

BERNARDS TOWNSHIP **ZONING BOARD OF ADJUSTMENT**

MINUTES v2

Reorganization and Regular Meeting
January 8, 2020

CALL TO ORDER

Ms. Kiefer called the meeting to order at 7:31 PM.

FLAG SALUTE

OPEN PUBLIC MEETINGS STATEMENT – Ms. Kiefer 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."

REORGANIZATION MEETING

OATHS OF OFFICE

The following members were duly sworn:

- Bradley Breslin, Regular Member, four-year term expiring 12/31/23
- Karl Kraus, Regular Member, fulfilling Kleinert's term expiring 12/31/21
- Beth Pochtar, Regular Member, four-year term expiring 12/31/23
- David Tancredi, Regular Member, four-year term expiring 12/31/23
- Michael Zaidel, Regular Member, four-year term expiring 12/31/23
- Paul Humbert, Alternate #1, fulfilling Kraus' term, expiring 12/31/20
- Stephanus Juwana, Alternate #2, fulfilling Pochtar's term, expiring 12/31/20

Continuing Board Members: Eorio, Genirs

ROLL CALL:

Members Present: Breslin, Eorio, Genirs, Humbert, Juwana, Kraus, Pochtar, Tancredi, Zaidel
Members Absent: NONE
Also Present: Attorney, Amanda Wolfe, Esq.; Township Planner, David Schley, PP, AICP;
Engineer, Thomas J. Quinn, PE, CME; Secretary, Cyndi Kiefer

NOMINATIONS FOR CHAIRMAN

Ms. Kiefer called for nominations for Chairman of the Board for the year 2020. Mr. Zaidel nominated Mr. Breslin and Ms. Genirs seconded the nomination.

All in favor and carried that Mr. Breslin serve as Chairman.

NOMINATIONS FOR VICE CHAIRMAN

Chairman Breslin called for nominations for Vice Chairman of the Board for the year 2020. Ms. Genirs nominated Mr. Zaidel and Ms. Pochtar seconded the nomination.

All in favor and carried that Mr. Zaidel serve as Vice Chairman.

NOMINATIONS FOR VICE CHAIRMAN PRO TEMP

Chairman Breslin called for nominations for Vice Chairman Pro Temp of the Board for the year 2020. Mr. Zaidel nominated Ms. Genirs and Mr. Tancredi seconded the nomination.

All in favor and carried that Ms. Genirs serve as Vice Chairwoman Pro Temp.

APPOINTMENT OF ENGINEER

Chairman Breslin called for nominations for Engineer for the Board for the year 2020. Ms. Pochtar nominated Thomas J. Quinn, PE, CME and Mr. Kraus seconded the nomination.

Motion by Ms. Pochtar to adopt [Resolution #20-02 Professional Services Contract for 2020 Planning Board Engineer](#) and to appoint Thomas J. Quinn, PE, CME as Engineer for the Board for the year 2020. Mr. Kraus seconded the motion.

Roll call: Aye: Breslin, Eorio, Genirs, Humbert, Juwana, Kraus, Pochtar, Tancredi, Zaidel
 Nay: NONE

Motion carried.

APPOINTMENT OF PLANNER

Chairman Breslin called for appointments for Planner for the Board for the year 2020. Moved by Mr. Tancredi and seconded by Ms. Genirs, all in favor and carried, to appoint David Schley, PP, AICP as Board Planner.

APPOINTMENT OF SECRETARY

Chairman Breslin called for appointments for Secretary for the Board for the year 2020. Moved by Mr. Zaidel and seconded by Ms. Pochtar, all in favor and carried, to appoint Cyndi Kiefer as Board Secretary.

APPOINTMENT OF ATTORNEY

Chairman Breslin called for nominations for Attorney for the Board for the year 2020. Mr. Tancredi nominated Steven K. Warner, Esq. and Ms. Genirs seconded the nomination.

Motion by Mr. Tancredi to adopt [Resolution #20-01 Professional Services Contract for 2020 Planning Board Attorney](#) and to appoint Steven K. Warner, Esq. as Attorney for the Board for the year 2020. Ms. Genirs seconded the motion.

Roll call: Aye: Breslin, Eorio, Genirs, Humbert, Juwana, Kraus, Pochtar, Tancredi, Zaidel
 Nay: NONE

Motion carried.

ADOPTION OF RULES AND REGULATIONS

Motion by Ms. Pochtar to adopt [Resolution #20-03 Zoning Board of Adjustment Rules and Regulations for the Year 2020](#). Mr. Eorio seconded.

Roll call: Aye: Breslin, Eorio, Genirs, Humbert, Juwana, Kraus, Pochtar, Tancredi, Zaidel
 Nay: NONE

Motion carried.

ADOPTION OF SCHEDULE OF MEETING DATES

Motion by Ms. Genirs to adopt [Resolution #20-04 Schedule of Meeting Dates for the Year 2020](#). Mr. Tancredi seconded.

Roll call: Aye: Breslin, Eorio, Genirs, Humbert, Juwana, Kraus, Pochtar, Tancredi, Zaidel
Nay: NONE

Motion carried.

ADOPTION OF OFFICIAL NEWSPAPERS

Moved by Mr. Tancredi to designate the Bernardsville News, Whippany, NJ and the Courier News, Bridgewater, NJ as the official newspapers for the year 2020. The Daily Record of Morristown, NJ and the Star Ledger of Newark, NJ were designated newspapers which may be given notice by the Secretary when the publication schedules of the Bernardsville News or the Courier News do not enable either to publish advance notice of special or rescheduled meetings. Seconded by Mr. Kraus.

All in favor and carried that the Bernardsville News and the Courier News be designated as the official newspapers of the township for the year 2020.

ADOPTION OF POLICY OF ADEQUATE NOTICE

Motion by Mr. Zaidel to adopt [Resolution #20-05 Policy of Adequate Notice for the Year 2020](#). Mr. Tancredi seconded.

Roll call: Aye: Breslin, Eorio, Genirs, Humbert, Juwana, Kraus, Pochtar, Tancredi, Zaidel
Nay: NONE

Motion carried.

ADJOURNMENT OF REORGANIZATION PORTION OF THE MEETING

On motion by Ms. Genirs, seconded by Mr. Tancredi, all in favor and carried, the reorganization portion of the meeting was closed at 7:41 PM.

REGULAR MEETING

APPROVAL OF MINUTES

[December 4, 2019 – Regular Session](#) - On motion by Mr. Zaidel, seconded by Ms. Genirs, all eligible in favor and carried, the minutes were accepted as written. Abstentions for those who were absent: Breslin, Kraus. Abstentions for those who were not members: Humbert, Juwana.

Ms. Pochtar and Mr. Eorio recused themselves and left the dais.

APPROVAL OF RESOLUTIONS

[Eorio, Daniel & Lyndsey; #ZB19-020](#); Block 1602, Lot 12; 157 South Maple Avenue; Bulk Variances (approved) Mr. Zaidel moved approval of the resolution as drafted. Ms. Genirs seconded.

Roll Call: Aye: Genirs, Tancredi, Zaidel
Nay: NONE

Motion carried.

Ms. Pochtar and Mr. Eorio returned to the dais.

COMPLETENESS AND PUBLIC HEARING

[Buono, Brian](#); Block 4801, Lot 3; 117 Whitenack Road; Bulk Variances; #ZB19-016

Present: Brian Buono, Applicant
Michael Buono
Danial B. Dubinett, RA

Professionals for both the applicant and the board, and Brian and Michael Buono were duly sworn by Ms. Wolfe.

Danial B. Dubinett, RA, owner of *Dubinett Architects LLC*, Short Hills, NJ, was accepted by the board as an expert in the field of architecture. After giving a brief description of the subject property, Mr. Dubinett explained that the proposed project requires relief for front yard setback, side yard setback and combined side yard setback in order to renovate the first floor of the existing single-story house and to add a second floor and garage. He emphasized that the renovations will not change footprint of the structure.

Exhibit A-1, a colorized version of page 1 of 3 of site plans drawn by Mr. Dubinett, dated 03/20/2019 was entered into evidence. Referring to the exhibit which showed the building envelope, Mr. Dubinett noted that a portion of the existing structure is located outside of that envelope. He testified that the house actually meets the combined side yard setback when measured to the side yard property lines however because there is a river along the west side of the property, that side yard setback is measured in accordance with the stream buffer conservation ordinance and creates the need for a variance. He added that the property itself is encumbered by wetlands, transition areas and riparian zones which severely limit the placement of any structure. Finally, he stated that the existing dwelling is uninhabited and in poor condition and that the proposed renovation would enhance both the subject property and the surrounding neighborhood.

Exhibit A-2, a copy of a Zillow Map showing the subject property and the surrounding houses was entered into evidence. Mr. Dubinett noted that the nearest structure to the existing house was over 100 feet away.

Mr. Dubinett confirmed that the existing foundation was sufficient to support the proposed second story and that this is a partial demolition. As a condition of approval, he stipulated to all the comments made in the board professionals' memos.

Michael Buono, residing at 17 Madisonville Road, Basking Ridge, NJ and brother of the applicant, testified that none of the exterior walls will be moved however in order to create a garage, some of the interior walls would be reconfigured. He also stated that the existing pool will remain and added that all of the neighbors support the project since currently, the property is overgrown and messy.

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

After deliberating, the board felt that the applicant had satisfied the positive and negative criteria required for a "c(1)" or "hardship" variance and also for a "c(2)" or "benefits outweigh detriments" variance. 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 variance relief requested subject to the conditions stipulated to by the applicant and as stated during deliberations. Mr. Tancredi seconded.

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

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Majewski, Matthew & Judith; Block 11102, Lot 19, 195 Mountain Road; Bulk Variance; #ZB19-021

Present:	Judith Majewski, Applicant
	Jason Werner, Contractor for the Applicant

The professionals for the board, the applicant and the applicant's contractor were duly sworn.

Judith Majewski, applicant residing at 195 Mountain Road, testified that in order to construct a pool and patio to the rear of her house, variance relief for a pool located NOT behind the rear building line of adjacent dwellings is required. She stated that if the pool were to be constructed in a conforming location, it would be far to the rear of the property in a wooded and sloping area, requiring significant regrading and removal of trees. Noting that the spa was not shown on the plans, she explained that it will bump out of the proposed pool into the patio.

Exhibit A-1, a photo taken from the subject property looking towards the adjacent farm, which would be most affected by the project, was entered into evidence. Ms. Majewski stated that that farm, Ripple Hill Farm, is owned by her father and that he is satisfied with the existing tree buffer between the two properties.

Jason Werner, owner of *EverClear Pools & Spas LLC*, Paterson, NJ, pool contractor for the applicant stated that he had taken the pictures submitted with the application in November of 2019 and that they accurately depict the property as it currently exists. He stipulated that any stream buffers would be shown on the plan and on the survey and placed in conservation easements prior to the issuance of any construction permits. He added that if any do exist, they will not affect the proposed project, as stated in the report prepared by the applicants' environmental consultant.

As a condition of approval, Ms. Majewski stipulated to all the comments made in Mr. Schley's memo dated 12/27/2019 and Mr. Quinn's memo dated 01/06/2020.

Hearing no further questions from the board or its professionals, Chairman Breslin opened the meeting to the public for questions.

In response to Todd Edelstein, 172 Riverside Drive, Mr. Werner confirmed that fencing for the pool will be installed and will comply with all applicable construction code requirements.

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

After deliberating, the board felt that the applicant had satisfied the positive and negative criteria required 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 board's decision to grant the variance relief requested subject to the conditions stipulated to by the applicant and as stated during deliberations. Mr. Zaidel seconded.

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

Motion carried.

COMMENTS FROM MEMBERS OR STAFF - None

ADJOURN

On motion by Mr. Tancredi, seconded by Ms. Genirs, all in favor and carried, the meeting was adjourned at 8:37 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Zoning Board of Adjustment

Adopted as drafted 02/05/2020

01/23/2020 ds aw