

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

## **MINUTES**

Regular Meeting v3  
March 4, 2020

### **CALL TO ORDER**

Chairman Breslin called the meeting to order at 7:35 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 9, 2020 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, Eorio, Genirs, Humbert, Juwana, Pochtar, Tancredi, Zaidel  
Members Absent: Kraus  
Also Present: Board Attorney, Steven K. Warner, Esq.; Township Planner, David Schley, PP, AICP;  
Board Engineer, Thomas J. Quinn, PE, CME; Board Secretary, Cyndi Kiefer

### **APPROVAL OF MINUTES**

**February 5, 2020 – Regular Session** - On motion by Mr. Zaidel, seconded by Ms. Pochtar, all eligible in favor and carried, the minutes were adopted as drafted. Abstention for absence: Juwana

Chairman Breslin announced that updated versions of the resolutions scheduled for approval that evening had been distributed to the Board prior to the meeting.

### **APPROVAL OF RESOLUTIONS**

**Aptekar, Matthew; #ZB19-024**; Block 11004, Lot 10; 21 Sentry Court; Bulk Variance (approved) - Mr. Zaidel moved approval of the resolution as revised. Mr. Tancredi seconded.

Roll Call: Aye: Breslin, Eorio, Genirs, Pochtar, Tancredi, Zaidel  
Nay: NONE  
Ineligible: Humbert, Juwana

Motion carried.

**Family Realty & Mortgage Co., Inc.; #ZB19-022**; Block 2801, Lot 30; 288 South Finley Avenue; Bulk Variances (approved) - Ms. Pochtar moved approval of the resolution as revised. Mr. Zaidel seconded.

Roll Call: Aye: Breslin, Eorio, Genirs, Pochtar, Tancredi, Zaidel  
Nay: NONE  
Ineligible: Humbert, Juwana

Motion carried.

**Hardy, Edmond J. & Suzanne L.; #ZB19-023**; Block 7301, Lot 33; 242 Liberty Corner Road; d-1 Use Variance, Bulk Variance (approved) – Mr. Tancredi moved approval of the resolution as revised. Mr. Zaidel seconded.

Roll Call:       Aye:           Breslin, Eorio, Genirs, Pochtar, Tancredi, Zaidel  
                  Nay:           NONE  
                  Ineligible:       Humbert, Juwana

Motion carried.

Chairman Breslin recused himself and left the dais.

### **COMPLETENESS HEARING**

**New York SMSA LLP d/b/a Verizon Wireless**; Block 803, Lots 2, 3, 5, 6, 23; Preliminary/Final Site Plan, Use (d-1) Variance, Bulk Variance; #ZB20-001

Present:           Richard L. Schneider, Esq., Attorney for the Applicant

Richard L. Schneider, Esq., attorney with *Vogel, Chait, Collins & Schneider PC*, Morristown, NJ, advised the Board that he was present on behalf of the applicant, NY SMSA LP d/b/a Verizon Wireless ("Verizon"). He gave a brief summary of the application and requested a checklist item waiver for a Letter of Interpretation (LOI). Mr. Schley stated that prior to commencing the project, the applicant would have to obtain a General Permit from the New Jersey Department of Environmental Protection (NJDEP) which, for the Board's purposes, would serve as an LOI.

Ms. Genirs moved to grant the waiver request and to deem the application complete. Mr. Tancredi seconded.

Roll Call:       Aye:           Eorio, Genirs, Humber, Juwana, Pochtar, Tancredi, Zaidel  
                  Nay:           NONE

Motion carried.

Chairman Breslin returned to the dais.

### **COMPLETENESS AND PUBLIC HEARING/APPROVAL OF RESOLUTION**

**Goldstein, Chad & Sandy; #ZB19-025**; Block 5801, Lot 17; 9 Lyons Place; WITHDRAWN

Mr. Warner stated that on 02/18/2020, the applicant had requested, via letter, that this application be withdrawn. He advised the Board that a resolution memorializing the withdrawal without prejudice was required to document the process of the application.

Mr. Zaidel moved to grant withdrawal of the application without prejudice. Ms. Pochtar seconded.

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

Motion carried.

### **COMPLETENESS AND PUBLIC HEARING**

**Richter, Matthew & Lisa**; Block 1614, Lot 3; 63 Juniper Way; Bulk Variance; #ZB19-005

Present:           Matthew Richter, Applicant

Mr. Warner stated that notice was sufficient and timely therefore the Board had jurisdiction to hear the application. Matthew Richter and the Board's professionals were duly sworn. Ms. Pochtar noted that she had driven by the property.

Matthew Richter, applicant residing at 63 Juniper Way, gave a brief history of the renovations done to the subject property since he purchased it in 2004. He testified that after the last renovation, a patio was built to replace the one that had been removed earlier. The new patio is larger than the previous one and relief is now required for maximum lot coverage. Mr. Richter stated that when he was advised of the situation in 2019, an application for var-

iance relief was submitted. Based on an older survey, the net impervious coverage exceeded 1,000 square feet triggering the need for storm water management measures. A new survey was done and although it showed that the actual net increase fell just below the 1,000 sq. ft. threshold, he decided to implement storm water management measures anyway by installing a detention trench alongside the driveway. The location of the trench is shown on the submitted plans prepared by William G. Hollows, PE, engineer with the firm of *Murphy & Hollows LLC*, Stirling, NJ. Mr. Quinn opined that this would sufficiently address the increase in storm water runoff. Mr. Richter stated that he wanted to lengthen the trench, for aesthetic reasons, but he would not extend it past the mulch bed of the tree near the driveway, so as not to disturb the roots of the tree.

Mr. Richter testified that there had been no negative comments from his neighbors about any of the renovations that had been done. He confirmed that he had taken the photos which were submitted with the application and that they accurately depict the property as it exists today.

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(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. Ms. Genirs seconded.

Roll Call:	Aye:	Breslin, Eorio, Genirs, Humbert, Pochtar, Tancredi, Zaidel
	Nay:	NONE
	Ineligible:	Juwana

Motion carried.

#### **COMPLETENESS AND PUBLIC HEARING**

**Buzin, Marc & Michelle**; Block 8102, Lot 11; 52 Bernard Drive; Bulk Variance; #ZB20-002

Present: Marc & Michelle Buzin, Applicants

Mr. Warner stated that notice was sufficient and timely therefore the Board had jurisdiction to hear the application. Marc and Michelle Buzin and the Board's professionals were duly sworn. Ms. Pochtar stated that she had driven by the property.

Marc Buzin, applicant residing at 52 Bernard Drive, testified that he and his wife built the subject dwelling almost 25 years ago and that they had decided to convert the unfinished area above the attached garage into a playroom and a bathroom. He added that there had been no change to the exterior of the house or to the footprint because of the renovation. After he applied for construction permits, he was made aware that he would need relief for maximum permitted floor area.

Referring to Comment #3 in Mr. Schley's memo dated 02/28/2020, Mr. Buzin testified that he had gotten a new survey which showed the property as it currently exists and that he is working with the Zoning Officer to bring the property into conformance with a 2003 variance approval which allowed 28.7% of impervious coverage (where 20% is allowed). **Exhibit A-1**, a reduced and colorized copy of the new survey prepared by Yannaccone, Villa & Aldrich LLC, dated 02/11/2020 was entered into evidence. Mr. Buzin testified that all of the areas in red on the exhibit will be removed in order to bring the property into compliance.

As conditions of approval, Mr. Buzin stipulated to all comments made in Mr. Schley's memo, including that there would be no cooking facilities in the newly finished area and that the house would remain a single-family dwelling.

After deliberating, the Board felt that the applicants had satisfied the positive and negative criteria required for "c(2)" or "benefits outweigh detriments" variance relief. 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 applicants and as stated during deliberations. Ms. Genirs seconded.

Roll Call:       Aye:           Breslin, Eorio, Genirs, Humbert, Pochtar, Tancredi, Zaidel  
                  Nay:           NONE  
                  Ineligible:   Juwana

Motion carried.

**COMMENTS FROM MEMBERS OR STAFF** – Chairman Breslin cancelled the March 12, 2020 meeting.

**ADJOURN**

On motion by Mr. Tancredi, seconded by Ms. Pochtar, all in favor and carried, the meeting was adjourned at 9:00 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary  
Zoning Board of Adjustment

*Approved as revised 05-06-2020*

03/16/2020dsaw