

The Regular Meeting of the BERKELEY TOWNSHIP ZONING BOARD was held on July 23, 2014 at the Municipal Building's Meeting Room, Pinewald-Keswick Road, Bayville, New Jersey.

Roll call was taken. Present were Chairman Richard Elliott, Larry Borio, Edward Cammarato, Gerard Reuter, Anthony Granberg, Edward Gudaitis, Jerome Bollettieri, and Lee Gashlin. Also present were Alexander Pavliv, Esq., Zoning Board Attorney, John J. Mallon, PE, Zoning Board Engineer, Melanie Adamson, PE, Zoning Board Planner, Darlene Sillitoe, Court Reporter and Kelly Hugg, Secretary to the Zoning Board.

Chairman Elliott led the flag salute, moment of silence, read the public announcements and started the meeting.

1. **Schmidt, Richard & Tammy** **BOA #14-5605**

Application: Construct Single-Family Dwelling on Undersized Corner Lot Fronting on Unimproved Roads

Block: 541 Lots: 1-4

Location: Elizabeth Avenue

Engineer: Graham MacFarland

Denial Reads: "Applicant proposes to construct a 2-story SFD on a 10000 sf lot where 15000 sf is required and fronting a currently unimproved road."

Action: Public hearing, discussion and consideration of application.

Mr. Schmidt described what he is proposing to do and stated that he did try to purchase additional property. Mr. Schmidt requested waivers for location of home for future homeowner and curbs and sidewalks.

Mr. MacFarland, PE, stated the application was for bulk variance for lot coverage and explained that road was to be improved. He discussed proposed tree removal within compliance of ordinance and reviewed all items in review letters from T & M Associates and Remington, Vernick & Vena.

Mr. Mallon addressed the sidewalk, tree removal and questioned who posted the bond for the road improvements. Mr. Mallon clarified with applicant if they did change house dimension, applicant would have to reapply to the Board of Adjustment.

Ms. Adamson addressed the area of the floor home, air conditioning unit and requested bond for road improvements.

The Board questioned when subdivision was approved by the Planning Board, sidewalk waiver, drainage, distance of well from proposed septic system, waiver of location of home, purchase of Township property and if Town was noticed, requested additional conditions in resolution and property should be at least the same footprint, water existing, single family home neighborhood and roof runoff.

Motion by Mr. Cammarato to open to public, seconded by Mr. Bollettieri.

Mr. Thomas Barrella, 454 Andrew Drive, Bayville, NJ (neighbor) opposed the application and was concerned about what the applicant would eventually construct on the property.

Attorney Pavliv explained this application was a hardship situation based upon ordinances.

Motion by Mr. Gudaitis to close the Public portion, seconded by Mr. Cammarato.

Motion to approve application with stipulations by Mr. Gudaitis, stipulations included roof runoff to drywells, provide trees to the streets and tree removal plans, comply with the grading ordinance and sidewalk issue will need to be addressed, no Certificate of Occupancy until road completed, the footprint of the building will be no smaller than 1131 square feet, consolidate the lots and provide a copy of the bond, seconded by Mr. Reuter, motion carried with Mr. Borio and Mr. Cammarato voting no; Mr. Granberg was unable to vote on this application.

2. **Lucas, Justin & Tina** **BOA # 14-5601**

Application: Construct 6' High Solid Wood Fence Between a Principal Structure and a Public Street.

Block: 426, Lots: 1-3

Location: 347 Seabrook Avenue

Denial reads: "Applicant proposes to install a 6' high fence between a principal structure and a public street."

Action: Public hearing, discussion and consideration of application.

Mr. Lucas stated he was proposing 6' high fence. Does not fall within a site triangle and does not block driveways. The fence is being constructed for safety reasons.

Mr. Mallon questioned location and placement of fence.

Mr. Pavliv and Ms. Adamson had no questions.

The Board members had no questions.

Motion by Mr. Cammarato to open the Public section; seconded by Mr. Reuter.

Motion by Mr. Reuter to close public section; seconded by Mr. Cammarato.

Motion by Mr. Gudaitis to approve; seconded by Mr. Cammarato to approve this application. Motion carried.

3. **lesals, Peter & Zorine**

BOA 13-5568

Application: Replace a Storm Affected Single Family Dwelling With a New Single-Family Dwelling with Setback Variances

Block: 1545 Lot: 28

Location: 225 Butler Boulevard

Attorney: Ronald L. Bennardo

Denial Reads: "Applicant proposes to re-construct a storm damage SFD that will leave a side yard of 4 feet (7 feet required) and a combined setback of 12 feet (18 feet required) with an attached deck leaving an 11 foot rear yard setback (20 feet required)."

Action: Public hearing, discussion and consideration of application.

Attorney Bennardo and Mr. lesals explained the home was destroyed by Sandy and described pictures that were entered as an exhibit. The applicant is proposing a one story cape with deck and access through sliding doors, parking underneath, stone yard, roof runoff. Attorney Bennardo reviewed letters prepared by T & M Associates and Remington, Vernick & Vena.

Mr. Mallon questioned curb and sidewalk waiver, setbacks, deck.

Ms. Adamson questioned about the deck not being enclosed and parking, location of air conditioning unit, steps, hot tub and shed, trees.

The Board questioned the vault size which is 2 feet deep, is it a safety issue, hot tub, shed will be removed, brackish contamination, suggested not to use well, height of home 40', parking underneath the house, enclosure of the dwelling, 4 foot offsets, prefer 5 foot offsets, offset of deck was a concern, made several recommendations about moving house so there is ample access for emergency services, moving steps to under the dwelling, roof drains, change deck size to 10 feet with open, 5 foot on left, stairs 3 ½, concerned about adding fence.

Motion by Mr. Cammarato to open the Public section, seconded by Mr. Reuter.

Motion by Mr. Reuter to close public section, seconded by Mr. Cammarato.

Motion by Mr. Gudaitis to approve with stipulations first and second floor decks to remain open, waiver for sidewalks, curbs, patio and driveway, roof runoff to be piped underground to the bulkhead, house moved over 1 foot to the east, steps go down to 3 ½ feet, and 30 days from the completion of the Certificate of Occupancy to decide if the shed will be removed completely from the residence or moved underneath, removal of the hot tub before the pilings are installed, deck has to be reduced by 10 feet off the back and place the air conditioning unit under the steps; seconded by Mr. Cammarato to approve this application. Motion carried.

4. **Wagner, Gregory**

BOA #14-5606

Application: Replace Storm Affected Single-Family Dwelling with a New Single-Family Dwelling with Setback Variances

Block: 1185, Lot: 4238.02

Location: 4 Avalon Avenue

Engineer: Evan Hill

Denial Reads: "Applicant proposes to construct an elevated 2-story SFD with an attached front deck that will leave a 13' setback where 25' is required and a front entrance landing and stairs that will leave a 7.4' front setback where 12' is required."

Action: Public hearing, discussion and consideration of application.

Mr. Hill explained the application State Remm program. Mr. Hill explained use of gravel driveway, use of gravel trenches, would like to conform to 35 foot height, and no tree clearing.

Mr. Mallon questioned the building height; correct elevation should 32.2 feet, curbing and sidewalk, and verified that there were no wetlands.

Mr. Pavliv had no questions.

Ms. Adamson questioned the driveway and minimal front yard setback being serviced by public utilities, air conditioning unit, steps in front of house require variance, neighboring area setbacks are consistent with neighborhood.

Mr. Hill clarified new house would be serviced by existing utilities and location of air condition unit underneath the dwelling as well as requesting variance for steps.

The Board members questioned minimal requirement of house, runoff reduction, making the trenches larger, concerned about contaminants entering the waterway.

Mr. Hill explained the impervious coverage of the roof was less than what had been existing.

Motion by Mr. Reuter to open the Public section, seconded by Mr. Cammarato.

Robin Rohr, 3 Oceanport Avenue, Bayville, NJ, neighbor. Ms. Rohr is upset about applicant receiving REMM money because Mr. Wagner had renters at the residence. She has objections and concerns about Mr. Wagner's proposed setbacks. Ms. Rohr feels they should have to conform to the required setbacks.

Michelle Hawkins, P.O. Box 221, Ocean Gate, NJ 08749 neighbor owner of 2 lots feels that there was improper drainage with 8" pitch. Concerned about the runoff and did not want original lot subdivided. She feels this is not a hardship. Could the Ocean County Engineering Department check out the pitch of the road. She feels curbing is good idea.

Mr. Cammarato zoning board does not have any jurisdiction but did recommend coming to a Berkeley Council meeting.

Lorre Kaiser, 6 Avalon Avenue, Bayville, NJ, neighbor who own adjacent property to applicant (east side). Ms. Kaiser was told by Berkeley that they needed a 25 foot setback. Ms. Kaiser concerned about drainage.

Carl Kaiser, 6 Avalon Avenue, Bayville, NJ neighbor owner of adjacent property said there was sump pump that goes to street. Mr. Kaiser concerned about the original porch was enclosed and mentioned he was upset about the view.

The Board members questioned the front yard setbacks as shown on plan, can first floor be opened, brought to the attention of neighbor that subdivision was completed in 2007, change the setbacks and location of house, suggested to remove the lattice to improve the view, chose a smaller house to construct, view is really only road and beach area, suggested to address drainage issues with the new applicant and explained why house needed to be raised.

Mr. Hill explained that plan was dictated by REMM.

Tom Deutsch, 6 Oceanport Avenue, Bayville, NJ, neighbor had same issues of previous testimony of neighbors. Major flooding issues in this neighborhood.

Mr. Borio said elevation is 1.8 elevation so where would water go.

Ms. Rohr requested the definition of hardship.

Ms. Anderson explained what hardship meant.

Mr. Wagner stated he lived in the dwelling and it was primary residence; stated that he never rented.

Attorney Pavliv stated if Mr. Wagner was not truthful, falls to federal jurisdiction.

Board agreed they had no jurisdiction to state if he was telling truth.

Motion by Mr. Reuter to close public section, seconded by Mr. Cammarato.

Motion by Mr. Granberg to approve application as submitted; Motion by Mr. Gudaitis to add recommendations to Mr. Granberg's motion; requested house to be setback 5 foot from where presented; remove lattice from the bottom of deck and turn the front steps to the sideways; waiver for curbs and sidewalks; and stone driveway; motion carried with Mr. Reuter and Chairman Elliott abstaining.

5. **Jerman, Jeffrey**

BOA #14-5582

Application: Construct Single-Family Dwelling on Corner Lot fronting on Unimproved Roads with Lot Area, Setback and Lot Coverage Variances.

Block: 412, Lots: 6 & 7

439 Brinley Street

Engineer: Jeffrey Daum, PE

Denial Reads: "Applicant proposes to construct a SFD on a 10,000 sf corner lot (130,680 sf required) that fronts 2 unimproved roads, with 35.5' & 36' front yard setbacks (75' required), a

35.5' rear yard setback (50" required), a 21.7' side yard setback (25' required), and lot coverage of 11% where 10% is maximum allowed."

Action: Public hearing, discussion and consideration of application.

Mr. Jerman sworn in and introduced exhibits and explained that this application proposes to increase access driveway with this development. Mr. Jerman stated that main reason for variance was because changes in zone. Review and commented on Mr. Mallon's review letter.

Jeff Daum engineer stated qualifications; explained that property is undersized and unimproved road. The setbacks are consistent with this zone. No detriment to the master plan regarding this development; smaller than what zone requires.

Motion by Mr. Gudaitis to carry matter until September 10, 2014 with no further notice required per Mr. Mallon; motion seconded by Mr. Borio.

F. RESOLUTIONS

Brian & Amy McMahon, BOA #14-5607

Gary & Marienna Kosovich, BOA #14-5608

Perreman Development LLC, BOA #13-5555

Thomas & Heather Milanak, BOA #13-5577 (revised)

Motion by Mr. Gudaitis to approve the denial for Perreman Development, and approval on the other resolutions as presented and accepted; motion seconded by Mr. Bolliettiri; motion carried with Mr. Gashlin abstaining.

G. VOUCHERS

Motion by Mr. Gudaitis to approve the vouchers; seconded by Mr. Cammarato; motion carried.

H. MINUTES FROM JULY 9, 2014

Motion by Mr. Gudaitis to approve; seconded by Mr. Reuter; motion carried.

H. ADJOURNMENT

Motion to adjourn by Mr. Reuter; seconded by Mr. Reuter; motion carried.