

**MINUTES OF THE SADDLE RIVER BOARD OF ADJUSTMENT  
SEPTEMBER 18, 2019 AT 7:00 PM  
SADDLE RIVER MUNICIPAL BUILDING**

**SUNSHINE LAW:** Chairman Montana stated: "I have been informed by the Clerk that adequate notice has been provided by mailing a notice to The Herald News and The Record on January 3, 2019 and posting a notice in the Office of the Borough Clerk and on the Borough website."

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:**

**PRESENT:** Board Members Kakaty, Trobiano, Zagorski, Kerner, Peros, Howard, Chairman Montana

David L. Rutherford, Esq., Board Attorney  
Martin Spence, Borough Engineer  
Borough Landscape Architect Scott Levy  
Cindy Kirkpatrick, Board Secretary

**ABSENT:** Board Members Holiat, Yale

**APPROVAL OF MINUTES:**

Mr. Kerner, made a motion to approve the July 17, 2019 minutes, seconded by Mr. Zagorski.

**ROLL CALL:**

AYES: Trobiano, Zagorski, Kerner, Peros, Montana

NAYS:

ABSTAIN: Howard, Kakaty

ABSENT: Holiat, Yale

**MEMORIALIZING RESOLUTIONS:**

**ZBA 18-19**

**Block 1801 Lot 35  
76 West Saddle River Road  
Tami Trobiano**

Construction of additions/roof modifications to existing dwelling which will require variances from the front yard setbacks. Additionally, the application shows additions to the rear of the dwelling and patio (not within front yard setbacks, requiring no

variances). The property is partially within the flood hazard area.

**APPROVED**

At this point, Board Member Trobiano stepped down from the dais and Attorney Rutherford proceeded to summarize the resolution.

Ms. Peros made a motion, seconded by Mr. Kerner, to approve the resolution.

**ROLL CALL:**

AYES: Kerner, Peros, Montana

NAYS:

ABSTAIN:

ABSENT:

Ms. Trobiano returned to the dais.

**ZBA 19-19**

**Block 1609 Lot 19  
3 Christopher Place  
Konstantin Maltzen**

Demolition of existing dwelling and outbuilding on the property and construction of a new dwelling. The property is irregularly 'L' shaped. In the R-1 Residential Zone District a 50% combined side yard setback is required (153.7') and 35.1% (107.9') is proposed.

**APPROVED**

Attorney Rutherford summarized the resolution and Mr. Levy said that the applicant reached out to him and will be providing a landscaping plan mid-week.

Ms. Trobiano made a motion, seconded by Mr. Kerner, to approve the resolution.

**ROLL CALL:**

AYES: Trobiano, Kerner, Peros, Montana

NAYS:

ABSTAIN:

ABSENT:

**APPLICATION:**

**Block 1607 Lot 37 (formerly lots 37 and 38)  
120 West Saddle River Road  
Eileen Brady-Geary**

The Applicants, Eileen Brady-Geary and Stephen Campbell, of 120 West Saddle River Road, Saddle River, were sworn in.

Mr. Campbell explained that they appeared before the board several years ago requesting a variance for their shed. After the shed was completed, they realized it was not built within the approved area which is why they have returned before the board. They are now requesting a 2'

variance so their shed will be in compliance.

Mrs. Brady stated that the shed is not visible from the road and is nestled in trees. It is currently situated in the optimal position.

Professionals Scott Levy, landscape architect, and Martin Spence, borough engineer, were sworn in.

Mr. Spence reviewed his completeness letter dated September 16, 2019. The application consists of seeking approvals for a shed that is encroaching into the Front Yard setback as well as not the required distance behind the front building line. The shed was part of a prior ZBA application and Resolution ZBA 16-15. The as-built location is different from the approved location. The applicant is seeking approvals for the new location.

	<u>Required</u>	<u>Proposed</u>
Front yard setback	(125' + 25')	90.1
Shed (Setback behind Principal Building)	25'	23'

Mr. Levy suggested that five viburnum be planted on the north side of the shed.

Marilyn Goldfischer, 124 West Saddle River Road, was sworn in. She is neighbors with the property to the north. She commented on this application years ago when the applicants appeared before the board. At that time, an agreement was reached. She claimed that the contractor moved the marks before shed was built. When she complained to the building dept, she was told there was nothing they could do until the as-built was received and it took years for the as-built to be submitted to the town. The neighbors could not agree on installation of plantings to be used as screen between the properties. She added that there is debris in the non-disturb zone.

Fern Lambert, 119 West Saddle River Rd., was sworn in. She lives directly across from the property and although she can't see the shed, said the property is always maintained well. She has no problem with the location of the shed.

Ms. Goldfischer said that she is the only neighbor who can see the shed. She showed pictures of the shed area to the board.

Mr. Campbell said that there was no agreement with their neighbor to the north. Mr. Rutherford advised that even if there was an agreement, it is not for this board to consider. The board is to consider the application as if the shed were not there and rely on principles of zoning and land use.

Mrs. Brady stated that there was no other location on her property to place the shed due to flood zone.

Mr. Spence said that the property is encumbered by a flood hazard area, as depicted on the plans. Also, there is a significant grade that slopes down behind the property.

Chairman Montana asked the board for their questions:

Ms. Trobiano reviewed the property restrictions and suggested tree plantings to provide adequate screen between the applicant's property and the neighbor's property to the north.

Mr. Kakaty asked what it would entail to relocate the shed 2'. Mrs. Brady said they probably would not because the mower would not be able to fit into the shed and therefore would not be a functional shed.

Mr. Howard wanted to know when the applicants realized there was a problem with the location of the shed. At first, Mr. Campbell thought there was an issue with the merging of the lots, however, his wife advised him that it the shed was 2' off. He thought that the shed was built within the limits of the stakes. Mr. Howard is sympathetic to the comments of the neighbor to the north, and in hindsight, thinks that the process of the shed installation could have been done better.

Mr. Zagorski commented that sometimes looking at the maps vs. topography lines can waiver a slight bit. He feels that the 2' differential is minimal and does not have a problem with the application.

Ms. Peros asked Ms. Goldfischer if the plantings would help her feel more comfortable. Ms. Goldfischer said she would and would like the tarps out of the non-disturb zone.

Mr. Levy said that this is a chance to get a second bite of the apple with additional plantings which will help mitigate the situation.

Ms. Peros sympathizes with both the applicant and neighbor.

Mr. Kerner spoke about the location of the doors on the shed. Mr. Campbell said they purchased metal ramps to roll the tractor and heavy equipment into the shed.

Chairman Montana asked Ms. Goldfischer about her comfort level with plantings. Mr. Levy said that he will inspect the site and come up with a solution for plantings. Chairman Montana would like the neighbor to be accommodated.

Attorney Rutherford reviewed the proposed conditions: 1) non-disturbed zone would be cleaned up and; 2) plantings and landscaping to substantially shield with the property to the north.

Mr. Levy said it is optimum to do the plantings now. Applicants agreed to work immediately.

Mr. Spence said that plantings can be in the non-disturbed zone.

Upon motion by Ms. Trobiano, seconded by Mr. Kakaty, roll call as follows:

**ROLL CALL:**

AYES: Kakaty, Trobiano, Zagorski, Kerner, Peros, Howard, Montana

NAYS:

ABSTAIN:

ABSENT:

**OLD BUSINESS:**

Nothing to report.

**NEW BUSINESS:**

Nothing to report.

**ADJOURNMENT:**

Upon motion by Ms. Peros, seconded by Mr. Zagorski, with all in favor, the meeting adjourned at 7:55 pm.

Respectfully submitted,

Cindy Kirkpatrick  
Secretary to the Board of Adjustment