

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

April 25, 2013

The Regular Meeting of the Board of Adjustment was called to order at 7:30 PM in the Public Meeting Room.

It was confirmed that the meeting was being held in conformance with all regulations of the SUNSHINE LAW and proper notice had been given to the Courier News; also, the Agenda had been posted in Town Hall, Board Office, and supplied to the Township Clerk at least forty-eight hours prior to the meeting. The Agenda items will not necessarily be heard in the order listed and the meeting will not continue significantly past 10:30 PM.

Roll Call:

Members present were Mr. Bussiculo, Mr. Miller, Mr. Smith, Mr. Minkoff, Mr. Siburn, Mr. Sullivan, Mr. Delia and Mrs. Granholm. Mr. Boyer was absent. Mr. Barry Hoffman, substituting for Daniel Bernstein, Board Attorney, was also present.

Applications for Review:

App. #4-13: Wayne & Linda Parisi, 63 Bristol Court, Block 1503, Lot 39 (R-15 Zone)

Proposed 6' high fence does not conform to the 5' height restriction. (The 6' height for the section of fence adjacent to NJ Transit Corporation property is permitted; however, the remaining sections of fence do not conform to Section 3.1.3 "Fences and Walls.") In addition, a proposed residential storage shed (15.6' x 15.6' x 14.3' high) totalling 243 sq. ft. exceeds the 100 sq. ft. maximum allowed. Relief is needed from Section 6.3.1B.4 "Permitted Accessory Uses."

Linda Parisi and Wayne Parisi were sworn.

Kevin Page, engineer and professional planner, was sworn and accepted as an expert witness.

Mr. Page stated that the applicants are requesting two variances. The property is located on Bristol Court and was subdivided two years ago following approval by the Planning Board. Mr. Parisi built two homes and lives in one of them. The property backs up to the railroad and a 6' fence is permitted on that property line. The access drive fronts on Bristol Court but the back of the property abuts the cul-de-sac for Richland Drive. Originally the applicants were going to ask for a 6' fence rather than 5' on all four property sides but following discussion are requesting the 6' height only in the back where the headlights and traffic on Richland face their backyard.

Mrs. Parisi presented Exhibits A-1 through A-5 – views of the backyard from different angles.

Mr. Page presented Exhibit A-6 – grading plan showing the house and dimensions that was submitted as part of the building permit process. New trees have been planted that are 16' high and the proposed fence will be on the outside of the trees.

In response to questions from the Board members, Mr. Page stated that the applicants are requesting the 6' fence for privacy. There will be a combination of trees and the fence that will benefit the applicants and the residents on Richland Drive.

Mrs. Parisi stated that they need privacy in their backyard since their daughter's bedroom is in the back corner directly facing the cul-de-sac. She said that people from Richland Drive cut through their yard to walk their dogs on Bristol Court.

Mr. Page stated that the proposed fence would be about 1' in from the property line and will be a solid white vinyl fence. The applicant believes a 6' fence in this location is warranted because of the privacy issue. The fence cannot be moved 5' in from the property line because they do not want to interfere with the growth of the line of trees that has been planted there. The applicants are not opposed to moving it in slightly – maybe 2 – 2 ½', and the fence will be solid with no gates.

Discussion took place regarding the height of the fence and the effect of a 6' fence on the neighbors. It was noted that this would be a front yard setback, this would set a precedent and that everyone in town has an issue of privacy in their backyards. It was suggested that the trees be moved.

Wayne Parisi stated that the root balls of the trees are huge and they will die if they are disturbed. The trees were planted on the recommendation of the zoning officer in accordance with the tree replacement plan approved by the Planning Board.

Open to Public

The hearing was opened to the public for questions or comments regarding the fence portion of the application.

Bill Drayton, 69 Richland Drive, stated that the applicant has done a great job in putting shrubs along the property line. He does not mind the fence and does not care about the height, but would prefer if it were a cedar fence rather than white vinyl.

Tom Prendergast, 63 Richland Drive, stated that he and his wife are okay with the 6' height of the fence but would prefer a rustic type of fence as well. The fence will be facing their house and they believe a white fence will be an eyesore. With respect to traffic on the cul-de-sac, Mr. Prendergast said there is only about one car that comes down every night. The only problem they have had with lights is the lights from the applicants' house and they are putting in new drapes to shield those lights.

Donna Phlug, 64 Richland Drive, asked about the location of the fence and Mr. Page indicated the location on the plan.

Mrs. Parisi stated that they would be willing to change to a board on board cedar fence and they will change the lights so they do not shine on the neighbor's house.

Further discussion took place with regard to the fence and it was suggested that the applicants consider a 5' fence with 1' of lattice on top rather than a 6' solid wood fence.

The applicants stated that they would be willing to change the fence material and make the fence 5' with 1' of lattice on top.

A motion was made by Mr. Smith, seconded by Mr. Delia, to approve Application#4-13: Wayne & Linda Parisi, 63 Bristol Court, Block 1503, Lot 39 (R-15 Zone), with respect to the fence, subject to conditions discussed and the standard conditions that shall be set forth in a Resolution of Memorialization to

be adopted by the Board at a future meeting. The voice vote was unanimous with Mr. Bussiculo, Mr. Miller, Mr. Smith, Mr. Minkoff, Mr. Siburn, Mr. Sullivan, Mr. Delia and Mrs. Granholm voting in favor. There were none opposed.

With respect to the shed being requested by the applicant, Mrs. Parisi presented Exhibit A-7 – photograph of the backyard and shed in her prior home in Madison. Mrs. Parisi stated that this is similar to what is proposed for the present house and will be similar in style to the house. Mrs. Parisi said that she has four children, lawn materials, bikes, patio furniture and sports equipment and she wants to be able to park their cars in the garage.

Mr. Page stated that the shed will be built by Mr. Parisi using the same materials as used in the house. The property is an oversized lot and the shed will be located in the back right corner with a 15' setback from the property line. The applicants would be permitted to have a three-car garage or a 400 square foot greenhouse but are required to get a variance for a shed over 100 square feet. The applicants believe they need a larger shed and that it is warranted because of the size of the property. There will be no running water and no other uses for the shed.

Discussion took place among the Board members and it was noted that the Board has never approved a shed of this size before and this is 2 ½ times what is permitted by the ordinance. A question was raised as to whether this would be an accessory structure. Mr. Page read the section of the ordinance relating to permitted uses for accessory buildings which is limited to garages, greenhouses, tennis courts and pools. It was noted that the Board cannot make an exception that would allow a shed more than twice the size that has been enforced for the rest of the town, that in the past the Board has not permitted anything of this size and has required other applicants to take down sheds that violate the ordinance.

Mrs. Parisi presented Exhibit A-8 – photograph showing the proposed location of the shed in the corner of the property. The applicants revised their request to a shed that would be 12' x 12' x 12'.

Further discussion took place and agreement was reached to allow the 12' x 12' x 12' shed with the conditions that there will be no running water, no sewer connection, no permanent heat, no storage of automobiles and that the shed will match the house, have a minimum of two windows and be placed 20' off the property line.

A motion was made by Mr. Minkoff, seconded by Mr. Siburn, to approve Application#4-13: Wayne & Linda Parisi, 63 Bristol Court, Block 1503, Lot 39 (R-15 Zone), with respect to the shed, subject to conditions discussed and the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board at a future meeting. The voice vote was unanimous with Mr. Bussiculo, Mr. Miller, Mr. Smith, Mr. Minkoff, Mr. Siburn, Mr. Sullivan, Mr. Delia and Mrs. Granholm voting in favor. There were none opposed.

App. #6-13: Patrick & Rosemarie Henry, 107 Hillside Ave., Block 2506, Lot 16 (R-15 Zone)

Proposed one-story principal addition plus in-ground pool with large paver patio surround to include an outdoor kitchen result in accessory and total lot coverage limits being exceeded. The driveway, which is not being changed, is an existing nonconforming condition due to its 24' width (maximum allowed 18').

Patrick Henry, applicant, and Joe Franchino, contractor, were sworn.

Mr. Henry stated that he is requesting a variance for coverage. All the setbacks are in compliance.

Mr. Franchino stated that they will set up a perimeter to try to protect the tree roots and he believes there is only one tree on the property that is of concern. The entire yard will be fenced in accordance with pool regulations.

Mr. Henry presented Exhibits A-1 through A-9 – photographs showing the view from the neighboring properties into his backyard, the view from his home to the existing yard and a simulation of what the yard will look like.

Mr. Henry presented Exhibit A-10 – plans for the proposed addition including a 3-4 season room, eating area, bathroom and fireplace. The plans were prepared by Alexander Bol, architect. The drainage plan will be reviewed by the Township Engineer.

Open to Public

The hearing was opened to the public for questions or comments regarding the application.

Michael Buthe, 22 Barnstable Road, stated that he is the neighbor behind the applicant's property and he believes that the project at the applicant's home will reduce the value of his home. Mr. Buthe said that his patio is almost in the applicant's backyard and the pool will be on top of his yard. He has asked the applicant to put up a solid fence so the pool will not be visible from his yard. There is a very large tree on his property and Mr. Buthe believes there is a 50% chance that tree will perish. He does not want to be stuck with the cost of taking that tree down.

Mr. Henry stated that it was his plan to match the black metal fence but if his neighbor would prefer a solid fence he would be happy to do that. Mr. Franchino stated that the drip line of the tree is outside where the pool will be and they will take precautions not to damage the tree.

Discussion took place regarding the non-conforming driveway that is 24' wide where 18' is permitted. This is an existing condition that will not be exacerbated and a variance will be granted.

A motion was made by Mr. Delia, seconded by Mr. Sullivan, to approve Application #6-13: Patrick & Rosemarie Henry, 107 Hillside Ave., Block 2506, Lot 16 (R-15 Zone), subject to the conditions discussed and including a variance for the pre-existing non-conforming driveway and the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board at a future meeting. The voice vote was unanimous with Mr. Bussiculo, Mr. Miller, Mr. Smith, Mr. Minkoff, Mr. Siburn, Mr. Sullivan, Mr. Delia and Mrs. Granholm voting in favor. There were none opposed.

App. #7-13: Paul & Julianne Giammattei, 46 Mercier Place, Block 3003, Lot 1 (R-20 Zone)

Proposed sunroom (12' x 16') does not comply with the principal front-yard setback for Mercier Place, as this lot is a corner lot with additional frontage on Old Farm Road. (Required setback: 50'; existing: 30.4'; proposed: 40'.) The existing carport and shed will be removed and a new mudroom and garage will be constructed.

Paul Giammattei was sworn. Tom Hofman, architect, was sworn and accepted as an expert witness.

Mr. Hofman presented Exhibits A-1 through A-7 – photos of the backyard, the existing shed, the interior hallway of the house and the house and addition. He stated that the applicant will be removing the shed, the car port and the one-car garage and replacing it with a two-car garage. The lot is wider than it is deep and it is a corner lot with a 50' front yard, 50' side yard and 40' rear yard.

Open to Public

The hearing was opened to the public for questions or comments regarding the application. There were no members of the public who had questions or comments and the hearing was closed to the public.

A motion was made by Mr. Sullivan, seconded by Mr. Miller, to approve Application #7-13: Paul & Julianne Giammattei, 46 Mercier Place, Block 3003, Lot 1 (R-20 Zone), subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board at a future meeting. The voice vote was unanimous with Mr. Bussiculo, Mr. Miller, Mr. Smith, Mr. Minkoff, Mr. Siburn, Mr. Sullivan, Mr. Delia and Mrs. Granholm voting in favor. There were none opposed.

Adoption of Minutes:

April 11, 2013

A motion was made by Mr. Siburn, seconded by Mr. Miller, and carried by unanimous voice vote to adopt the minutes of the April 11, 2013 Conference Meeting as presented.

Adoption of Resolution:

App. #18-12: Jack Silverman Realty & Mortgage Co., LLC (as successor in interest to original applicant, Berkley Realty Partners 244, LLC), 240-264 Springfield Avenue, Block 801, Lots 23 & 24 (R-15 & HB2 Zones) Seeking variances and site plan approval for a children's daycare facility and multi-tenant building, both facing Springfield Avenue. Approval for a prior plan had been granted in a Resolution dated July 22, 2010.

A motion was made by Mr. Siburn, seconded by Mr. Minkoff, to re-adopt the above Resolution. The voice vote was unanimous with Mr. Bussiculo, Mr. Smith, Mr. Minkoff, Mr. Siburn and Mr. Sullivan voting in favor.

Adjournment:

A motion was made by Mr. Miller, seconded by Mr. Minkoff, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 10:15 PM.

Regina Giardina, Secretary Pro Tem