

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

**MINUTES** v2  
VIRTUAL Regular Meeting  
June 3, 2020

## **CALL TO ORDER**

Chairman Breslin called the meeting to order at 7:31 PM.

## **FLAG SALUTE**

## **OPEN PUBLIC MEETINGS STATEMENT** – Mr. Warner read the following statement:

"In accordance with the requirements of the Open Public Meetings Act, the Municipal Land Use Law and operational guidance documents issued by the Division of Local Government Services of the Department of Community Affairs, notice of this Special Virtual Meeting of the Zoning Board of Adjustment of the Township of Bernards by web-based platform with remote public access was posted more than 48 hours in advance on the Township website, on the outside doors of the Municipal Building, One Collyer Lane, Basking Ridge, New Jersey; was sent to the Bernardsville News, Whippany, New Jersey and the Courier News, Bridgewater, New Jersey; was also filed with the Township Clerk, all on May 29, 2020; and was mailed electronically to all those people who have requested individual notice.

The following procedure has been adopted by the Bernards Township Zoning 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, Juwana, Kraus, Pochtar, Tancredi, Zaidel  
Members Absent: Humbert  
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

On motion made by Ms. Pochtar, seconded by Mr. Tancredi, all eligible in favor and carried, the absence of Mr. Humbert was excused.

## **APPROVAL OF RESOLUTION**

[Muir, Nicholas & Amanda; ZB20-003](#); Block 2904, Lot 18; 14 Forest Trail; Bulk Variances; (approved) – Mr. Tancredi moved to approve the resolution as drafted. Ms. Genirs seconded.

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

Motion carried.

## **COMPLETENESS AND PUBLIC HEARING**

Heath, Christopher S. & Renee; Block 10704, Lot 42; 21 Old Stagecoach Road; Elimination of Condition of Approval, Bulk Variance; ZB20-007

Chairman Breslin announced that the application would be carried to July 8, 2020. Mr. Warner stated that a decision would be made at a later date as to the location of the hearing and as to notice requirements.

Ms. Genirs recused herself from participating in the hearing for the following application and left the dais.

## **COMPLETENESS AND PUBLIC HEARING**

[Sweet Pea Farms I, LLC](#); Block 11501, Lot 3.03; 48 Kings Ridge Road; Bulk Variances; ZB20-004

Present: Craig W. Alexander, Esq., Attorney for the Applicant  
Antoine Hajjar, PE, PP, PLS, Engineer/Planner for the Applicant  
James Babey, Applicant

Craig W. Alexander, Esq., attorney with the firm of *Mandelbaum Salsburg PC*, Roseland, NJ, entered his appearance on behalf of the Applicant. He explained that in 2014, Vincent J. Maolucci received Preliminary and Final Major Subdivision approval along with variance relief (PB12-009) in order to create three (3) lots. The subdivision was perfected and two (2) lots were improved with houses and sold. Because construction never commenced on the last lot (the subject property), the variances expired. Mr. Alexander stated that there were no changes proposed to the original plans and that the Applicant sought approval for the same variances that were granted in 2014 for minimum lot frontage and minimum lot width.

Mr. Warner stated that notice was sufficient and timely therefore the Board had jurisdiction to hear this application. The Applicant, Mr. Hajjar and the Board's professionals were duly sworn.

Antoine Hajjar, PE, PP, PLS, with the firm of *Land Solutions Engineering LLC*, Chatham, NJ, was accepted by the Board as an expert in the fields of civil engineering and professional planning. Referencing **Exhibit A-1**, a colorized rendering of Sheet 1 of 4 prepared by Mr. Hajjar, dated February 13, 2020 and entitled "Plot Plan," he gave a brief description of the property and the proposed dwelling, confirming that this was the same plan including grading and drainage, that was originally approved by the Planning Board in 2014. He stipulated to obtaining certification from the Somerset-Union Soil Conservation District and to all the conditions listed in the 2014 approval.

Mr. Hajjar provided testimony to satisfy both the positive and negative criteria for a "c(2)" or "benefits outweigh detriments" variance for both variances requested.

On questioning, Mr. Babey confirmed that there was no adjacent property available for purchase that could be used to reduce the magnitude of, if not eliminate entirely, the nonconforming lot frontage and lot width. Mr. Schley advised that there were neither changes to the zoning since the Applicant obtained the prior approval nor significant changes to the existing neighborhood that would undermine the Planning Board's 2014 approval.

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

After deliberating, the Board felt that the Applicant had satisfied the positive and negative criteria required for "c(2)" or benefits vs. detriments" variances. 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 application for variance relief requested by the Applicant subject to the conditions stipulated to by the Applicant and as stated during deliberations. Mr. Eorio seconded.

Roll call: Aye: Breslin, Eorio, Juwana, Kraus, Pochtar, Tancredi, Zaidel  
Nay: NONE  
Motion carried.

Ms. Genirs returned to the dais.

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

[Hayworth, Stephen B.](#); Block 1511, Lot 4; 10 Depot Place; Bulk Variance; ZB20-005

Present: Jay M. Petrillo, AIA, Architect for the Applicant  
Stephen B. Hayworth, Applicant

Mr. Warner stated that notice was sufficient and timely therefore the Board had jurisdiction to hear this application. The Applicant, Mr. Petrillo and the Board's professionals were duly sworn.

Stephen B. Hayworth, Applicant residing 10 Depot Place, testified that this application required relief for an accessory

structure located in a front yard in order to replace an existing storm-damaged one-car garage with a two-car garage in approximately the same location. He stated that because the existing house is located to the rear of the property, there is not enough area in the back for the garage to be built in a conforming location.

Jay M. Petrillo, AIA, with a business address of Basking Ridge, NJ, was accepted by the Board as an expert in the field of architecture. He gave a brief description of the property, noting that it has two (2) front yards (Depot Place and Ridge Street) and that the existing garage is located in the front yard. He stated that the proposed garage which would be built mostly on existing driveway and moved slightly forward from the location of the existing garage to create a little back yard area. Referring to **Exhibit A-1**, an aerial photo of the neighborhood, he testified that none of the surrounding properties meet the current zone requirements and the location of the Applicant's house creates a hardship. He confirmed that there were no negative comments from neighbors about the proposed project.

Mr. Hayworth stipulated to the comments in the Board professionals' memos.

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

After deliberating, the Board felt that the Applicant had satisfied the positive and negative criteria required for "c(2)" or benefits vs. detriments" variances. Mr. Tancredi 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 Applicant subject to 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
	Ineligible:	Juwana

Motion carried.

### **COMPLETENESS AND PUBLIC HEARING**

[Hughes, Robert & Carrie C.](#); Block 5401, Lot 21; 31 Coppergate Drive; Bulk Variances; ZB20-004

Present:	Ralph L. Finelli, RA, Architect for the Applicants
	Nicholas Fiore, Contractor for the Applicants
	Robert & Carrie C. Hughes, Applicants

Mr. Warner stated that notice was sufficient and timely therefore the Board had jurisdiction to hear this application. The Applicants, Mr. Finelli, Mr. Fiore and the Board's professionals were duly sworn.

Carrie C. Hughes, Applicant residing at 31 Coppergate Drive, testified that she and her husband propose to expand/renovate the existing dwelling, add a covered deck in the rear and replace an existing uncovered front porch with a larger covered porch, all requiring relief for minimum front yard setback from both Coppergate Drive and Harcourt Lane. The Applicants also propose to modify the existing driveway by eliminating access to Harcourt Lane and providing access to Coppergate Drive. Finally, the Applicants propose to provide additional landscape buffering between the proposed deck and the property to the rear.

Ms. Hughes stated that the larger porch would be more in proportion with the rest of the house. Changing the driveway entrance from Harcourt Lane to Coppergate Drive would create larger side yards and would look better because the front of the house faced Coppergate Drive. In addition, ingress and egress via the reconfigured driveway would be safer since Coppergate Drive had significantly less traffic than Harcourt Lane. In general, she felt that the proposed improvements would enhance the look of the house and neighborhood and that there were no detriments.

Ralph L. Finelli, RA, with a business address of Sergeantsville, NJ, was accepted by the Board as an expert in the field of architecture. He gave a brief description of the property and the proposed project noting that the demolition required would not exceed "partial destruction" or compromise the integrity of the structure. He stipulated to the comments made in memos submitted by both of the Board's professionals.

In response to a question about additional tree removal, Mrs. Hughes testified that the large tree near the proposed driveway on Coppergate Drive had already been removed because it was dying. She further testified that many of the trees on the property were dead or sick and had been previously removed. Mrs. Hughes explained that they intend to plant replacement trees along Harcourt Lane for aesthetics, safety, and sound attenuation purposes noting that they were adding more trees than had been removed. She stipulated, as a condition of approval, to submitting a tree removal and replacement plan, subject to the review and approval of the Township Engineering Department.

Hearing no further questions, Chairman Breslin opened the hearing to the public for questions or comments.

Dennis W. Jones, 19 Coppergate Drive, asked for clarification about the tree remediation process. Mr. Schley responded that it would be addressed during the permit process.

Judy Arnoff, 41 Harcourt Lane, was duly sworn and expressed concerns about the sufficiency of notice, decreased privacy and lighting. Mr. Finelli responded that no exterior lighting was proposed and that the interior lighting would be downlit. He opined that it was an improvement since an existing exterior wall mounted light would be removed.

Robert M. Trojan, 35 Harcourt Lane, was duly sworn and commented that the proposed tree buffering on Harcourt Lane would be inconsistent with the neighborhood. Mrs. Hughes gave examples of other properties with similar trees.

Randy Arnoff, 41 Harcourt Lane, questioned the Applicants' assertion that there was a lot of traffic on Harcourt Lane. He also expressed concerns that the rear deck would result in a loss of privacy. Mrs. Hughes reiterated that they planned to supplement the existing landscape buffer between the deck and Mr. Arnoff's property.

Andrea Wang, 32 Coppergate Drive, asked for additional information about the proposed landscaping. It was noted that the plans had been posted to the Board's website.

On questioning by the Board as to the potential impact of the proposed covered rear deck on the adjacent properties, Mr. Finelli testified that there is a topographical difference between the subject property and the residence to the rear affected by the deck, that there will be sufficient buffering, and that any lighting on the deck will be internal and downlit. Mrs. Hughes advised that the covered rear deck faces the side of the adjacent dwelling's porch, rather than the interior of that dwelling and that most of the deck that faces that property would be closed off by the fireplace.

After deliberating, the Board felt that the Applicants had satisfied the positive and negative criteria required for both a "c(1)" or "hardship" variance and a "c(2)" or benefits vs. 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 application for variance relief requested by the Applicants subject to the conditions stipulated to by the Applicants and as stated during deliberations. Mr. Kraus seconded.

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

Motion carried.

#### **COMMENTS FROM MEMBERS OR STAFF** - None

#### **ADJOURN**

On motion by Ms. Pochtar, seconded by Mr. Tancredi, all in favor and carried, the meeting was adjourned at 10:04 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary  
Zoning Board of Adjustment

*Adopted as drafted 07/08/2020*

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