

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

## **REGULAR MEETING AGENDA**

Warren Craft Meeting Room

March 8, 2023

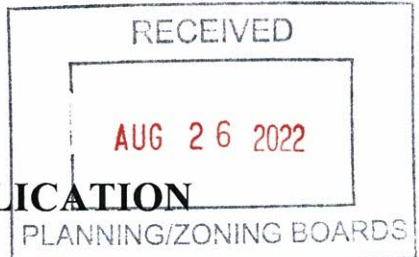
7:30 PM

This meeting will be held in person in the Warren Craft Meeting Room. 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.** February 8, 2023 – Regular Session
- 6. APPROVAL OF RESOLUTIONS**
  - A.** Priscilla's Pantry LLC; Block 801, Lot 4.01; 199 Morristown Road; ZB22-027 (approved)
  - B.** Finley Real Estate LLC; Block 1801, Lot 1; 55 South Finley Avenue; ZB21-031 (approved)
  - C.** New Jersey American Water Co., Inc.; Block 1609, Lot 25; East Oak Street; ZB22-014 (dismissal)
- 7. PUBLIC HEARING** (carried from 02/08/2023)
  - A.** [Light, Kirsten](#); Block 5001, Lot 2; 13 Victoria Drive; Bulk Variance; ZB22-026
- 8. COMPLETENESS AND PUBLIC HEARING**
  - A.** [Reale, Stephen](#); Block 11501, Lot 15; 71 Long Road; Bulk Variances; ZB23-001
- 9. 2021 ANNUAL REPORT AND RECOMMENDATIONS**
- 10. COMMENTS FROM MEMBERS**
- 11. COMMENTS FROM STAFF**
- 12. ADJOURN**

02/28/2023 dssw

**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:** Kirsten Light

Address: 13 Victoria Drive, Basking Ridge, New Jersey 07920

Phone: (home) (732) 310-3196 (work) \_\_\_\_\_ (mobile) (732) 310-3196

Email (will be used for official notifications): kirsten.light@ey.com

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

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

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

**3. ATTORNEY:** Frederick B. Zelley / Law Offices of Frederick B. Zelley LLC

Address: 53 Division Avenue, First Floor, P.O. Box 324, Millington, New Jersey 07946

Phone: (908) 647-6001 Email (will be used for official notifications): fzelley@fbzlegal.com

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

Name: William G. Hollows / Murphy & Hollows Assoc. Profession: P.E.

Address: 192 Central Avenue, Stirling, NJ 07980

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

**5. PROPERTY INFORMATION:** Block(s): 5001 Lot(s): 2 Zone: R-4

Street Address: 13 Victoria Drive Total Area (square feet/acres): 40,961 sf / .94 ac

**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) Please see Addendum

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

[ ☒ ] No    [ ☐ ] Yes (if yes, explain and attach copy) \_\_\_\_\_

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

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

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

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

**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, Kirsten Light \_\_\_\_\_ and \_\_\_\_\_ 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): Kirsten Light \_\_\_\_\_ and \_\_\_\_\_

Sworn and subscribed before me, this 26<sup>th</sup> day of August, 2022.

Frederick 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.

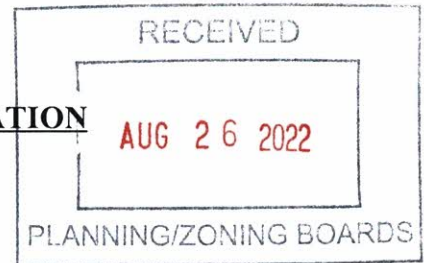
Signature of owner(s): \_\_\_\_\_

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

\_\_\_\_\_  
Notary



**ADDENDUM TO BOARD OF ADJUSTMENT APPLICATION**  
**KIRSTEN LIGHT**  
**13 VICTORIA DRIVE, BLOCK 5001, LOT 2**



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

7. [Current Violations of the Zoning Ordinance involving the Property]

There is presently 8,233 sf of impervious coverage on the property, which represents 20.1% where only 15% is permitted in the R-4 Zone. This is the subject of the within application.

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

The property is an irregular, generally triangular shaped lot situated on the westerly side of Victoria Drive. The lot is somewhat undersized, being 0.94 acres in a 1.0 acre zone. The property hosts a single family residence with a covered porch and an open deck, an inground swimming pool with rock feature installed in or about the Spring of 2021, a shed, a paved driveway and various patio areas and walkways. Due to now-apparent miscalculation of impervious coverage amounts by the engineering firm who prepared the grading plan for the swimming pool project, and possibly some degree of overconstruction by the installers of the swimming pool and related patio areas, the as-built total impervious coverage on the property is excessive, as noted in Section 7 above. By way of mitigation, the Applicant will remove a portion of the existing driveway as well as the existing gravel walkway on the northern side of the property. These changes will reduce the impervious coverage to 7,503 sf (18.3%). The Applicant seeks a variance for the said coverage.

10. [Description of Requested Variances or Exceptions]

This is an application for bulk variance relief for excessive impervious coverage. Such coverage is governed by Section 21-15.1(d)(1) and Table 501 of the Bernards Township zoning ordinance. As discussed above, the installation of the proposed inground swimming pool, including its coping and equipment pad, resulted in a total impervious coverage of 8,233 sf (20.1%), where only 6,144 sf (15%) is permitted in the zone. 530 sf (1.3% out of the 3.3% excess coverage) is “stormwater neutral” pool water surface area.

With the exception of the aforementioned impervious coverage variance, the Applicant believes that no other variance, waiver or exception is required for the subject property. 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 Applicant was cognizant of the impervious coverage limitation and engaged an engineering firm (D.S. Engineering, P.C., whose January 2021 Pool Grading Plan is submitted herewith) to perform the necessary calculations to ensure compliance with that limitation. In fact, the currently proposed demolition of the southern parking portion of the driveway was expressly contemplated at that time in order to address coverage concerns, as shown on the D.S. Engineering plan. It is now apparent that D.S. Engineering, P.C.'s calculations were incorrect, and/or that the contractors who installed the swimming pool and patio areas overconstructed the same, creating excess coverage above and beyond that attributed to the portion of the driveway that is to be removed.

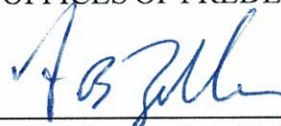
The requested variance can be classified as a "C-1" hardship variance, based upon the hardship created by the undersized lot and the locations of the lawfully existing structures and impervious features on the property. But for the undersized lot, the coverage would be 17.22%, and excluding the stormwater neutral pool water surface area would be 16%, concededly still excessive under the ordinance but significantly closer to being compliant.

The variance can also be classified as a "C-2" "Flexible C" variance, 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. The addition of a swimming pool and patio areas to the Applicant's property will assist in conserving property values in the neighborhood and improving the housing stock 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 variance(s) can be granted without substantial detriment to the public good and without substantial impairment of the intent and the purpose of the zone plan and zoning ordinance.

Respectfully Submitted,

LAW OFFICES OF FREDERICK B. ZELLEY, LLC



By: Frederick B. Zelley, Esq.  
Attorneys for the Applicant Kirsten Light

Dated: 8/26/2022



**TOWNSHIP OF BERNARDS  
2023 ZONING BOARD OF ADJUSTMENT APPLICATION**

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

**1. APPLICANT:**

Name: Stephen Reale  
Address: 45 Pond Hill Rd  
Phone: (home) 9082094181 (work) \_\_\_\_\_ (mobile) 9082094181  
Email (will be used for official notifications): Snowp1224@aol.com

**2. OWNER** (if different from applicant):

Name: Neighbor - Stephanie VenB  
Address: 61 Long Rd Basking Ridge NJ 07920  
Phone: \_\_\_\_\_ Email (will be used for official notifications): BLADEK11501 - Lot 14

**3. ATTORNEY:**

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

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

Name: <u>Mike Roth Roth Engineering</u> <u>William Byrne Byrne Design ASD</u> Address: <u>Roth Engineering 52 South Run Long Valley NJ 07853</u> <u>Byrne Design - 10 Main St Chester NJ 07930</u> Phone: <u>973-715-7827</u> <u>908-879-0796</u>	Profession: <u>Engineer</u> <u>Architect</u> Email (will be used for official notifications): <u>Mike@RothEngineering.com</u> <u>WilliamByrne@aol.com</u>
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**5. PROPERTY INFORMATION:** Block(s): 11501 Lot(s): 15 Zone: R3

Street Address: 71 Long Rd Total Area (square feet/acres): 135,026.87 SF / 3.10 Acres

Note: The Driveway is partially located on lot 14 Block 11501 (61 Long Rd)

**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) \_\_\_\_\_

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



[ ] No [X] Yes (if yes, explain) Shared Driveway / Accession Building over property line

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

Stone/Wood Cabin = with Accession Building = with Gazebo  
2 Story Plat House  
"Single Family Ranch"

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

- 1) TABLE 501 (21 Attachment 7) = Rear yard Set Back for Principal Building (5) § 21-14-26  
2) TABLE 507 (21 Attachment 13) = Accessory Building Rearyard Set Back steep slope disturbance  
3) TABLE 401-A (21 Attachment 4) Part B: Min. Impervious for Area 25% or greater  
4) § 21-38.1 Residential Driveway: a) width b) grade c) location

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

A new Dwelling proposed on site that is not occupied and greatly improves the property. The rear yard Set Back is adjacent to the rear yard and is over 250 feet from the nearest Dwelling with existing buffering between the properties. The other Variances are pre-existing nonconforming.

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

**APPLICANT(S) SIGN HERE:**

I/we, Stephen Reale and \_\_\_\_\_ 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): Stephen Reale and \_\_\_\_\_

Sworn and subscribed before me, this 2nd day of Jan, 2023

CYNTHIA KEEFER  
Notary Public - New Jersey  
Notary Commission #2442187  
Expires 01/10/24

**OWNER(S) SIGN HERE (IF APPLICANT IS NOT THE OWNER):** Lot 14 Block 11501

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, STEPHANIE VERR the owner(s) of the property described in this application,

hereby authorize STEPHEN REALE 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 WITH THE EXPRESS UNDERSTANDING THAT MY CONSENT

Signature of owner(s): [Signature]

Sworn and subscribed before me, this 27th day of January, 2023

Notary

DYAN M ROSARIO  
Notary Public, State of New Jersey  
Comm. # 2429001  
My Commission Expires 1/18/2028

\* IS LIMITED TO ALLOW ACCESS BY AND THROUGH THE EXISTING DRIVEWAY