

Zoning Board of Adjustments
Minutes
April 17, 2019

Chairman Montana read the OPMA statement and those present took part in the pledge

Roll Call: The secretary read the roll call. The following members were present and absent
Present: Chairman Montana, Members Kakaty, Trobiano, Zagorsky, Holiat, Yale
Absent: Kerner, Perros, Howard

Applications:

Block 1602, Lot 5, Joseph and Shannon Caretta: This application consists of construction an addition to the detached garage for the purpose of a playroom. The application exceeds the maximum height for an accessory structure as well as the structure does not comply with the 25 foot setback requirement of the front line of the principle building. Daniel Cardone, applicant's attorney, introduced the application on behalf of the applicants. She advised that the room above the garage will be a playroom, with a bathroom, and no bedroom that will be accessibly via staircase. She provided a detailed description of the overall location of the property. She informed the board that the applicant is seeking a height variance of 22 feet 6 inches and 2 stories whereas 1 story and 17 feet is allowed via ordinance and a variance related to the size of the garage. She introduced the engineer, architect and planner as potential witnesses for the project

Board Attorney Rutherford swore in the applicant's witnesses (Lisa Phillips1 1200 Avalon Way, Bloomingdale NJ; Weissman, 686 Godwin Avenue, Midland Park; and Albert Datolli, 70 Chestnut Ridge Road, Montvale, NJ) and borough professionals.

Mr. Weissman was accepted as an expert in the field of engineering. Mr. Weissman discussed his role in the project and the details of the proposed project. He discussed the issues of building and lot coverage and advised that the project was within the already established criteria per the zoning ordinance. He reiterated the earlier referenced reliefs being sought and noted that in all other respects the applicant would comply with borough ordinances. He discussed the board engineers' comments and noted they were all addressed. He noted that he did not believe there would be any negative material impact from an engineering perspective.

Mr. Datolli was accepted as an expert in the field of engineering. Mr. Datolli explained his scope of the project as it pertains to designing the addition. He discussed his background of the project and the materials used in his design. He described in detail the proposed project as it pertains to what is being proposed and the size of the project, what is there, and what is being added. He informed the board that he believes the project fits into the project and is not obtrusive. He noted that the project would be aesthetically consistent and fits into the neighborhood.

Lisa Phillips provided the board details of her background as a licensed professional planner and was accepted as an expert in the field. Ms. Phillips discussed her role in the project and the materials she consulted when performing this role. She described the sight in detail and their applicability to the relief being requested. She described some of the existing non-conformities and the area in general as it relates to lot sizes. She then described n detail the variances being sought.

Board professionals Levy, Spence and Burgess were sworn in.

Mr. Spence discussed his review memorandum and said his review is still applicable has not changed. He discussed the property, application and prior review in detail. He discussed the variances being sought and explained the need for each one. He noted the applicant would not use the addition as a bedroom due to septic requirements.

Mr. Levy discussed issue surrounding the trees and the need for continued monitoring of the trees on the property and things needed to mitigate any problems.

No members of the public spoke

Attorney Rutherford clarified variance requests with engineer Spence.

Board Questions:

Ms. Holiat asked if they considered using the west side of the property. Mr. Datolli advised it was considered but they wanted to maintain the patio on the west side. She expressed concern that you would still see the structure and the applicant noted they could add additional screening. Attorney Carbone noted that the applicant's goal is to not remove trees and will only do so if needed.

Mr. Zagorsky asked how many bedrooms were in the main bedroom and asked if the applicant would be willing to sacrifice the closet to ensure it wouldn't be a bedroom and the applicant was receptive.

Mr. Yale asked about the intended use and why a full, as opposed to half, bath. Mr. Caretta, the applicant, responded, that they could use the BR to clean up so if they were dirty they wouldn't mess up the main home.

Ms. Trobiano clarified that the height on the proposed structure would be lower than the height on the house. She noted that the design making it match the home is what is requiring the variance relief on this point.

Chairman Montana noted that it was an undersized lot complicated by the fact that it was a corner lot and was a preexisting condition. His concerns were not about the height. He asked questioned about heating and it was confirmed there would be heating. He asked the attorney if the variances could be voided if it were used for dwelling purposes. Attorney Rutherford stated this could be addressed in the resolution and the use as a room would violate a septic rule. He also noted that the deed could be recorded with the county clerks. He also noted it was a borough enforcement issues. He stated that he would be o.k. with the applications with the conditions stated. There were also a discussion of the tree protection measures during construction would apply to all trees on the property.

Attorney Rutherford noted the conditions would be construction according with the plan, no kitchen, elimination of the closet, county recording of resolution, prohibition against the use for dwelling purposes, language with respect to tree preservation measures an monitoring during construction, and a landscaping plan to mitigate the loss against one or both of the previous mentioned trees.

A motion was made by Ms. Trobiano, seconded by Mr. Zagorsky to approve the application with the condition stated. A roll call was taken. Passed Unanimously.

BLOCK 1611, Lot 4.03 – 15 Big Ramapo Way, Renco SR Realty, Inc. – This application consists of requesting front and rear yard setbacks for a new dwelling.

Attorney Cardone for the applicant introduced the applicants. She gave a description of the property and noted the applicant was asking the board to grant approval for a 100-foot setback variance in place of the 125-foot required and a rear yard setback of 33 feet whereas 50 is required. She introduced the professionals who would testify on behalf of the applicant as Lisa Phillips 1200 Avalon Way, Bloomingdale NJ; Robert Weissman, 686 Godwin Avenue, Midland Park; Brad Newman, Landscape Architect, Morris Plains, NJ; John Peal, Professional Planner from PK Environmental from Chatham, NJ.

All four professionals were sworn in.

Mr. Weissman discussed his role in the project, the property in general, mentioned there were wetlands permits pending, and noted the details of the variances requested and why they were requesting same. He described the house to be built and noted that it was within the lot coverage requirements. He noted that the applicant complies with all other ordinances and that in his belief there would be not material negative impact if approved.

Brad Newman, Landscape architecture was qualified as an expert. He described his scope of his engagement to review the site and prepare a landscape plan for the project. He discussed the material he used to come up with his review. He described the landscape architecture plan in detail and referred to the earlier exhibits. He discussed his conversations with the boro landscape architect and said they came to agreement with on issues. In response to the applicant's attorneys question he said he thinks the project will be aesthetically attractive and consistent with the streetscape design of the neighborhood

Ms. Phillips was again accepted as an expert and testified on behalf of the applicant. Ms. Phillips described the scope of work with the project and noted she reviewed the variances to justify their approval. She discussed the documents used on preparing her analysis. She described the site in detail as it relates to the physical constraints, location, shape, and slope. She testified that there would be no detrimental impact to the neighborhood and would be a benefit.

Mr. Spence discuss his reviewed dated April 16, 2019 that deemed the application complete. He described the history of the lot and the topography of the lot in detail and the process moving forward should the application be approved. He discussed the details surrounding the wetlands permits and went over the variance required and noted that he asked the applicant for more details on the plan, to which they obliged. He continued to discuss the applicants request as it relates to seepage pits, septic, trees, NJDEP permit requirements.

Mr. Levy discussed his review of the project and that he looks at protecting the integrity of the non-disturbance zone and to protect and maintain a character of what is in a town itself and not only in the surrounding area, but the town itself. He discussed in detail the issues surrounding the trees coming down. He discussed the details of the lot and the neighboring properties. He noted that the applicant has agreed to work with his office to ensure compliance with all rules and recommendations on the project.

The chairman opened the meeting up to the public and there were no comments or questions.

Mr. Yale noted the wetlands challenges and the quantity of material related to the rear setback.

Ms. Trobiano inquired as to how many trees need to come down because they were dead and mentioned that she was fine with the project so long as the applicant worked with Mr. Levy's office.

Mr. Kakaty said he did not have an issue with the C1 variance. He noted the applicant was reasonable as it relates to coverage and he had no issue with the front yard setback but he would've liked to see the applicant pair down the encroachment in the rear yard.

Ms. Holiat expressed concern with filling in 49% of the wetlands and asked if there was an impact analysis. Mr. Peal, environmental consulting for the applicant, replied that the application was pending and should be approved shortly. He noted that it is an isolated condition and that it has been disturbed numerous times over the years and that DEP has not prioritized it.

Mr. Zagorsky said he supported the application and that he preferred the beautiful home as opposed to a big bucolic nothing.

Mr. Montana said he disagreed with the comments and said the main problem was with the pool and said sans the pool there would be no need for variances. He said he believed the other homes in the area were all set back 125 feet. He discussed what he believed were various options for the applicant. Mr. Weissman reference planning board approval and that oddity of the lot. He discussed the location of the pool as a normal amenity in the area and generally said he believed it was well buffered and would not have a negative impact on the neighbors.

There was considerable discussion on the merit of the application, setbacks, who would be affected, and how long the property has been vacant.

The chariman asked for a motion. **Mr. Zagorsky made a motion to approve the application and Ms. Trobiano seconded the motion.** Attorney Rutherford referenced it was C1 A and B case, there was some concern about supplementing the landscaping in general, with special attention to the rear yard area by the swimming pool and compliance with Mr. Spence's memorandum. The vote was as follows:

Aye: Zagorsky, Trobiano, Holiat, Yale

Nayes: Montana, Kakaty

Motion Passed 4-2

Block 1801, Lot 7.01 Patriot Farms, LLC Proposed horse barn and indoor riding arena building area exceed the maximum allowable area of 1000 and height of 17 feet. Living quarters over barn are not permitted in the residential zone. Commercial use of property is not permitted in the zone. Proposed accessory structures are not 25 feet behind the front building line of the principal structure. Proposed size of cupolas atop barn exceeds the maximum dimensions. Proposed number of garage doors exceeds the maximum permitted. Boarding of animals is not permitted in the zone.

At this time Ms. Trobiano recused herself from the dais and the Patriot Farms, LLC case. Attorney Rutherford recused himself from he application and Ms. Razin took the dias as the board attorney for this matter.

At this time Mr. Jaworski, attorney for the applicant provided an introduction to the application, introduced the applicants and professionals, talked about the need to meet with and deal with the new fire marshal, and issues surrounding grooming that will be addressed.

Ms. Razin, board attorney, discussed issue regarding the number of member present and the legality of various housing issues pursuant to an earlier drafted memorandum. She also discussed in length issues surrounding accessory uses and what qualifies an accessory use. She noted that to be accessory it has to be incidental to the main use and that it must be determined whether a use which is found to be incidental to the permitted use is customary. She provides in depth legal analysis as to the factors that need to be considered in this regard. Mr. Jaworski noted his differing opinion as outlined in his memorandum and proceeded to move on and make his point via future testimony.

Mr. Tibor Latincsecs, engineer for the applicant, was called to testify and was reminded that he was sworn in previously. He noted that he met with the fire marshal to discuss safety issues and whether or not the bridge could handle the burden of a large fire truck. After some research it was determined that it could and circulation of the truck would not be an issue.

Mr. Latincsecs completed his testimony and there were no questions from the public.

Mr. Jaworski called Shauna Pingrey from North Star Sport House. Ms. Pingrey was sworn in, provided her background, and deemed to be an expert in the area of equine amenities. There was a detailed discussion as to her role in her facility and what went in to caring for the animals. She discussed the need to a person to be available at all times because emergency can happen quickly and she discussed how it was a 24/7 operation. She discussed some examples of how an accident could happen quickly such as rolling over to scratch their backs and not being able to get up and the danger of what could happen as a result. She mentioned that in her facility 5 people live on site and that a typical ratio would be to six horses per person and offered her opinion on what would constitute overworking of a staff member. She offered her thoughts on who would likely be hired for such a position and provided a profile of the type of applicants she has seen in the past. She offered an opinion on off site staff and did not think that would be ideal due to the potential emergency a horse can have. She provided testimony as to the quality of applicant that would be needed for this position. She discussed further issues surrounding a conventional commercial facility, traffic, noise, and finances related to such an endeavor.

Mr. Yale asked about the facility at her place and asked questions related to the barn. Ms. Pingrey noted that it was a busy facility and noted the number of horses is not necessarily directly related to the size of the arena and in response to a further question advised that this was a good size.

Mr. Montana questions about the need for two workers and Ms. Pingrey responded by confirming his examples and offering more detail on a potential need. He also asked questions related to financing and why an applicant would want to do something the seemingly is not profitable. Mr. Jaworski responded that although it wouldn't be profitable, they just are looking to defray some costs. He also noted that that due to the herd mentality there needs to be horse around so other horses do not feel lonely when other horses go out for shows.

The meeting was opened to the public.

Ms. Lucille Lasala asked questions about living on site and Ms. Pingrey offered reasons as to why it was needed and not necessarily needed for everyone who owned some horses. She also discussed her knowledge of traffic and commercial expertise in this area.

Mr. Montana asked questions regarding stipulations on candidates for the job and a discussion ensued on this point with attorney Razin referring to her memorandum.

Mr. Jaworski called his next witness, Daniel Glick of B&D Builders, 34 South Vintage Road, Paradise, Pennsylvania. Mr. Eldon Stoltzfus, architect, 2 Decatur Street, Strasberg Pennsylvania. was also called up and both were sworn in.

Mr. Glick discussed his background and confirmed he was involved in the design of the proposed barn and discussed past projects in North Jersey and throughout the country. He showed the board a calendar and full-size photos of various barns he built. He discussed his role in fixing other projects done using traditional home materials and that his background in barns was better situated for these types of projects. In response to questions he discussed his procedure for designing the facilities. He further went in to detail about the proposed plans for this site and went in to detail about the cupola being a natural way of ventilating a barn being superior to any kind of electronic venting. He also confirmed he was using a code compliant fire suppression system.

Ms. Holiat asked how long the project would take and was told it would be a six-month project.

There were no further questions for Mr. Glick.

Mr. Jaworski advised he had one more witness and the chairman advised that the application would be held until May 15, 2019.

Raizen referred to her memorandum regarding the Fair Housing Act and the prohibition against discriminating related to renting. She also advised that absent board members should receive a copy of the transcript and CD of the meeting.

A motion was made by Mr. Zagorsky and second was made by Mr. Kakaty to adjourn the meeting. It passed unanimously.

Meeting adjourned.