

BERNARDS TOWNSHIP

ZONING BOARD OF ADJUSTMENT

MINUTES v2
Special Meeting
May 13, 2021

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 7, 2021 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: Baumann, Breslin, Cambria, Genirs, Kraus, Pavlosky, Pochtar, Tancredi
Members Absent: Agarwal
Also Present: Board Attorney, Amanda Wolfe, Esq.; Township/Board Planner, David Schley, PP, AICP;
Board Engineer, Thomas Quinn, PE, CME; Board Secretary, Cyndi Kiefer

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

APPROVAL OF MINUTES

May 5, 2021 – Regular Session – On motion by Mr. Kraus, seconded by Mr. Tancredi, all eligible in favor and carried, the minutes were adopted as drafted.

COMPLETENESS AND PUBLIC HEARING

Calvert, Caeleigh B.; Block 603, Lot 12; 19 Fieldstone Drive; Bulk Variances; ZB21-020

Present: Caeleigh B. Calvert, Applicant

Ms. Wolfe stated that notice was sufficient and timely therefore the Board had jurisdiction to hear this application. Ms. Calvert, Mr. Schley and Mr. Quinn were duly sworn.

Caeleigh B. Calvert, Applicant residing at 19 Fieldstone Drive, testified that the proposed project, replacement of an existing 6' high solid fence with new a 6' high solid fence required relief for maximum fence height in a front yard and fence construction (solid) in a front yard. She explained that even though the existing fence is located to the rear of her house which faces Morristown Road/Route 202, because her lot is a "through lot" meaning that it fronts on both Fieldstone Drive (the "primary" frontage) and Morristown Road/Route 202 (the "secondary" frontage), both the "primary" and "secondary" frontages are treated as "front yards." Finally, she stated that she was requesting relief for safety reasons since she has small children, for privacy and to help mitigate road noise.

Exhibit A-1, a black-and-white photo of the proposed white vinyl fence taken by Ms. Calvert was entered into evidence. She stated that this fence was proposed instead of the wood fence shown in the previously submitted photo. She also stated that the fence would look the same on both sides and confirmed that no trees would be impacted or removed during installation.

Mr. Schley noted that the existing shed is not conforming in regard to the side yard setback requiring an additional variance. Ms. Wolfe opined that although the public notices did not mention the variance specifically, it would be captured in the "catch all" phrase which was included in the notices.

Mr. Schley also noted that the adjacent neighbor had installed some solid fencing on the Applicant's property in the front yard along the driveway which would also require variances for maximum fence height and for fence construction because of the front yard location. Chairman Breslin opined that that relief would be considered as part of the original variance request.

The comments in Mr. Schley's memo (04/30/2021) were addressed to his satisfaction. Mr. Quinn had no comments.

Hearing no further questions from the Board or its professionals, Chairman Breslin opened the hearing for questions or comments from the public either present or via telephone. Hearing none, that portion of the hearing was closed.

After deliberating, the Board concluded that the positive and negative criteria required for a "c(1)" or "hardship" variance had been satisfied. 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 as requested by the Applicant subject to the conditions stipulated to by the Applicant and as stated during deliberations. Ms. Baumann seconded.

Roll call:	Aye:	Baumann, Breslin, Cambria, Genirs, Kraus, Pochtar, Tancredi
	Nay:	NONE
	Abstain:	Pavlosky (ineligible)

Motion carried.

Mr. Tancredi recused himself and left the building.

PUBLIC HEARING (continued from 04/07/2021)

Braemar Partners; Block 8201, Lots 22, & 23; 3066-3074 Valley Road; Preliminary/Final Site Plan, "d(3)" Conditional Use Variance, Bulk Variances, Design Exceptions; ZB20-027

Present:	Jeffrey B. Lehrer, Esq., Attorney for the Applicant
	Cliff Stanfield, Principal for the Applicant
	Daniel G. Reeves, PE, Engineer for the Applicant
	Lauren K. Venin, LLA, RLA, CFM, Landscape Architect for the Applicant
	Dan King, AIA, Architect for the Applicant
	John R. Harter, PE, Traffic Engineer for the Applicant
	Paul Phillips, PP, AICP, Planner for the Applicant

Ms. Wolfe stated that at conclusion of the 04/07/2021 meeting, it was announced that this application would be carried to tonight's meeting with no further notice and that all of the professionals remained under oath.

Jeffrey B. Lehrer, Esq., attorney with the firm of *DiFrancesco, Bateman, Kunzman, Davis, Lehrer & Flaum PC*, Warren, NJ, entered his appearance on behalf of the Applicant. He stated that Mr. Stanfield, Mr. Reeves and Ms. Venin had provided testimony during the 04/07/2021 hearing and that the Applicant had submitted all of the items requested by the Board during that meeting.

Exhibit A-5, building elevations consisting of two (2) 11 x 17 sheets, prepared by Meyer Design Inc. dated 12/11/2020 and submitted with the application on 12/21/2020 and **Exhibit A-6**, electrical fixture cut sheets consisting of 5 pages and submitted on 04/30/2021, were both entered into evidence.

Dan King, AIA, architect with the firm of *Meyer Design Inc.*, Ardmore, PA, was accepted by the Board as an expert in the field of architecture. Using **Exhibits A-1** (submitted during the 04/07/2021 hearing) and **A-5** to show the different facades, materials and architectural details that would be used on the building, he stated that the goal of all of

the Applicant's communities is to blend in with the individual character of the municipalities in which they are located and to give the buildings a "residential" feel.

Mr. King testified that 8' is the standard height for fencing in memory care units adding that these units are totally separate from the rest of the assisted living facility (ALF) and that the fence is required for the safety of the memory care unit's residents.

Using **Exhibit A-6**, Mr. King stated that there would be small low level security light fixtures at each exit and more decorative fixtures at the entrances. He testified that all of the lighting would be LED and downward directed and that the lights on the building itself will be turned off at a designated hour. Lights in the parking lot will remain on all night for security purposes however, they will be reduced to lower footcandle levels.

Hearing no further questions from the Board or its professionals, Chairman Breslin opened the hearing to the public either present or via telephone, for questions of this witness. Hearing none, he closed that portion of the hearing.

John R. Harter, PE, principal with the firm of *Atlantic Traffic & Design Engineering LLC*, Warren, NJ, was accepted by the Board as an expert in the field of traffic engineering and confirmed that he had prepared the Traffic Impact Analysis report dated 12/11/2021. Referring to the manual count summaries listed in the report, Mr. Harter testified that the traffic impact on Valley Road, King George Road and the intersection of Valley Road and King George Road would be minimal based on the standards set by the Institute of Traffic Engineers (ITE). He further testified that this project provided 42 parking stalls when 40 are required, noting that when reviewing the ITE standards and studies of other nearby ALF's, the results indicate that approximately 32 stalls would be required mid-week, mid-day (the normal timeframe for this type of comparison). Based on findings of his report, Mr. Harter opined that site access is safe, sufficient parking is provided, vehicular movement within the parking areas is safe and that site-generated traffic would not significantly impact traffic conditions in the site vicinity.

Chairman Breslin questioned whether crossing the striped median in Valley Road to make a left turn into the proposed ALF is permissible. Mr. Harter responded that it is permissible and that the Somerset County Planning Board (SCPB) has approved this traffic arrangement. Referring to the SCPB's memo dated 04/30/2021, he stipulated that the Applicant would work with the County to resolve all of the issues contained therein.

Additional questions from the Board concerning topics such as traffic during school transportation hours and traffic generated on Sunday mornings after church services were addressed to the Board's satisfaction.

Hearing no further questions from the Board or its professionals, Chairman Breslin opened the hearing to the public either present or via telephone, for questions of this witness. Todd Edelstein, 172 Riverside Drive (present), voiced concern about cars crossing the striped median while turning left into the proposed facility. Hearing nothing further, that portion of the hearing was closed.

Paul Phillips, PP, AICP, principal with the firm of *Phillips, Preiss, Grygiel, Leheny & Hughes LLC*, Hoboken, NJ, was accepted by the Board as an expert in the field of planning. He provided testimony to satisfy the statutory requirements for the variances and exceptions requested in order for the Board to grant the requested relief and to grant preliminary and final site plan approval.

Responding to a question from Ms. Genirs, Mr. Lehrer stipulated to allowing a landscape committee comprised of Board Members to visit the site once the construction and landscaping are complete. In addition, he stipulated to inviting the adjacent property owners to also attend that visit.

Lauren K. Venin, LLA, RLA, CFM, Landscape Architect for the Applicant, returned to the podium to answer questions from the Board about the size and location of some of the trees noting that some of the sizes had been increased since the first hearing.

Hearing no further questions from the Board or its professionals, Chairman Breslin opened the hearing to the public either present or via telephone, for questions of the planner and of the landscape architect. Hearing none, that portion of the hearing was closed.

Mr. Lehrer stated that the Applicant would stipulate to the comments made in the memos from all of the Board's professionals and that the items submitted to the Board on 04/30/2021 and 05/03/2021 would be stipulated to as conditions of approval. He did not offer a summation.

Hearing no further questions from the Board or its professionals, Chairman Breslin opened the hearing for comments from the public either present or via telephone.

Brian G. Lawrence, President and CEO of Fellowship Senior Living (FSL), 8000 Fellowship Road, Basking Ridge, NJ, telephoned in via video chat (Duo) and was duly sworn by Ms. Wolfe. He questioned the need for an additional senior living facility in the area. Mr. Lehrer voiced his objection to this line of testimony stating that there is case law which states that a competitor can't provide testimony. He also noted that FSL is a Continuing Care Retirement Community which is a completely different model than an ALF such as the one proposed in this application. Ms. Wolfe responded that it was a comment not testimony, and as such, the Board should give it the appropriate weight.

Todd Edelstein, 172 Riverside Drive (present), was duly sworn and expressed concern as a retired police officer, about traffic around the proposed facility. He suggested that if the County did not change the striping on Valley Road to create an opening, left turns in and out of the proposed facility should be prohibited.

In response to a comment by Mr. Lehrer that FSL required a large upfront payment as opposed to the proposed ALF which would be on a month-to-month rental basis, Mr. Lawrence rejoined the hearing via Duo and stated that FSL is open for direct admission on a rental basis.

Hearing no further comments, Chairman Breslin closed this portion of the hearing.

After deliberating Ms. Genirs moved to direct the Board Attorney to draft a resolution memorializing the Board's decision to grant Preliminary and Final Site plan approval and to grant relief for the variances and the design exceptions as requested by the Applicant subject to the conditions stipulated to by the Applicant and as stated during deliberations. Mr. Kraus seconded.

Roll call:	Aye:	Breslin, Cambria, Genirs, Kraus, Pavlosky, Pochtar
	Nay:	Baumann

Motion carried.

COMMENTS FROM MEMBERS OR STAFF

At Ms. Genirs' suggestion, the Board entertained the possibility of starting meetings earlier to allow for the completion of applications in one evening rather than carrying them over two (2) or more meetings. It was decided that the schedule of applications would be reviewed and a decision on an earlier start would be made on an individual meeting basis.

ADJOURN

Moved by Mr. Kraus, seconded by Ms. Pochtar, all in favor and carried, the meeting was adjourned at 10:29 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Zoning Board of Adjustment

Adopted as drafted 06/09/2021

05/19/2021 v2 dsaw