached and relocated farther back on the property, she would not object to the project.

The hearing was opened to the public for comments. Todd Edelstein, 172 Riverside Drive, Basking Ridge, spoke in favor of the application. Hearing no further comments, that portion of the hearing was closed.

Mr. Zelle opined that the applicant had not satisfied the criteria for either a "c(1) hardship" or "c(2) benefits v. detriments" variance or for either prong of the negative criteria and hence, the application should be denied.

Mr. Vohden stated that although Evergreen Place has many lots that are deficient in width, that is not true throughout the R-7 zone. He opined that the proposed dwelling is not out of character with other structures in the zone and that the deficiency in lot width constitutes a hardship. Minimizing the amount of additional impervious lot coverage and elimination of an existing nonconformity were beneficial aspects of proposal.

After deliberating, Mr. Tancredi moved to deem the application complete and to direct the Board Attorney to draft a Resolution memorializing the decision to *deny* the application for variance relief requested by the applicants. Mr. Zaidel seconded.

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

Motion carried.

DISCUSSION ITEM

2018 Annual Report and Recommendations – After reviewing Mr. Schley's April 26, 2019 "Summary of Applications 2011-2018," the Board requested additional information about the increase in lot coverage applications during 2017 and 2018.

DISCUSSION ITEM

2019 Reexamination of the Master Plan – The Board deferred discussion concerning the Planning Board's request for input on the 2019 Master Plan Reexamination Report pending adoption of the 2018 Annual Report and possible recommendations.

COMMENTS FROM MEMBERS OR STAFF - None

ADJOURN

By unanimous Voice Vote, the meeting was adjourned at 11:09 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Zoning Board of Adjustment

05/21/19 v2 ds

Approved as written 06-05-2019