

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

## **REGULAR MEETING AGENDA v2**

Warren Craft Meeting Room

June 8, 2022

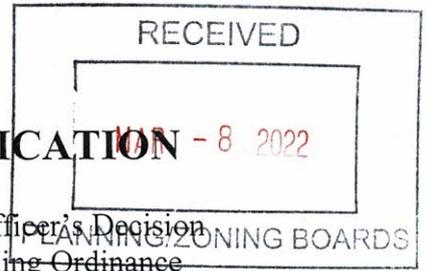
7:30 PM

This meeting will be held in person in the Warren Craft Meeting Room. In addition, the public will be able to view the meeting live on Optimum/Cablevision TV – Channel 15 and Verizon FIOS TV – Channel 35. For those interested in watching on their computers, the link will be available at 7:30 PM by clicking on the “Watch the Meeting Live” icon on the Bernards Township Zoning Board of Adjustment web page. Please note that all questions/comments must be made in person.

- 1. CALL TO ORDER**
- 2. FLAG SALUTE**
- 3. OPEN PUBLIC MEETING STATEMENT**
- 4. ROLL CALL**
- 5. APPROVAL OF MINUTES**
  - A.** May 4, 2022 – Regular Session
- 6. PUBLIC HEARING (to be carried to 06/16/2022)**
  - A.** Finley Real Estate LLC; Block 1801, Lot 1; 55 South Finley Avenue; Preliminary/Final Site Plan, Variances; ZB21-031
- 7. COMPLETENESS HEARING**
  - A.** New Jersey American Water Co. Inc.; Block 1609, Lot 25; East Oak Street (rear); Preliminary/Final Site Plan, Variances; ZB22-014
- 8. COMPLETENESS AND PUBLIC HEARING**
  - A.** [Cook, Vincent J. & Lisa](#); Block 5602 Lot 3; 34 Gerard Avenue; Bulk Variances; ZB22-005
  - B.** [Silver Living LLC](#); Block 1607, Lot 2; 14 North Maple Avenue; Bulk Variances; ZB22-004
- 9. COMMENTS FROM MEMBERS**
- 10. COMMENTS FROM STAFF**
- 11. ADJOURN**

05/23/2022 dssw

**TOWNSHIP OF BERNARDS**  
**2021 ZONING BOARD OF ADJUSTMENT APPLICATION**



- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Bulk or Dimensional ("c") Variance       | <input type="checkbox"/> Appeal of Zoning Officer's Decision     |
| <input type="checkbox"/> Use ("d") Variance                                  | <input type="checkbox"/> Interpretation of Zoning Ordinance      |
| <input type="checkbox"/> Conditional Use ("d") Variance                      | <input type="checkbox"/> Minor Subdivision                       |
| <input type="checkbox"/> Floor Area Ratio, Density, or Height ("d") Variance | <input type="checkbox"/> Major Subdivision - Preliminary / Final |
| <input type="checkbox"/> Site Plan - Preliminary / Final                     | <input type="checkbox"/> Other (specify): _____                  |

**1. APPLICANT:** VINCENT AND LISA COOK  
Address: 34 GERARD AVE  
BASKING RIDGE, NEW JERSEY 07920  
Phone: (home) \_\_\_\_\_ (work) \_\_\_\_\_ (mobile) 973 476-2199  
Email (will be used for official notifications): VJC2598@MSN.COM  
LAC5300@MSN.COM

**2. OWNER** (if different from applicant): \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ Email (will be used for official notifications): \_\_\_\_\_

**3. ATTORNEY:** \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ Email (will be used for official notifications): \_\_\_\_\_

**4. OTHER PROFESSIONALS** (Engineer, Architect, etc. Attach additional sheet if necessary):  
Name: JONATHAN E BOOTH Profession: ARCHITECT  
Address: 33 BULLION RD  
BASKING RIDGE, NEW JERSEY 07920  
Phone: 908 204 9927 Email (will be used for official notifications): JONBOOTHARC@GMAIL.COM

**5. PROPERTY INFORMATION:** Block(s): 5602 Lot(s): 3 Zone: R-4  
Street Address: 34 GERARD AVE Total Area (square feet/acres): 1.117 ac  
48,650 sq ft

**6. ARE THERE ANY PENDING OR PRIOR PLANNING BOARD OR BOARD OF ADJUSTMENT APPLICATIONS INVOLVING THE PROPERTY?**  No  Yes (if yes, explain or attach Board resolution) THIS WAS THE SUBJECT OF CASE NO. ZB18-018, RESOLUTION ATTACHED. THE PROPOSED ADDITION IS UNCHANGED FROM THE 2018 APPROVAL

**7. ARE THERE CURRENTLY ANY VIOLATIONS OF THE ZONING ORDINANCE INVOLVING THE PROPERTY?**  No  Yes (if yes, explain) \_\_\_\_\_

**8. ARE THERE ANY DEED RESTRICTIONS OR EASEMENTS AFFECTING THE PROPERTY?**

THERE ARE EXISTING AND PROPOSED EASEMENTS AND DEED RESTRICTIONS THAT ARE DESCRIBED IN DRAWINGS PROVIDED BY YAKNACCOPE, VILLA AND ADRICA, AND IN SUPPORTING DOCUMENTS THAT ARE ATTACHED

[ ] No [x] Yes (if yes, explain)

9. DESCRIPTION OF THE EXISTING PROPERTY AND THE PROPOSAL/REQUEST:

THE EXISTING 1.117 AC PROPERTY HAS A 1992 3RD RES, WITH A 556 sq GARAGE THE PROPOSED 1448 sq ADDITION IS COMPRISED AS FOLLOWS  
FIRST FLOOR: 724 sq GARAGE  
SECOND FLOOR: 724 sq MASTER SUITE

10. DESCRIPTION OF REQUESTED VARIANCES OR EXCEPTIONS (include Ordinance section no.):

RELIEF IS SOUGHT FROM ORD. SEC. 21-15.1(C) 1 AND TABLE 501, IN THESE VARIANCES:  
1. TO ALLOW A FRONT YARD SETBACK OF 53.4' (to ROOF OVERHANG) WHERE 75' IS REQUIRED  
2. TO ALLOW A REAR YARD SETBACK OF 72.0', WHERE 75' IS REQUIRED  
(NOTE THIS IS MEASURED TO ZONE 1 BOUNDARY OF A PROPOSED STREAM CONSERV BUFFER

11. THE FOLLOWING ARGUMENTS ARE MADE IN SUPPORT OF THE APPLICATION:

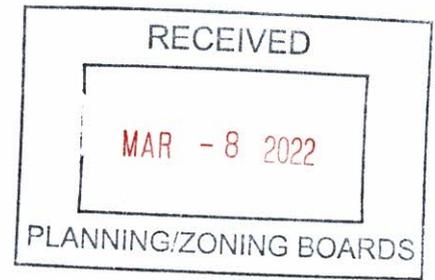
see attached

12. NOTARIZED SIGNATURES (ALL APPLICANTS AND OWNERS MUST SIGN):

APPLICANT(S) SIGN HERE:  
I/we, VINCENT J. COOK and LISA COOK hereby depose and say that all of the above statements and the statements contained in the materials submitted herewith are true and correct.  
Signature of Applicant(s): [Signature] and [Signature]  
Sworn and subscribed before me, this 24th day of Feb, 2022  
[Signature]  
Notary **MANJUSREE R. REVURI**  
NOTARY PUBLIC OF NEW JERSEY  
ID # 50001769  
My Commission Expires 8/13/2024

OWNER(S) SIGN HERE (IF APPLICANT IS NOT THE OWNER):  
If the application is made by a person or entity other than the property owner, or by less than all of the property owners, then the property owner or the additional owners must complete the following:  
I/we, \_\_\_\_\_ the owner(s) of the property described in this application, hereby authorize \_\_\_\_\_ to act as my/our agent for purposes of making and prosecuting this application and I/we hereby consent to the variance relief (if any) granted and all conditions of approval thereof.  
Signature of owner(s): \_\_\_\_\_  
Sworn and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
\_\_\_\_\_  
Notary

Cook Residence  
34 Gerard Avenue



15. The following arguments are urged in support of this application:

1. Hardship due to Location of the Structure and Easements

The location of the residence in relation to an existing drainage easement, allows limited potential for a conforming addition. One of the primary functions of the addition, a new garage, can only be accomplished in the vicinity of the existing driveway, as other locations are impractical.

There are wetlands and associated transition areas within 50 feet of the proposed site disturbance, and a NJDEP permit has been obtained. The location of the addition (shifted east, or to the front) is intended to minimize impact to the wetlands. The project actually results in a net decrease in lot coverage, primarily due to the elimination of existing driveway area.

2. Minimal Impact to Immediate Neighbor

The neighboring property to the north, closest to the addition (38 Gerard, blk 5602, lot 2) is a relatively large tract (5.6 ac). The residence at 38 Gerard is about 360' from the subject residence.

3. Architectural Compatibility

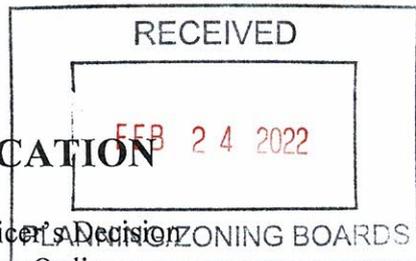
The addition will be integrated with the existing architectural design.

4. Prior Approval

This project was the subject of variance application No. ZB18-018, and a hearing was held on July 12<sup>th</sup>, 2018. Refer to the resolution of approval adopted on August 8<sup>th</sup>, 2018 for further findings of the Board of Adjustment at that time.

The physical characteristics, and variance relief sought herein, is unchanged from the 2018 submission.

**TOWNSHIP OF BERNARDS**  
**2019 ZONING BOARD OF ADJUSTMENT APPLICATION**



- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Bulk or Dimensional ("c") Variance       | <input type="checkbox"/> Appeal of Zoning Officer's Decision     |
| <input type="checkbox"/> Use ("d") Variance                                  | <input type="checkbox"/> Interpretation of Zoning Ordinance      |
| <input type="checkbox"/> Conditional Use ("d") Variance                      | <input type="checkbox"/> Minor Subdivision                       |
| <input type="checkbox"/> Floor Area Ratio, Density, or Height ("d") Variance | <input type="checkbox"/> Major Subdivision - Preliminary / Final |
| <input type="checkbox"/> Site Plan - Preliminary / Final                     | <input type="checkbox"/> Other (specify): _____                  |

**1. APPLICANT:** Silver Living LLC

Address: 106 Woodbine Circle, New Providence, New Jersey 07974

Phone: (home) (201) 310-8921 (work) Same (mobile) Same

Email (will be used for official notifications): scarabaggiom@gmail.com

**2. OWNER (if different from applicant):** Same as Applicant

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email (will be used for official notifications): \_\_\_\_\_

**3. ATTORNEY:** Frederick B. Zelle / Bisogno, Loeffler & Zelle, L.L.C.

Address: 88 South Finley Avenue, P.O. Box 408, Basking Ridge, New Jersey 07920

Phone: (908) 766-6666 Email (will be used for official notifications): fzelle@baskingridgelaw.com

**4. OTHER PROFESSIONALS (Engineer, Architect, etc. Attach additional sheet if necessary):**

Name: William G. Hollows (please also see Addendum) Profession: Professional Engineer

Address: Murphy & Hollows Associates LLC, 192 Central Avenue, Stirling, New Jersey 07980

Phone: (908) 580-1255 Email (will be used for official notifications): murphyhollows@gmail.com

**5. PROPERTY INFORMATION:** Block(s): 1607 Lot(s): 2 Zone: R-7

Street Address: 14 North Maple Avenue Total Area (square feet/acres): 8,276sf/0.19ac

**6. ARE THERE ANY PENDING OR PRIOR PLANNING BOARD OR BOARD OF ADJUSTMENT APPLICATIONS INVOLVING THE PROPERTY?**  No  Yes (if yes, explain or attach Board resolution) \_\_\_\_\_

**7. ARE THERE CURRENTLY ANY VIOLATIONS OF THE ZONING ORDINANCE INVOLVING THE PROPERTY?**  No  Yes (if yes, explain) The following non-conformities exist but are all believed to predate the zoning ordinance: lot area, lot width, front yard setbacks (both streets), rear yard setback and improvable lot area. \_\_\_\_\_

**8. ARE THERE ANY DEED RESTRICTIONS OR EASEMENTS AFFECTING THE PROPERTY?**

[ ] No [ X ] Yes (if yes, explain and attach copy) Sight easement for intersection of East Allen Street and North Maple Avenue  
Sewer easement at NW corner of property

**9. DESCRIPTION OF THE EXISTING PROPERTY AND THE PROPOSAL/REQUEST:** \_\_\_\_\_

\_\_\_\_\_  
Please see Addendum

**10. DESCRIPTION OF REQUESTED VARIANCES OR EXCEPTIONS (include Ordinance section no.):**

\_\_\_\_\_  
Ordinance Section 21-15.1(d)(1) and Table 501

**11. THE FOLLOWING ARGUMENTS ARE MADE IN SUPPORT OF THE APPLICATION:**

\_\_\_\_\_  
Please see Addendum

**12. NOTARIZED SIGNATURES (ALL APPLICANTS AND OWNERS MUST SIGN):**

**APPLICANT(S) SIGN HERE:**

I/we, Silver Living LLC by Marco Scarabaggio, Managing Member hereby deposes and says that all of the above statements and the statements contained in the materials submitted herewith are true and correct.

Signature of Applicant(s): Marco Scarabaggio and \_\_\_\_\_

Sworn and subscribed before me, this 18<sup>th</sup> day of February, 2022.

F. B. Zelle  
Frederick B. Zelle, Attorney at Law of State of New Jersey

**OWNER(S) SIGN HERE (IF APPLICANT IS NOT THE OWNER):**

If the application is made by a person or entity other than the property owner, or by less than all of the property owners, then the property owner or the additional owners must complete the following:

I/we, \_\_\_\_\_ the owner(s) of the property described in this application, hereby authorize \_\_\_\_\_ to act as my/our agent for purposes of making and prosecuting this application and I/we hereby consent to the variance relief (if any) granted and all conditions of approval thereof.

Signature of owner(s): \_\_\_\_\_

Sworn and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

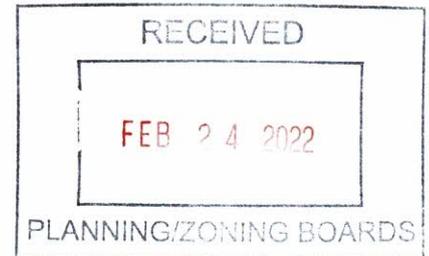
\_\_\_\_\_  
Notary

**ADDENDUM TO BOARD OF ADJUSTMENT APPLICATION**  
**SILVER LIVING LLC**  
**14 NORTH MAPLE AVENUE, BLOCK 1607, LOT 2**

The following are responses to the respective Application Items noted "Please see Addendum":

4. [Additional Professionals]

Douglas Battersby, R.A.  
Crane Associates, P.C.  
92 East Main Street, Suite 200  
Somerville, New Jersey 08876  
dbattersby@cranepc.com  
Tel. 908-203-8788  
Fax 908-203-8199



9. [Description of the Existing Property and the Proposal/Request]

The subject property is the southwest corner lot at the intersection of North Maple Avenue and East Allen Street. The property is surrounded by the Presbyterian Church's cemetery to its south, a single family residence to its west, East Allen Street and the lawn of Lot 23 to its north and North Maple Avenue and single family homes thereon to its east. The only structure on the property is a single family, two and one half story frame residence, which is in a severe state of disrepair. The Applicant recently purchased the property from the survivor of two related women (mother and daughter or sisters) who had owned it since 1983. While the Applicant has no direct knowledge of the history of the home, the existence of three (3) separate electric meter cases on its exterior (only one holding a meter presently), suggests that the home was at some point used as a multi-family residence, presumably without legal authority.

The Applicant proposes to raze the existing single family home down to the foundation and to replace it with a modern home of similar architecture to the existing home. As noted, the existing home has fallen into a state of extreme disrepair, and in any event its internal configuration is not reasonably conducive to reconfiguration to meet the needs of a modern family. The proposed new home would better meet the needs and desires of a present day family in Bernards Township, given the number, types and layout of the interior rooms and given the inclusion of an attached two car garage and a two car driveway (the existing home has no onsite parking, requiring parking on the very narrow East Allen Street).

10. [Description of Requested Variances or Exceptions]

This is an application for bulk variances for front, side and rear yard setbacks and for lot coverage. The subject lot is also non-conforming as to area, width and improvable area, but these are existing non-conformities which would not be exacerbated by the Applicant's proposal.

With the exception of the aforementioned variances, the Applicant believes that no other variance, waiver or exception is required in order to grant the approval requested. However, if the Board directs that additional variance(s), waiver(s) or exception(s) is/are needed, the Applicant may seek the same in accordance with such direction.

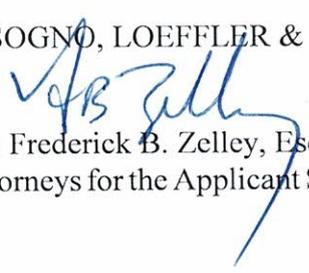
11. [Arguments in Support of Application]

The variances requested are “C-1” variances, based upon the hardship created by the lot being undersized and being a corner lot, and by the location of the lawfully existing home, the foundation of which the Applicant hopes to preserve. The variances are also supported under “C-2” a/k/a “flexible C” analysis, in that the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-1, *et seq.*, would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment. Specifically, the proposed redevelopment of the lot would serve the following purposes of the MLUL: (h) (to encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight); (i) (to promote a desirable visual environment through creative development techniques and good civic design and arrangement); and (j) (to promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land). Furthermore, the replacement of the existing deteriorated and outdated home with a modern home would assist in conserving property values in the neighborhood as whole, which remains a purpose of land use regulation even though that goal is not expressly stated in N.J.S.A. 40:55D-2. Home Builders League of S. Jersey, Inc. v. Township of Berlin, 81 N.J. 127, 144–45 (1979).

The Negative Criteria are also satisfied as the variances can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance. Like the existing home, the proposed home will be one of only three homes on East Allen Street, with open space to its south (cemetery) and to its north (large lawn area on Lot 23). While the home to its west (which was recently constructed with similar variance relief) will obviously be in close proximity, the two homes together will be surrounded to the south and west by the openness of the cemetery. Given these surroundings, having a larger home on this particular undersized lot will not have a detrimental effect upon the public good or the zone plan.

Respectfully Submitted,

BISOGNO, LOEFFLER & ZELLEY, LLC

  
By: Frederick B. Zelle, Esq.  
Attorneys for the Applicant Silver Living LLC

Dated: February 24, 2022