

BERNARDS TOWNSHIP **ZONING BOARD OF ADJUSTMENT**

MINUTES v3
Regular Meeting
November 3, 2021

CALL TO ORDER

Vice Chairwoman Genirs called the meeting to order at 7:32 PM.

FLAG SALUTE

OPEN PUBLIC MEETINGS STATEMENT – Vice Chairwoman Genirs 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.

OATH OF OFFICE

Mr. Warner administered the Oath of Office to Michael Dolgonos, Alternate 2, filling the unexpired two-year term of Rakesh Agarwal, expiring 12/31/2021.

ROLL CALL:

Members Present: Baumann, Cambria, Dolgonos, Genirs, Kraus, Pochtar, Tancredi
Members Absent: NONE
Members Late: Pavlosky (8:31 PM)
Also Present: Board Attorney, Steven K. Warner, Esq.; Township/Board Planner, David Schley, PP, AICP;
 Board Engineer, Thomas Quinn, PE, CME; Board Secretary, Cyndi Kiefer

NOMINATION OF CHAIRMAN

Vice Chairwoman Genirs called for nominations for the office of Chairman of the Board for the remainder of the year 2021, term to expire December 31, 2021. A motion was made by Mr. Tancredi and seconded by Ms. Baumann, nominating Vice Chairwoman Genirs. There were no other nominations.

Roll call: Aye: Baumann, Cambria, Dolgonos, Genirs, Kraus, Pochtar, Tancredi
 Nay: NONE

Motion carried.

NOMINATIONS FOR VICE CHAIRMAN

Chairwoman Genirs called for nominations for the office of Vice Chairman of the Board for the remainder of the year 2021, term to expire December 31, 2021. A motion was made by Chairwoman Genirs and seconded by Ms. Pochtar, nominating Mr. Tancredi. There were no other nominations.

Roll call: Aye: Baumann, Cambria, Dolgonos, Genirs, Kraus, Pochtar, Tancredi
 Nay: NONE

Motion carried.

NOMINATIONS FOR VICE CHAIRMAN PRO TEMP

Chairwoman Genirs called for nominations for the office of Vice Chairman Pro Temp of the Board for the remainder of the year 2021, term to expire December 31, 2021. A motion was made by Chairwoman Genirs and seconded by Mr. Tancredi, nominating Ms. Pochtar. There were no other nominations.

Roll call: Aye: Baumann, Cambria, Dolgonos, Genirs, Kraus, Pochtar, Tancredi
 Nay: NONE

Motion carried.

APPROVAL OF MINUTES

October 6, 2021 – Regular Session - On motion by Ms. Pochtar, seconded by Ms. Baumann, all eligible in favor and carried, the minutes were adopted as drafted. Ineligible: Dolgonos (not a member at that time)

Mr. Tancredi and Ms. Pochtar recused themselves from the following completeness hearing and left the room.

COMPLETENESS HEARING

Finley Real Estate LLC; Block 1801, Lot 1; 55 South Finley Avenue; Preliminary/Final Major Site Plan, Bulk Variances; ZB21-031

Mr. Schley advised the Board that all the deficiencies listed in his 10/20/2021 memo had been satisfied. Ms. Baumann moved to deem the application complete. Mr. Kraus seconded.

Roll call: Aye: Baumann, Cambria, Dolgonos, Genirs, Kraus,
 Nay: NONE
 Ineligible: Pochtar, Tancredi (both recused)

Motion carried.

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

MODIFICATION OF CONDITION

Lincoln Avenue Gospel Hall; Block 8903, Lot 36; 3265 Valley Road; Extension of Time to Sign Plans; ZB20-006A

Mr. Tancredi moved to grant the Applicant's request to extend the time to sign plans to 03/09/2022. Ms. Baumann seconded.

Roll call: Aye: Baumann, Cambria, Dolgonos, Genirs, Kraus, Pochtar, Tancredi
 Nay: NONE

Motion carried.

MODIFICATION OF CONDITION

Verizon Corporate Services Group, Inc.; Block 803, Lots 2, 3, 5, 6, 23; 300 North Maple Avenue; Extension of Time to Sign Plans; ZB21-001A

Present: Amanda M. Curley, Esq., Attorney for the Applicant

Mr. Kraus moved to grant the Applicant's request to extend the time to sign plans to 05/05/2022. Ms. Pochtar seconded.

Roll call: Aye: Baumann, Cambria, Dolgonos, Genirs, Kraus, Pochtar, Tancredi
 Nay: NONE

Motion carried.

PUBLIC HEARING (continued from 10/06/2021)

Baston 95 LLC; Block 704, Lot 1.01; 95 Morristown Road; Preliminary/Final Site Plan; Use Variance; Bulk Variances; ZB21-015

Chairwoman Genirs stated that this application would be carried to the December 8, 2021 meeting *with no further notice*.

COMPLETENESS AND PUBLIC HEARING

Ferrier, Graham & Carrie; Block 401, Lot 15; 107 Childs Road; Bulk Variances; ZB21-027

Present: Jonathan E. Booth, RA, architect for the Applicants
 Graham & Carrie Ferrier, Applicants

Mr. Warner stated that notice was sufficient and timely therefore the Board had jurisdiction to hear this application. Mr. & Mrs. Ferrier, Mr. Booth, Mr. Quinn and Mr. Schley were duly sworn.

Graham Ferrier, Applicant residing at 107 Childs Road, testified that the proposed project which includes two (2) one-story additions, a new second floor above the existing first floor and two terraces, requires relief for minimum rear and front yard setback deviations and also for exceeding the maximum lot coverage allowed.

Jonathan E. Booth, RA, architect with a business address of Basking Ridge, NJ, was accepted by the Board as an expert in the field of architecture. He testified that the subject property is undersized for the zone and has no building envelope. In addition, the lot is one of six properties that are served by a private shared driveway. He affirmed that a portion of that private driveway contributes to the impervious coverage on the subject lot and stated that if that square footage was subtracted from the calculation, there would be no need for relief for exceeding allowable maximum lot coverage. Adding that the subject dwelling was originally built as an icehouse, he discussed the architectural design features utilized to maintain the historical integrity of the house. **Exhibit A-1** (colorized version of a portion of page 1 of 4 sheets of plans dated 08/30/2021, prepared by Mr. Booth) was entered into evidence and used to illustrate the additions and changes being proposed. Finally, Mr. Booth stated that no trees will be removed.

Mr. Booth confirmed that he had taken the photos submitted with the application and that they accurately depict the property as it currently exists.

Hearing no further questions from the Board or its professionals, the hearing was opened to the public for questions or comments. Seeing none, that portion of the hearing was closed. No summation was offered.

After deliberating, the Board concluded that the Applicants had satisfied the positive and negative criteria required for both "c(1)" or "hardship" relief and "c(2)" or "benefits outweigh detriments" relief for the variances requested. 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 Applicants subject to the conditions stipulated to by the Applicants and as stated during deliberations.

Ms. Pochtar seconded.

Roll call:	Aye:	Baumann, Cambria, Dolgonos, Genirs, Kraus, Pochtar, Tancredi
	Nay:	NONE

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Marchelli, F. & Basile, L.; Block 3801, Lot 18; 35 Normandy Court; Bulk Variance; ZB21-026

Present:	Mark J. Mantyla, PE, PP, PLS, Engineer, Surveyor/Planner for the Applicant Federico Marchelli & Luciana Basile, Applicants
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Mr. Warner stated that notice was sufficient and timely therefore the Board had jurisdiction to hear this application. Mr. Marchelli, Ms. Basile, Mr. Mantyla, Mr. Quinn and Mr. Schley were duly sworn.

Luciana Basile, Applicant residing as 35 Normandy Court, gave a brief description of the proposed project, installation of an inground pool and surrounding patio, which requires relief for the location of the pool (not behind the rear building line of an adjacent dwelling). Ms. Basile confirmed that she had taken the pictures submitted with the application and that they accurately depict the property as it currently exists. Finally, she stated that after talking the adjacent neighbors, the only concern voiced was from the residents at 9 Edward Court (Block 3801 Lot 25) regarding stormwater runoff.

Mr. Pavlosky arrived at 8:31 PM.

Hearing no questions from the Board or its professionals, the hearing was opened to the public for questions of this witness. Seeing none, that portion of the hearing was closed.

Mark J. Mantyla, PE, PLS, PP, with a business address of Sparta, NJ, was accepted by the Board as an expert in the fields of civil engineering, professional planning, and land surveying. Noting that the subject property abuts six (6) lots, Mr. Mantyla testified that the proposed pool location complies with all but one of the lots (Lot 2) and

he opined that because of the orientation of the Applicants’ house and that of the adjacent dwelling (Lot 2), both situated on the bulb of a cul-de-sac, there is no conforming location for a pool.

Responding to a concern noted in Mr. Quinn’s memo, Ms. Basile confirmed that two-foot wide patio (on three sides of the pool) would be sufficient to anchor the pool cover. She added that the proposed fencing around the majority of the back yard would be black aluminum so that it would blend in. Noting that several trees, some of which are diseased, would be removed, she testified that the existing landscaping would be supplemented to provide privacy. The Applicants also stipulated that the plans would be amended to show exactly what vegetation would be removed/added and that the proposed additional landscaping would be subject to the approval of the Township Planner, Mr. Schley.

Mr. Mantyla stated that currently, the stormwater runoff flows to Lots 23 and 24, and he opined that implementation of this proposal would result in a reduction of that amount because the pool surface itself will absorb some of the runoff. The Applicants stipulated that if any additional lot coverage is proposed in the future, it will be subject to engineering review even if it does not exceed the 1,000 sq. ft. threshold as required by the Township.

Hearing no further questions from the Board or its professionals, the hearing was opened to the public for questions of this witness. Robert F. Cantono, residing at 40 Normandy Court (adjacent Lot 2) questioned the reason for installing a fence around most of the back yard as opposed to just around the pool area itself.

Hearing no further questions from the public, this portion of the hearing was closed. The hearing was then opened to the public for comment. Robert F. Cantono, residing at 40 Normandy Court (adjacent Lot 2) was duly sworn and voiced his objections to the location of the pool.

Hearing no further comments, that portion of the hearing was closed.

Mr. Mantyla provided a summation, stating that this application qualified for relief under “c(1)” or “hardship” criteria because of the orientation of the lots and he opined that the location of the pool represents the best planning alternative because it is useful for the Applicants and the least impactful for the neighbors.

After deliberating, the Board concluded that the Applicants had satisfied the positive and negative criteria required for a “c(1)” or “hardship” variance. Mr. Dolgonos 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:	Baumann, Cambria, Dolgonos, Genirs, Kraus, Pochtar, Tancredi
	Nay:	NONE
	Ineligible:	Pavlosky (arrived after testimony began)

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Haley, Andrew & Kimberly; Block 4002, Lot 3; 5 Dawn Drive; Bulk Variance; ZB21-029

Present:	Gregory Ralph, RA, Architect for the Applicants Andrew & Kimberly Haley, Applicants
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Mr. Warner stated that notice was sufficient and timely therefore the Board had jurisdiction to hear this application. Mr. & Mrs. Haley, Mr. Ralph, Mr. Quinn and Mr. Schley were duly sworn.

Andrew Haley, Applicant residing at 5 Dawn Drive, testified that the proposed project, construction of a two-story addition to the rear of the existing dwelling and replacement of an existing inground pool/patio, requires relief for exceeding the maximum lot coverage allowed.

Gregory Ralph, RA, architect with a business address of Bound Brook, NJ, was accepted by the Board as an expert in the field of architecture and gave a brief description of the subject property which is a corner lot. He

noted that the property is naturally screened from both streets and the adjacent residences and that with the exception of the possible removal of one (1) tree, no changes to the landscaping are proposed. Finally, he said they propose to cover a portion of the patio but the sides of the covered patio would remain open.

Mr. Haley testified that he had not spoken to any of the neighbors, adding that there is a church immediately behind his property and that his yard is fully obscured by landscaping. He also acknowledged that the existing nonconforming fence in the front yard would have to comply with the current zoning ordinances for fences if changes are required by the Construction Department in order to make the fence pool compliant.

Hearing no further questions from the Board or its professionals, the hearing was opened to the public for questions or comments. Responding to Todd Edelstein, 172 Riverside Drive, Mr. Warner stated that as a condition of approval, the covered portion of the patio would remain open. Seeing no further questions or comments from the public, that portion of the hearing was closed. No summation was offered.

After deliberating, the Board concluded that the Applicants had satisfied the positive and negative criteria required for a "c(2)" or "benefits outweigh detriments" variance. 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 Applicants subject to the conditions stipulated to by the Applicants and as stated during deliberations. Ms. Baumann seconded.

Roll call:	Aye:	Baumann, Cambria, Genirs, Kraus, Pavlosky, Pochtar, Tancredi
	Nay:	NONE
	Ineligible:	Dolgonos

Motion carried.

2020 ANNUAL REPORT AND RECOMMENDATIONS

After a discussion, the Board elected not to make any recommendations or suggestions for ordinance changes to the Township Committee. Mr. Kraus moved approval of the 2020 Annual Report and Recommendations (v2). Mr. Tancredi seconded.

Roll call:	Aye:	Baumann, Cambria, Genirs, Kraus, Pavlosky, Pochtar, Tancredi
	Nay:	NONE
	Ineligible:	Dolgonos

Motion carried.

COMMENTS FROM MEMBERS OR STAFF

Chairwoman Genirs congratulated new member, Michael Dolgonos and new officers, Mr. Tancredi and Ms. Pochtar. The special meeting scheduled for November 11, 2021 was cancelled.

ADJOURN

Moved by Ms. Baumann, seconded by Mr. Cambria, all in favor and carried, the meeting was adjourned at 10:19 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Zoning Board of Adjustment

Approved as revised 12-08-2021

11/15/2021 dssw