

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

December 12, 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. Boyer, Mr. Minkoff, Mr. Siburn and Mr. Delia. Mr. Smith, Mr. Sullivan and Mrs. Granholm were absent. Mr. Daniel Bernstein, Board Attorney, was also present.

Adoption of Resolutions:

App. #23-13: Michael & Kristin Cacicedo, 21 Willow Way, Block 1005, Lot 3 (R-15 Zone)

Proposed principal addition results in Building Coverage being exceeded. As a result, relief is needed from Section 6.1.1B "Schedule of General Regulations." Also, existing nonconforming conditions are lot area, lot width and west side yard setback.

A motion was made by Mr. Boyer, seconded by Mr. Siburn, to adopt the above Resolution. The voice vote was unanimous with Mr. Bussiculo, Mr. Boyer, Mr. Siburn and Mr. Delia voting in favor.

App. #24-13 Kim & Michael Vapenik, 96 Baker Avenue, Block 903, Lot 11 (R-15 Zone)

Proposed principal addition over existing garage does not comply with front yard setback requirements. The plan calls for sidewalks to be added and the existing

driveway widened by 2'. As a result, "other coverage" would increase from 14.27% to 15.98% (vs. 10% allowed in the R-15 Zone) and "total lot coverage" from 34.10% to 35.80% (vs. 25% allowed). Relief is needed from Section 6.1.1B, "Schedule of General Regulations" and Section 8.1.1B.1 and 8.1.1B.2 "Nonconforming Buildings and Uses." Other existing nonconforming conditions are lot area, lot width, lot depth, shed location, shed size, driveway location, and fence location. "Building," "other," and "total lot" coverages are exceeded with existing conditions.

A motion was made by Mr. Delia, seconded by Mr. Siburn, to adopt the above Resolution. The voice vote was unanimous with Mr. Bussiculo, Mr. Boyer, Mr. Siburn and Mr. Delia voting in favor.

App. #25-13 David Warde, 12 Elm Place, Block 2901, Lot 1,76 (R-20 Zone)

Proposed residential storage shed 10' x 12' x 10' high would add 120 sq. ft. of "other" coverage to the existing nonconforming "other" coverage. (Allowed "other" coverage: 10%, existing: 10.13%; proposed: 10.78%) The requested location of the shed (7.5' from the property line) does not conform to the required rear yard accessory setback of 15.' Relief is needed from Section 6.1.1B "Schedule of General Regulations" and Section 6.3.1B.4. "Permitted Accessory Uses" because the shed size of 120 sq. ft. exceeds the 100 sq. ft. allowed. Existing nonconforming issues pertaining to this property are lot area, principal front yard setback and existing "other" coverage.

A motion was made by Mr. Siburn, seconded by Mr. Boyer, to adopt the above Resolution. The voice vote was unanimous with Mr. Bussiculo, Mr. Boyer, Mr. Siburn and Mr. Delia voting in favor.

App. #14-13: The Lusardi Group, 50 Industrial Road, Block 1301, Lot 14.01 (LI Zone)

Applicant is seeking conditional use approval to park its tractor trailer moving trucks overnight at the rear of the property. Since all conditions of the conditional use will not be met, Zoning Board approval is required. (Tractor trailers are not allowed under Section 7.1.5.K.7. of the ordinance.) The applicant is also proposing to create a parking area in the front yard for staff and customers which is not permitted in the LI Zone. The new parking area would result in "other coverage" and "combined coverage" limits being exceeded. Finally, the application includes a free-standing sign in the front yard (not permitted as per Section 5.4.3.).

A motion was made by Mr. Delia, seconded by Mr. Siburn, to adopt the above Resolution. The voice vote was unanimous with Mr. Bussiculo, Mr. Boyer, Mr. Siburn and Mr. Delia voting in favor.

Appointment of Attorney

Resolution Appointing Attorney Daniel S. Bernstein, Esq. to represent the Board of Adjustment in an appeal brought by Stop & Shop Supermarket Company, LLC in the Superior Court of New Jersey, Appellate Division, seeking to reverse the Trial Court decision.

Mr. Bernstein updated the Board on the status of this litigation.

A motion was made by Mr. Boyer, seconded by Mr. Miller, to adopt the above Resolution. The voice vote was unanimous with Mr. Bussiculo, Mr. Miller, Mr. Boyer, Mr. Minkoff, Mr. Siburn and Mr. Delia voting in favor.

Approval of Minutes

November 14, 2013 Conference and Regular Meeting

A motion was made by Mr. Siburn, seconded by Mr. Boyer, and carried by unanimous voice vote to adopt the minutes of the November 4, 2013 Conference and Regular Meeting as presented.

Adjournment:

A motion was made by Mr. Miller, seconded by Mr. Boyer, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 7:40 PM.

Regina Giardina, Secretary Pro Tem