

TOWNSHIP OF BERKELEY  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING AGENDA  
DECEMBER 9, 2009  
7:00 PM PUBLIC HEARING

- A. SALUTE TO THE FLAG
- B. ROLL CALL, DECLARATION OF QUORUM
- C. SUNSHINE ACT STATEMENT: This meeting was advertised in the Asbury Park Press, and posted on the Township's bulletin board as required by the "Open Public Meeting Act".
- D. Please be advised that there is to be **NO SMOKING** in this building in accordance with New Jersey Legislation.
- E. OLD/NEW BUSINESS:
- F. AGENDA:

1. **TURNER** **BOA#09-5296**

Variance(s) requested:           Bulk Variances  
Project:                            Inground Pool  
Block(s): 1257                    Lot(s): 1-4, 35-40  
Address: Red Bank Ave.         Zone: CR

Denial Reads:     The Applicant proposes to install an inground pool on a corner lot with a 53 ft. front yard setback where 75 ft. is required, and a 14 ft. side yard setback where 15 ft. is required.

2. **RISPOLI & FINETTI** **BOA#08-5231 (Carried from 10/28/09)**

Variance(s) requested:         Bulk Variance  
Project:                          Single-family dwelling on an Undersized Lot Fronting on an Unimproved Road  
Block(s): 533                    Lot(s): 6  
Address: Hoover Ave.           Zone: R-125

Denial Reads:     Applicant proposes to building a single-family dwelling on a 5,000 s.f. lot where 12,500 s.f. is required, a 50 ft. lot frontage where 100 ft. is required, a rear yard setback of 15 ft. where 30 ft. is required, an 8.5 ft. side yard setback where 10 ft. is required, a 20 ft. combined side yard setback where 25 ft. is required fronting on an Unimproved Road.

3. JERMAN (IF REVISED PLANS RECEIVED) BOA#09-5272 (Carried from 10/28/09)  
**RECEIVED REQUEST TO CARRY TO 1/13/10 dated 11/23/09**

Variance(s) requested: Bulk Variances  
Project: Single-family dwelling on an Undersized Lot  
Block(s): 509 Lot(s): 11  
Address: Roosevelt Ave. Zone: R-125

Denial Reads: Applicant proposes to construct a single-family dwelling on this 5,500 s.f. lot where 12,500 s.f. is required with a 50 foot lot frontage where 100 feet is required, 20 foot combined side yard setback where 25 feet is required, and a 24 foot rear yard setback where 30 feet is required.

G. RESOLUTIONS TO BE ADOPTED.

H. APPROVAL OF MEETING MINUTES.

I. ADJOURNMENT: Next meeting of the Board of Adjustment will be a Special Meeting on December 10, 2009 at 7:30 PM.



MEMO TO: Berkeley Township Zoning Board of Adjustment

FROM: Robert J. Russo, P.E., P.P., C.M.E.,  
 Office of the Zoning Board of Adjustment Engineer and Planner

DATE: November 6, 2009

RE: **Turner – Completeness Review #1**  
**Application: Inground Pool**  
**Block: 1257, Lots 1-4, 35-40**  
**Fronting on: Red Bank Avenue**  
**Zoning District: CR**  
**Plan: Survey Map of Lots 1-4, 35-40, Block 1257, prepared by:**  
**Acre Survey Company, Inc, dated August 22, 2009**  
**BOA#: 09-5296**  
**Our File No.: PBAZ1257.02/ 600.01**

In accordance with your request, our office has reviewed the following variance application submitted for the above referenced property. The following comments are offered with regard to the same:

**A. PROJECT OVERVIEW**

1. The denial states that the applicant "to install an in-ground pool on a corner lot with a 53' frontyard setback, 75' required and a 14' sideyard setback, 15' required, in a CR Zone. The applicant is proposing to install a 14' by 28' in-ground pool in the rear yard. The lot in question is located on the northeastern corner of Red Bank Avenue and Passaic Avenue. Passaic Avenue is an unimproved right of way. The lot is located in the CR zone.
2. CR-Zone Requirements and Variances Requested (as per Schedule I, Section 35-95)

<u>Accessory Use</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Requested</u>
Side Yard Setback	15 ft	N/A	14 ft	☒
Front Yard Setback (75 ft.) Passaic Avenue	75 ft	N/A	53 ft	☒

**B. GENERAL REVIEW COMMENTS**

1. The applicant should provide a description of the proposed pool and the need to construct the pool within the front yard setback of Passaic Avenue.
2. Pursuant to the MLUL Section 40:55D-70, the Board of Adjustment may grant a bulk variance request if :
  - c.(1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of





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property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property.

- c.(2) where in an application or appeal relating to a specific piece of property the purposes of this act...would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment...

It has to be determined whether the property in question meets any or all of the reasons established in the MLUL to permit the granting of the variance and whether the enforcement of the Berkeley Township General Ordinances will cause undue hardship to the property owner.

### **C. MISCELLANEOUS**

1. Should the Zoning Board of Adjustment grant the relief requested by the applicant, approval of this application should be conditioned upon the Applicant certifying to the following:
  - i. The proposed structure should not encroach into existing easements (i.e. shade tree, utility, drainage, etc) without proper consent from the Township and shall not encroach upon private wells or individual septic systems or disposal fields.
  - ii. The proposed grading if any, will not impact adjacent property and that the plan as submitted is a true and accurate representation of the existing and proposed improvements on the site.
  - iii. Payment all outstanding professional review fees of the Board and the Township.
  - iv. The applicant submitting for a grading permit in accordance with Section 11-1.5.

The right is reserved to present additional comments pending the receipt of revised plans and/or the testimony of the Applicant before the Board

Should you have any questions regarding this matter, please do not hesitate to contact this office.

RJR/rr

cc: Board Attorney  
Alfred and Mary Jane Turner-- Applicant



JOHN H. ALLGAIR, 1983-01  
 DAVID J. SAMUEL, P.E., P.P.  
 JOHN J. STEFANI, P.E., L.S., P.P.  
 JAY B. CORNELL, P.E., P.P.  
 MICHAEL J. McCLELLAND, P.E., P.P.  
 GREGORY R. VALES, P.E., P.P.



TIMOTHY W. GILLEN, P.E., P.P.  
 BRUCE M. KOCH, P.E., P.P.  
 ERNEST J. PETERS, JR., P.E., P.P.  
 LOUIS J. PLOSKONKA, P.E.  
 TREVOR J. TAYLOR, P.E.  
 BEHRAMTURAN, P.E.

MEMO TO: Berkeley Township Zoning Board of Adjustment

FROM: Robert J. Russo, P.E., P.P., C.M.E.,  
 Office of the Zoning Board of Adjustment Engineer and Planner

DATE: December 1, 2008

Re: **Rispoli and Finetti – Review #1**  
**Application: Single Family Dwelling on an Undersized**  
**Lot Fronting on an Unimproved Road**  
**Block, 533, Lot 6**  
**Fronting on: Hoover Avenue**  
**Zoning District: R-125**  
**Plan: Variance Plan, prepared by PDS, LLC**  
**Dated August 13, 2008, Revise October 18, 2008**  
**BOA: 08-5231**  
**Our File No.: PBAZ0533.01/600.01**

In accordance with your request and the provisions of Section 35-20, our office has reviewed the following variance application submitted for the above referenced property. The following comments are offered with regard to the same:

**A. PROJECT OVERVIEW**

1. The denial states the applicant proposes to build a single family dwelling on a 5,000 s.f. lot where 12,500 s.f. is required, a 50' lot frontage where 100' is required, a rear yard setback of 15' where 30' is required, an 8.5' side yard setback where 10' is required, a 20' combined sideyard setback where 25' is required on an unimproved road. The site is located on Hoover Avenue with in the R-125 zone.

2. **R-125 Zone Requirements and Variances Requested** (as per Schedule I, Section 35-95)

<u>Primary Use</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Requested</u>
Min. Lot Area	12,500 sf	5,000 sf	5,000 sf	<input checked="" type="checkbox"/>
Min. Lot Frontage	100 ft	50 ft	50 ft	<input checked="" type="checkbox"/>
Front Yard Setback	35 ft	N/A	57 ft	<input type="checkbox"/>
Rear Yard Setback	30 ft	N/A	15 ft	<input checked="" type="checkbox"/>
Side Yard Setback	10 ft	N/A	8.50 ft	<input checked="" type="checkbox"/>
Combined Side Yard	25 ft	N/A	20 ft	<input checked="" type="checkbox"/>
Max. Lot Coverage by Building	25%	N/A	16.8 %	<input type="checkbox"/>
Max. Building Height	35 ft	N/A	<35 ft	<input type="checkbox"/>
Min. Floor Area	*	N/A	±1,650 sf	<input type="checkbox"/>





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**B. General Review Comments**

1. Pursuant to Section 35-89.12 and 35-54, every new dwelling unit shall provide no less than 2 off-street parking spaces and paved driveways are required as access to garages or other off-street parking spaces. The applicant indicates a garage is proposed. The applicant is proposing a stone driveway with a concrete apron. We recommend that the applicant conform to the Ordinance by constructing a paved driveway.
2. The proposed lot is to be served by public water and by a private septic system.
3. Pursuant to Section 11-1.5a.2 (ee) Grading Plan, the land shall be graded so that the stormwater from each lot shall drain directly to the street. If not possible to drain directly to the street, it shall be drained to a system of interior yard drainage in accordance with Section 35-71.
4. Pursuant to the Tree Removal/Replacement Ordinance, where a lot or tract is proposed to be developed for use as a single family residence and the property is not part of an approved plan, the owner must submit a tree removal plan for approval. A plan to clear no more than 50% of the side and rear yard setbacks for the zone shall be submitted to the Zoning Officer.
5. Pursuant to 17-5.1, every principal building shall be built upon a lot with frontage upon a public street improved to meet the Township requirement for improved public streets or for which such improvements have been guaranteed by the posting of a performance guarantee:

For the Boards clarification, pursuant to 17-5.6 in no event shall the applicant be required to provide less than the following minimum requirements:

- a. The roadway width must be at least thirty (30) feet.
- b. The entire roadway width shall consist of six (6) inches of DGA, bituminous base course, and bituminous surface course.
- c. The newly paved street shall provide direct access to an approved, improved public street to protect the health, safety and welfare of all future residents and to ensure proper vehicular access by police, fire, first aid and other emergency and essential services.

The Board should note items a, b and c represent the minimum requirements, and could request the applicant provide additional items such as curb, sidewalk and street lighting to at a minimum to protect the health safety and welfare of residents.

It is recognized that, in rare cases, exceptional and extraordinary conditions or the uniqueness of a particular lot may require the waiver of frontage upon a fully improved street. The Board may consider and waive strict compliance with this requirement, if requested by the applicant.

However, based upon previously installed improvements on Hoover Avenue, north of this application, we recommend that the applicant install a fully improved roadway including the installation of concrete curbs and sidewalks.

6. The applicant shall indicate if the proposed road cartway improvements shown on the plans will be paved. A typical pavement section should be provided. The half width dimension of the existing right-





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of-way and the proposed cartway and the total width of the proposed cartway should be shown on the plan.

7. We recommend that the plans be revised to extend the 30 foot pavement section approximately 50' in the southerly direction to the existing pavement on Hoover Avenue to eliminate the existing dead end. Also, if the roadway is extended, the proposed guide rail may be eliminated and a temporary gravel turn around would not be required.
8. Pursuant to the MLUL Section 40:55D-70, the Board of Adjustment may grant a bulk variance request if where:
  - a. by reason of exceptional narrowness, shallowness or shape of a specific.
  - b. by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or
  - c. by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of such appeal relating pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property.

It has to be determined whether the property in question meets any or all of the reasons established in the MLUL to permit the granting of the variance and whether the enforcement of the Berkeley Township General Ordinances will cause undue hardship to the property owner.

**C. DISCUSSION ITEMS** (The applicant should be prepared to discuss the following):

1. Providing documentation of a good faith effort to acquire sufficient adjoining lands to achieve a conforming lot, or by offering to sell the non-conforming property to adjacent owners.
2. The applicant should clarify whether any drainage improvements exist at the proposed lot or in the street.
3. Testimony to satisfy both the positive and negative criteria of the Municipal Land Use Law, such that:
  - a. The proposed use is particularly suited to the particular property
  - b. There are special reasons that allow a departure from the zoning regulations in this particular case. The granting of a variance must be shown to implement one or more of the purposes of the MLUL 40:55D-2.
  - c. The variance can be granted without substantial detriment to the public good.
  - d. The variance will not substantially impair the intent and purpose of the zoning plan and ordinance.
4. The applicant has indicated there are no wetland areas within 150 feet of the site. The applicant is requesting a waiver from providing an NJDEP Presence / Absence Letter of Interpretation (LOI).

**D. MISCELLANEOUS**

1. Should the Zoning Board of Adjustment grant the relief requested by the applicant, approval of this application should be conditioned upon the following:





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- a. The applicant resubmitting for review by the Zoning Board of Adjustment Engineer a plan which includes those items covered above and discussed at the Board meeting.
- b. The applicant certifying to the following:
  - i. The proposed structure should not encroach into existing easements (i.e. shade tree, utility, drainage, etc.) without proper consent from the Township and shall not encroach upon private wells or individual septic systems or disposal fields.
  - ii. The proposed grading, if any, will not impact adjacent property; that the plan as submitted is a true and accurate representation of the existing and proposed improvements on the site, and payment all outstanding professional review fees of the Board and the Township.
- c. The applicant providing the following to the Building Department at time of application for a building permit:
  - i. The applicant making payment into the Roadway Trust Fund for improvements to Hoover Avenue including the applicants fair share of the costs for street lighting, curbs, sidewalks, grading, shade trees and soil stabilization.
  - ii. The applicant making payment into the Drainage Trust Fund in accordance with Sections 17-5.6 (g) and 35-72.7, unless the Board waives strict compliance with this requirement if requested by the Applicant and if a schematic drainage area map with existing contours showing the connection to the nearest drainage system or acceptable body of water for stormwater runoff from the site is provided.
  - iii. The applicant is providing a proposed street lighting plan indicating lighting in conformance with the illumination Engineering Society of North America (IESNA) standards.
  - iv. The applicant submitting for a grading permit in accordance with Section 11-1.5.
  - v. The applicant submitting architectural plans of the proposed dwelling, to show compliance with building codes.
  - vi. The applicant submitting a Tree Removal / Replacement Plan in accordance with Ordinance 03-25-0AB.
  - vii. Proof of approval and/or waivers from all agencies having jurisdiction including:
    1. Ocean County Board of Health
    2. Ocean County Soil Conservation
    3. Ocean County Planning Board
    4. Berkeley Township Municipal Utilities Authority

The right is reserved to present additional comments pending the receipt of revised plans and/or the testimony of the Applicant before the Board.

Should you have any questions regarding this matter, please contact Kristie Armour at (732) 462-7400 Extension 130.

RJR/rr

cc: Edward Liston, Esq. - Board Attorney  
Rispoli, Applicant  
William A. Stevens, P.E., Applicant's Engineer/Surveyor

