

# **BERNARDS TOWNSHIP** **ZONING BOARD OF ADJUSTMENT**

## **MINUTES**

Regular Meeting

April 4, 2018

### **CALL TO ORDER**

Chairman Rhatican called the meeting to order at 7:32 PM.

### **OPEN MEETING STATEMENT**

Chairman Rhatican 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, 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: Genirs, Kleinert, Lane, Mastrangelo, Rhatican, Zaidel.

Members Late: NONE

Members Absent: Breslin, Pozner.

Also Present: Board Attorney, Steven K. Warner Esq.; Board Engineer, Thomas Quinn, PE, CME; Board Secretary, Cyndi Kiefer.

### **APPROVAL OF MINUTES**

**March 15, 2018** - Regular Session - Ms. Genirs moved approval of the minutes as drafted. Mr. Zaidel seconded.

Roll Call:

Aye: Genirs, Kleinert, Rhatican, Zaidel.

Nay: NONE

Motion carried.

### **APPROVAL OF RESOLUTIONS**

**Resolution #ZB17-039** - Kanofsky, Arie & Tara; Block 5801, Lot 10; 18 Stone Creek Lane; Bulk Variances; (approved).

Ms. Genirs moved approval of the resolution as drafted. Ms. Kleinert seconded.

Roll Call:

Aye: Genirs, Kleinert, Rhatican, Zaidel.

Nay: NONE

Motion carried.

**Resolution #ZB18-002** - Rockridge Court LLC; Block 2602, Lot 10; 41 Dogwood Way; Bulk Variances; (approved).

Mr. Warner referred the board members to page 11, Condition #6 where the first line was revised to read, "The lot coverage variance approval shall expire *if, and when*, the existing tennis court..."

Mr. Zaidel moved approval of the resolution as amended. Ms. Genirs seconded.

Roll Call:

Aye: Genirs, Kleinert, Rhatican, Zaidel.

Nay: NONE

Motion carried.

### **COMPLETENESS HEARINGS**

**Verizon Corporate Service Group Inc.; Block 803, Lots 2, 3, 5, 6, 23; 300 North Maple Avenue; Bulk Variances; [#ZB18-006](#).**

Chairman Rhatican referred to Township/Board Planner David Schley's memo dated March 28, 2018 which indicated that there were checklist items that had still not been submitted. The application was placed on the May 9, 2018 agenda for a completeness hearing.

**Verizon Corporate Service Group Inc.; Block 804, Lots 2.01 & 16; 295 North Maple Avenue; Bulk Variances, Amended Preliminary/Final Site Plan; [#ZB18-007](#).**

Chairman Rhatican referred to Mr. Schley's memo dated March 28, 2018 which indicated that all checklist items had been submitted.

Mr. Zaidel motioned to deem Application [#ZB18-006 incomplete](#) and to deem Application [#ZB18-007 complete](#). Ms. Mastrangelo seconded.

Roll Call:

Aye: Genirs, Kleinert, Lane, Mastrangelo, Rhatican, Zaidel.

Nay: NONE

Motion carried.

### **COMPLETENESS AND PUBLIC HEARING**

**[Calise, Joseph & April; Block 5901, Lot 8; 40 Sunnybrook Road; Bulk Variances; #ZB17-043.](#)**

Present: Joseph Calise, Applicant  
William Lecorchick, Builder, Legends Home Improvements, Inc.

Mr. Calise, Mr. Lecorchick and Mr. Quinn were duly sworn by Mr. Warner.

Joseph Calise, the applicant, described the proposed project to the board as a 900 square foot deck, 500 square feet of which would be covered. In addition, both the roofed portion of the deck and the unroofed portion included solid railings so the proposed deck did not meet the definition of an "open deck" (§21-18A) and required relief for a rear yard setback and lot coverage.

William Lecorchick, builder for *Legends Home Improvements, Inc.*, East Brunswick, New Jersey, stated that he was the contractor for the project and gave a more detailed description of the proposed deck. He confirmed that the pictures included in the application packet were taken by his father and accurately depicted the site as it currently existed.

Mr. Calise advised the board members that although he had not spoken to the neighbor to the rear of his property, he had spoken to the neighbors on either side and neither expressed any concerns about the proposed deck.

Initially, Mr. Lecorchick testified that the runoff from the proposed deck would drain towards the rear of the property. As a stipulation of approval, Mr. Calise agreed to pipe the deck's new roof leaders to the driveway so that the runoff would ultimately travel towards the street.

Mr. Lecorchick confirmed that the actual setback to the rear boundary line was 36', not the 40' shown on the plans because the steps were not included in that measurement. He agreed to revise the drawing.

Hearing no further questions or comments from the board members, Chairman Rhatican opened the hearing for comments or questions from the public. 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 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. Mr. Zaidel seconded.

Roll Call:

Aye:	Genirs, Kleinert, Lane, Mastrangelo, Rhatican, Zaidel.
Nay:	NONE
Abstain:	NONE

Motion carried.

**COMPLETENESS AND PUBLIC HEARING**

**Laird, Jean & Kendall, Martin; Block 1611, Lot 24; 80 South Maple Avenue; Bulk Variances; #ZB18-004.**

Present:	Jean Laird, Martin Kendall, Applicants Jonathan E. Booth, RA, Architect for the Applicants
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Ms. Laird, Mr. Kendall, Mr. Booth and Mr. Quinn were duly sworn by Mr. Warner.

Martin Kendall, applicant, gave a brief history of the dwelling which was built in the early 1800's and located in the Basking Ridge Historic District, noting that there had been many additions over the years. The proposed second story master bedroom suite would be built on top of an existing single story section of the dwelling and would eliminate several of the existing rooflines which were a result of the past additions. As a stipulation of approval, Mr. Kendall agreed that the exterior of the house, which would be completely re-sided, would be substantially similar in color, style and architectural detail and that it would be in context with the neighborhood.

After confirming that his license was current, Jonathan E. Booth, RA, Basking Ridge, New Jersey, was accepted by the Board as an expert in the field of architecture. Mr. Booth testified that although no part of the proposed addition touched the ground, it added to impervious coverage because of the cantilevering. He also confirmed that the addition provided greater front and side yard setbacks than currently existed. Because of the "hodge-podge" of additions over the years, there were numerous different rooflines and roof pitches and a decommissioned chimney, which were to be removed. The original portion of the house would remain unaffected and the addition would not be visible from the front.

Jean Laird, applicant, testified that she had spoken to her neighbors whose property (Lot 23) was to the rear of the subject property and that they were in favor of the project. Mr. Kendall added that there were 60' tall fir trees between his property and the property to the side where the addition would be built (Lot 26) which would totally block their view of the proposed addition.

Mr. Booth testified that he had taken the pictures that were submitted with the application and that they accurately depicted the property as it currently existed.

In response to Comment #4 in Mr. Schley's memo dated March 27, 2018, Mr. Booth testified that he had done a significant amount of work on historical preservation projects and that, in his opinion, the proposed addition comported with the goals of the historic district and was in compliance with the historic preservation objectives of the Master Plan.

Mr. Booth opined that because the lot was undersized and narrow, designing the addition had been challenging however he felt that the proposed project would create a much more desirable visual environment than what currently existed.

Hearing no further questions or comments from the board members, Chairman Rhatican opened the hearing for comments or questions from the public. 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 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. Mastrangelo 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. Genirs seconded.

Roll Call:

Aye: Genirs, Kleinert, Lane, Mastrangelo, Rhatican, Zaidel.  
Nay: NONE  
Abstain: NONE

Motion carried.

**COMPLETENESS AND PUBLIC HEARING**

**Kavouras, Thomas & Maria; Block 1701, Lots 16 & 17; 16 Lord Stirling Road; Bulk Variances; #ZB18-003.**

Present: Thomas Kavouras, Applicant  
Vincent T. Bisogno, Esq., Attorney for the Applicants  
Daniel A. Encin, RA, Architect for the Applicants  
Rudy Holzmann, PE, Engineer for the Applicants

Mr. Kavouras, Mr. Encin, Mr. Holzmann and Mr. Quinn were duly sworn by Mr. Warner.

Vincent T. Bisogno, Esq., attorney with *Bisogno, Loeffler & Zelle LLC*, Basking Ridge, New Jersey, introduced himself and stated that he would be representing the applicants during these proceedings. He explained that Thomas Kavouras and his wife, Maria were the contract purchasers for the subject property. They proposed to demolish the existing abandoned dwelling and sheds and build a new 5,577 square foot two-story dwelling with an attached three-car garage and an in ground pool. Both a site assessment and an environmental assessment had been done by the applicants, at their expense.

The subject property is surrounded on three (3) sides by preserved open space associated with Somerset County's Lord Stirling Stable facility. In accordance with case law, Mr. Bisogno had sent a letter to the Somerset County Planning Board (SCPB) expressing interest in either purchasing adjacent land to make the subject property conforming or offering the subject property for sale to the County. Nora Fekete, Planner with SCPB responded in a letter dated February 18, 2018, that the County would be interested in discussing acquisition of the property. Mr. Bisogno contacted Thomas J. Boccino, PP, LLA, Principal Planner/Land Acquisition for Somerset County by telephone and advised him that the owner of the property was an unwilling seller since she wanted the property to have a house with a family on it. No offer to purchase the property was ever extended to the owner by the County. Mr. Warner asked Mr. Bisogno if it would be possible to get a letter from Mr. Boccino declining to purchase the lot in light of the owner's wishes and Mr. Bisogno agreed to ask.

Mr. Bisogno entered into evidence as **Exhibit A-1**, a title search done by *Title Lines*, last revised May 23, 2017, showing Ms. Malika Ra, Brooklyn, New York, as the owner of the property. He then entered into evidence as **Exhibit A-2**, a Phase I Site Assessment by Christine Gadaleta, Project Manager, *SSG-BARCO, Inc.*, Ewing, New Jersey, dated September 20, 2017 and quoted the following passage: "...Historically, the subject property was owned by a Major General in the Continental Army named Lord Stirling. The original section of the main house was Lord Stirling's slave quarters. One of the descendants of the original slaves has lived in the house ever since." The current owner, Ms. Ra, grew up in that house and wanted it to be renovated so that a family could live on the property however the structure was declared unsafe by the Township of Bernards four (4) years ago and was

beyond repair. In addition, the house was located on the side property line which helped support the decision to demolish it.

Thomas Kavouras, applicant, 8 Lord Stirling Road, testified that he had been interested in the property since he moved into his current home 13 years ago. He stated that he had taken the pictures that were submitted with the application approximately eight (8) months prior to the hearing and that they accurately depicted the property as it currently existed. He also confirmed that based on the Site Assessment and the opinion of his architect, the existing house was beyond repair. There were numerous environmental issues including an in ground oil tank which Mr. Kavouras had had removed with the proper township permits. Mr. Bisogno added that Mr. Kavouras was also bearing the costs for abandoning the existing septic field and capping the existing well. In response to a question from a board member, Mr. Bisogno stated that the purchase contract was contingent on approval of this particular house with a building footprint of approximately 4,000 square feet and that there would be no financial reimbursement of monies spent by Mr. Kavouras should the application fail.

Hearing no further questions from the board members, Chairman Rhatican opened the hearing for questions from the public. Hearing none, he closed that portion of the hearing.

Rudy Holzmann, PE, engineer with *Yannaccone, Villa and Aldrich LLC*, Chester, New Jersey, noted that he had testified before this Board the prior year and, after confirming that his license was current, he was accepted as an expert in the field of civil engineering.

Mr. Holzmann testified as to the conditions on the subject property as well as the surrounding area. He stated that the front yard setback relief was necessary because the applicant had chosen to move the house forward to shorten the driveway and hence, minimize lot coverage. Noting that the dedicated area of Lord Stirling Road is in excess of the 25 feet as measured from the center line, he opined that if that extra area was included in the total lot area as was allowed by ordinance, the total lot coverage would be slightly reduced. Holzmann made note of the house on Lot 19 which was located much closer to the road than the proposed dwelling and stated that the applicant would comply with all the comments made in Mr. Schley's memo dated March 27, 2018.

In reference to Mr. Quinn's memo dated April 3, 2018, Mr. Holzmann testified that the applicant would comply with all of the comments made including capturing all of the roof runoff and directing the roof leaders to the drywells. Referring to Comment #3, Mr. Holzmann testified that the septic system had been "abandoned in place" and was located outside the scope of work. He added that avoiding the septic area was yet another reason to move the proposed dwelling forward and agreed to revise the plans to show the outline of the septic system.

Hearing no further questions from the board members, Chairman Rhatican opened the hearing for questions from the public. Hearing none, he closed that portion of the hearing.

Daniel A. Encin, RA, architect with *Mendham Design Architects LLC*, Mendham, New Jersey, provided his experience and education credentials to Chairman Rhatican and after confirming that his license was current, he was accepted as an expert in the field of architecture.

Mr. Encin described the existing dwelling which consisted of the original house and its multiple additions as looking very disjointed in appearance. It was so structurally compromised that he was unable to safely enter the house and was unsure if the existing foundation could support a new dwelling. He then described the proposed project noting that because the house would front to both the street and to the park to the right, the facades facing both were designed to be important. Overall, the exterior materials and construction would blend with the area. Finally, Mr. Encin testified that neither the covered front porch area nor the garage area had been calculated into the 5,577 square foot figure for the proposed house.

Hearing no further questions from the board members, Chairman Rhatican opened the hearing for questions and comments from the public. Hearing none, he closed that portion of the hearing.

Mr. Bisogno summarized by stating that the configuration of the lot had created a hardship for the applicant and that the project itself represented a major improvement to the area. He could see no detrimental effect on the neighbors





and opined that the project did not represent any impairment to the intent and purpose of the zone plan and zoning ordinance.

After deliberating, the majority of the board members felt that the applicants 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 applicants had satisfied the negative criteria.

Ms. Mastrangelo 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: Genirs, Kleinert, Lane, Mastrangelo, Rhatican.  
Nay: Zaidel.  
Abstain: NONE

Motion carried.

#### **Approval of Resolution #18-07**

Ms. Genirs moved to approve as drafted, the resolution awarding Joseph A. Fishinger, Jr., PE, PP, PTOE of the firm *NV5 Inc.* a Professional Services Contract for the position of 2018 Board of Adjustment Traffic Engineer.

Ms. Mastrangelo seconded.

Roll Call:

Aye: Genirs, Kleinert, Lane, Mastrangelo, Rhatican, Zaidel.  
Nay: NONE  
Abstain: NONE

Motion carried.

#### **COMMENTS FROM MEMBERS OR STAFF**

Ms. Kiefer reminded the board members that they had to complete the stormwater management online training class before the June 30, 2018 deadline.

#### **ADJOURNMENT**

Mr. Zaidel motioned, Ms. Mastrangelo seconded and by unanimous Voice Vote, the meeting was adjourned at 10:04 PM.

Respectfully submitted,



Cyndi Kiefer, Secretary  
Zoning Board of Adjustment