

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Re-Organization, Conference and Regular Meeting

January 8, 2015

The Re-Organization, Conference and 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.

Oath of Public Officers – Newly Appointed Members

William Smith – 4-year term to end 12/31/18

Raymond Sullivan – 4-year term to end 12/31/18

John Sylvester – 2nd Alternate – replacement of unexpired term to end 12/31/16

Mr. Bernstein administered the oath of office to Mr. Smith, Mr. Sullivan and Mr. Sylvester.

Roll Call:

Members present were Mr. Miller, Mr. Smith, Mr. Siburn, Mr. Sullivan, Mr. Nappi and Mr. Sylvester. Mr. Boyer, Mr. Henry and Mr. Delia were absent. Mr. Daniel Bernstein, Board Attorney, was also present.

Reorganization:

Regina Giardina was elected Temporary Chairperson on the motion of Mr. Siburn, seconded by Mr. Smith and carried by voice vote 6-0. Mrs. Giardina opened the nominations for Board Chairman.

Mr. Miller was nominated to serve as Board Chairman on the motion of Mr. Sullivan, seconded by Mr. Sylvester. Mr. Sullivan was nominated to serve as Board Chairman on the motion of Mr. Siburn, seconded by Mr. Smith. There were no further nominations and Mr. Sullivan was elected Board Chairman by roll call vote 4-2.

Mr. Miller was nominated to serve as Board Vice Chairman on the motion of Mr. Smith, seconded by Mr. Nappi. There were no other nominations and Mr. Miller was elected Board Vice Chairman by unanimous voice vote 6-0.

Designation of and Adoption of Resolutions:

The 2015 Meeting Schedule was approved, and the Resolution memorializing the same was adopted, on the motion of Mr. Miller, seconded by Mr. Smith and carried by unanimous roll call vote 6-0.

The Courier and The Star Ledger were designated as Official Newspapers, and the Resolution memorializing the same was adopted, on the motion of Mr. Miller, seconded by Mr. Smith and carried by unanimous roll call vote 6-0.

Regina Giardina was designated to provide Secretarial Services, and the Resolution memorializing the same was adopted, on the motion of Mr. Miller, seconded by Mr. Smith and carried by unanimous roll call vote 6-0.

Connie Valenti was designated as Board Secretary, and the Resolution memorializing the same was adopted, on the motion of Mr. Miller, seconded by Mr. Smith and carried by unanimous roll call vote 6-0.

Connie Valenti was designated as Escrow Official, and the Resolution memorializing the same was adopted, on the motion of Mr. Miller, seconded by Mr. Smith and carried by unanimous roll call vote 6-0.

The firm of Schulman, Wiegmann & Associates was designated as Court Reporter, and the Resolution memorializing the same was adopted, on the motion of Mr. Miller, seconded by Mr. Smith and carried by unanimous roll call vote 6-0.

Executive Session

The Board entered into Executive Session at 7:40 p.m. on the motion of Mr. Miller, seconded by Mr. Siburn and carried 6-0 for the purpose of discussion of the appointment of a Board Attorney the result of which will be disclosed at the end of the Executive Session.

The Board returned to Public Session at 7:45 p.m. on the motion of Mr. Miller, seconded by Mr. Siburn and carried 6-0.

Daniel Bernstein of Hoffman & Bernstein was appointed as Board Attorney, and the Resolution memorializing the same was adopted, on the motion of Mr. Miller, seconded by Mr. Siburn and carried by unanimous roll call vote 6-0.

Informal Review of Submitted Applications:

App. #32-14: Ronnie & Emilie Nieves, 25 Liberty Avenue, Block 2004, Lot 2 (R-15 Zone)

Proposed additions to house on a corner lot including a new two story addition to the rear of the existing house, a new second story addition over the existing first story, a two story addition which would connect the existing detached garage to the principal house, and a second story addition over the existing garage. The proposal would also change the frontage of the house from Wardle Avenue (existing) to Liberty Street (proposed). The proposal includes a wrap-around porch/deck, covered, on the two street-front sides of the house and a 10' x 21' deck attached to the rear. Relief is needed from Section 6.1.1B. "Schedule of General Regulations" for 1) exceeding the permitted building coverage of 15%, 2) exceeding the 10% permitted "other" coverage, 3) exceeding the 25% permitted total lot coverage, 4) encroaching into the 50' required principal front yard setbacks for both Wardle Avenue and Liberty Street, 5) encroaching into the required rear yard setback, 6) encroaching into the required side yard setback (measured to the existing garage). Relief is also needed from Section 3.1.8 "Decks" for insufficient rear yard setback and Section 8.1.1B for expanding a nonconforming building. Existing nonconforming issues are lot area, lot width, lot depth, existing coverage ratios, existing principal and accessory setbacks.

Ronnie and Emilie Nieves were present as well as Albert Anikwe, architect.

Mr. Nieves stated that the subject property is intended to be their primary residence and it will be a single family home on which they intend to do improvements. Variances are needed for side yard and front yard setbacks and coverage. They are adding to the back of the house, connecting the existing garage with the house and adding a second floor over the hallway leading to the garage. Presently the garage is detached. The house is located on a corner lot and they want to have the front door face Liberty Avenue instead of Wardle Avenue.

In response to questions from the Board, Mr. Anikwe stated that the location of the garage is a pre-existing non-conforming condition. There is a 3' side yard setback where 12' is required. The height of the addition to the garage will be 27'. In the front of the house the applicant is proposing a wrap-around covered porch which will create a 19' front yard setback.

It was suggested that the applicant bring photographs to the hearing of the existing house and the neighboring properties.

The application was deemed complete and scheduled for hearing on January 22, 2015 with notice to be sent by certified mail.

App.#1-15: Elyse A. Tortoriello, 120 Baker Avenue, Block 903, Lot 14 (R-15 Zone)

The proposal is to remove a detached one car garage with an attached carport and replace it with a new two car, detached garage (22' x 24' x 16' high). The existing garage and carport do not comply with accessory setback requirements; the proposed garage would be placed in the same location. Relief is needed from Section 6.1.1B "Schedule of General Regulations" for insufficient side and rear yard setbacks. (Because of the proposed 16' garage height, the 10' required setbacks for the side and rear yards would be increased to 11'.) Existing non-conforming issues are lot area, lot width, lot depth, principal front and rear yard setbacks, existing building, other, and total lot coverage, existing shed sizes, existing shed setbacks and driveway off-set from property line. The existing carport, which would be removed, is a non-permitted accessory structure.

Elyse Tortoriello and Anthony Priore stated that they propose to remove the existing one car garage and carport and replace them with a two car detached garage. Variances are needed for side and rear yard setbacks. The proposed new garage will be 16' high and will be constructed on the existing poured concrete of the existing garage and carport.

Discussion took place regarding the notices to be sent and it was noted that the notice should include the 120 square ft. shed and the driveway.

The application was deemed complete and scheduled for hearing on January 22, 2015 with notice to be sent by certified mail.

Applications for Review:

--CARRIED FROM NOVEMBER 13, 2014, WITHOUT FURTHER NOTICE:

App.#26-14: Ramesh & Sheela Raman, Kuntz Avenue, Block 301, Lot 18 (R-15 Zone)

Proposed construction of a single-family dwelling located on a vacant corner lot fronting Kuntz Avenue and Camptown Drive. Relief is needed from Section 6.1.1B "Schedule of General Regulations" due to an insufficient rear yard setback and "other" coverage which exceeds the maximum allowed. Variances are also

needed for a) the proposed driveway which would be 3.5 ft. off of the side property line (required: 5 ft. according to Section 11.1.7A); b) a proposed boardwalk along the driveway, which would be an accessory structure that is prohibited in the front yard by Section 3.1.1B.4. The plan indicates that the boardwalk would be constructed immediately adjacent to or on the shared side property line with Bl. 301, L. 19; c) the “Building Overhang” depicted on the plans as a carport which is a prohibited use as per Section 6.3.1E.1; d) not adhering to Section 6.3.10A. Residential Garage Construction because an enclosed garage is not proposed; e) constructing the driveway with stone material while a paved driveway is required by ordinance; f) non-conforming lot width.

Carol C. Hewit, architect, was sworn, gave her educational and professional background and was accepted as an expert witness. Ms. Hewit presented Exhibit A-1 - a set of architectural drawings which include zoning data, cross sections, floor plans, elevations and plot plan. Exhibit A-2 – sheet showing the location of manhole they will be connecting to, and Exhibit A-3 – pictures of houses that she has done down the shore following Hurricane Sandy.

Mr. Bernstein noted that the plans have been submitted tonight and the Board, the Board's professionals and the public are entitled to review the plans 10 days in advance of the hearing.

Ms. Hewit stated that she has walked the site and visited the surrounding area. The applicant's property is vacant and it has gone through all the required DEP approvals. The proposal is within the confines of what is permitted by the DEP. The property is L-shaped with 70.98' of frontage. Ms. Hewit indicated on the plan the location of Kuntz Avenue and Camptown Road and the access to the property from Kuntz Avenue. She indicated the location of the wetlands and the 45' x 35' area where building is permitted. Ms. Hewit stated that the previously proposed boardwalk has been eliminated and the gravel driveway will be 13' wide.

Mr. Bernstein noted that since the plans have not been reviewed by Harbor Consultants prior to the meeting, Mr. Mistretta will be unable to make any recommendation and the Board cannot act on this application tonight.

Ms. Hewit presented the photos of houses built on pilings and discussed the regulations that have been put in effect since Hurricane Sandy with respect to this type of construction. She indicated on the photos the types of waterproof skirtwalk that can be used to make the house on pilings look like a regular house. Ms. Hewit reviewed the elevations and the floor plans for the proposed center

hall colonial style house and stated that the total footprint of the house will be 45' x 35'. She noted that the attic will contain HVAC and storage and she indicated the location of the flood vents and explained how they work.

Ms. Hewit reviewed the zoning chart showing the few remaining variances required. Discussion took place regarding the 30' maximum height permitted by the township ordinance and the question of whether there is any superseding state regulation as to height for this type of house. Mr. Mistretta will research the question to determine if a D variance is still required.

Ms. Hewit reviewed the report from Harbor Consultants that was based on the previous plans. She stated that the new plans are in compliance with the report except for the height.

Mr. Bernstein noted that Harbor Consultants will submit a new report based on the new plans and suggested that Ms. Hewit meet with Mr. Vinegra and Mr. Mistretta to go through their concerns with regard to the new plans. Mr. Bernstein also noted that the Board has a number of major applications on its schedule for the next few months and will not be able to continue the hearing before the second meeting in February or first meeting in March.

Open to Public

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

Victor Guidetti, 55 Kuntz Avenue, who was previously sworn, stated that he thinks this application needs a meeting of its own. Mr. Guidetti noted that even though the plans have been changed it looks like a house on the beachfront and it doesn't look like it will belong in the neighborhood. He is concerned about what has been done as to soil testing and he stated that at the last meeting it was suggested to the neighbors that they could meet with Mr. Mistretta. Mr. Guidetti asked for and received a copy of the Harbor Consultants' report. He said he still has all the same concerns about drainage and where the water will be going.

Mr. Bernstein noted that Harbor Consultants could discuss drainage with a professional engineer hired by the neighbors to review drainage, but he would be concerned about their speaking with individuals because that is not their job. He also would suggest they not meet individually with the applicant without his engineering professional.

Patrick Thornton, 50 Camptown Road, was sworn and stated that he has attended the meetings and believes this is a first for this town. This is not Seaside Heights or Toms River and there are no other houses in Berkeley Heights built on pilings. He thinks this is like trying to put a square peg into a round hole. He is concerned about the height, what the neighbors will be looking at and about water.

Loretta Thornton, 50 Camptown Road, previously sworn, stated that this property is a glorified swamp. There is nothing in that area that is similar to anything around it. When it rains the water stays on the property for days and a house built on pilings and everything around it will always be sinking. Nothing can be planted on the property because it is a swamp so the house cannot be screened from the other homes. Other neighbors on the street with new construction were only allowed to go to 30' height. Mrs. Thornton suggested a one story structure such as a ranch would be more appropriate on this property.

The hearing of this application was carried to February 26, 2015 with no further notice required. It was noted that the hearing may need to be further carried to March 12, 2015 and the applicant granted an extension through that date.

Adoption of Resolutions:

**App.#25-14: 369 Springfield Avenue Associates, LLC, 369 Springfield Ave.,
Bl.208, L. 21**

The applicant was granted approval earlier this year for changes to the exterior elevations of an existing commercial building and for roof signs. The resolution of approval required that all lettering on the signs be black. The applicant is now requesting that this condition be modified to allow colors for the lettering on the halo-lit sign for eMedical Offices, an urgent care facility. (DD Zone)

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

Adoption of Minutes

December 11, 2014

A motion was made by Mr. Siburn, seconded by Mr. Smith, and carried by unanimous voice vote to adopt the minutes of the December 11, 2014 Regular Meeting as presented.

Adjournment:

A motion was made by Mr. Miller, seconded by Mr. Smith, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 10:20 PM.

Regina Giardina, Secretary Pro Tem