

## MINUTES

### BOARD OF ADJUSTMENT

#### TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

March 26, 2015

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

#### **Applications for Review:**

Mr. Sullivan announced that Application #4-14 Berkeley Heights Realty, Inc., (Enrite gas station) has been adjourned to April 9, 2015 with no further notice required.

#### **App.#6-15: Brian Vincent, 253 Emerson Lane, Block 2801, Lot 68 (R-20 Zone)**

Applicant is proposing to widen the existing driveway and install a residential storage shed on the lot. Relief is needed from Section 6.1.1B "Schedule of General Regulations" because the maximum "Other" Coverage and Total Lot Coverage ratios are exceeded and the location of the shed would not comply with the accessory building rear yard and side yard setback requirements. There are also many nonconforming issues which were addressed in a previous resolution of approval granted by the Board of Adjustment in 2005 when the house was built.

Dana Vincent and Brian Vincent, applicants, were sworn. Mr. Vincent stated that they are planning to widen their driveway and install a storage shed in the backyard. The proposed shed is required to be 12' from the property line but that

would put it in the middle of the backyard since the lot is only 50' wide. They are proposing to locate it 3' from the property line. The driveway needs to be expanded for safety and to allow drivers to see traffic on Emerson Lane when pulling in and out and to allow additional parking since there are no curbs on Emerson. In the front of the house there is a rock retaining wall that is about 4 ½' high. That will be replaced and it will be lowered. The existing landscaping will be continued.

In response to questions from the Board, the applicants stated that the landscaping will be enhanced in the front of the house. The proposed shed is 96 square feet and is proposed to be 3' from the rear property line and from the side property line.

Mr. Vincent presented Exhibit A-1 – photograph showing the proposed location of the shed.

Discussion took place regarding the proposed location of the shed, the distance from the home of the adjoining neighbor and the possibility of locating the shed on the other side of the property. Mr. Vincent stated that the location was chosen because they want to put a swing set in the backyard. They feel the shed is necessary since they only have a one-car garage that gives them limited storage space.

### **Open to Public**

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

Rev. Francis Hubbard, North Road, was sworn and stated that his home is on Lot 70, which is directly behind where the shed is proposed to be located. He has no problem with the widening of the driveway but as to the shed they are directly behind it and when there are no leaves on the trees they have a totally unobstructed view. They are concerned about the proposed location of the shed since their front door faces the back of the applicants' house. Rev. Hubbard asked that consideration be given to either a fence or vegetation buffer. He would have no objection to the location if some kind of buffer is provided.

Mr. Vincent stated that they would have no problem with a buffer but would prefer vegetation to a fence. It was suggested that evergreens about 4-5' in height be used.

A motion was made by Mr. Smith, seconded by Mr. Nappi, with respect to App. #6-15: Brian Vincent, 253 Emerson Lane, Block 2801, Lot 68 (R-20 Zone) to approve the application with variances, subject to the conditions as discussed and further subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board. The voice vote was 6-1 with Mr. Sullivan, Mr. Smith, Mr. Siburn, Mr. Nappi, Mr. Delia and Mr. Sylvester voting in favor and Mr. Miller opposed.

**App.#5-15: Rominnella Associates LLC, 27 Washington Ave, Bl.1802, L.2 (R-15 Zone)**

Applicant is proposing to demolish the existing single family dwelling and construct a new single family house on the lot. Relief is needed from Section 6.1.1B "Schedule of General Regulations" because the front yard setback will be less than the 50 ft. required, and the rear yard setback will be less than the 40 ft. required. Lot depth is a nonconforming issue.

August Santore, attorney for the applicant, stated that the applicant is seeking approval for construction of a single family dwelling. The applicant's property is the largest lot in the four block radius at 17,500 square feet. Every lot in the area is deficient with the exception of one. Every other lot is deficient with respect to depth and has front and rear yard setback problems. The applicant is proposing 31' front yard setback and 30' rear yard setback.

Mr. Santore presented Exhibit A-1 – packet of information that includes a tax map and summaries of the homes in the area that meet or exceed the setback requirements.

Domenick Romeo, principal of the applicant, was sworn and stated that he prepared the analyses included in Exhibit A-1. The existing home on the lot is only 4.1' from the front and they are moving the proposed home back to 31'. Mr. Romeo noted the location of other homes in the area that do not meet the setback requirement and stated that the proposed house would have the same setback as neighboring houses.

Mr. Romeo presented Exhibits A-2 through A-13 – photographs of neighboring houses. He noted that each of the houses is deficient in front yard setback. The photographs show the nature and character of the newer homes that have been built. The applicant intends to build a similar type home. Mr. Romeo presented Exhibit A-14 – google map providing an overview of Washington Avenue on which he put a line showing the front yard setbacks of the existing houses. The proposed house would be further back than that line.

Mr. Romeo stated that he has been in construction for 31 years, he has built over 50 houses and he is familiar with the requirements of construction. He took the slopes on the lot into account when he chose the location and developed the water management plan. There is currently no water management on the property but as part of this project water will be handled in accordance with today's standards for onsite water management. There is a berm proposed for the purpose of handling rain water. The applicant is willing to comply with whatever conditions are required by the Township Engineer for drainage.

Mr. Romeo further stated that the proposed house will be a traditional four bedroom center hall colonial with side entry for garage. The house will be 3,400 square feet and have vinyl siding with brick or stone in the front. The upper level of the garage will not have a separate entrance and the only entry will be through the principal dwelling.

In response to questions from the Board, Mr. Romeo stated that the existing home will be removed, the façade of the house will be vinyl with brick or stone and there will be windows and shutters to provide architectural interest. He will comply with the suggestions made by the Environmental Commission except for the back-pitching of the driveway which he does not think is possible on this lot.

### **Open to Public**

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

John Abbey, 19 Washington Avenue, was sworn, and asked how far the proposed driveway will be from his property. He also asked if the proposed fence will replace the existing fence and during what hours the construction will take place.

Mr. Santore showed Mr. Abbey on the plan where the driveway will be located 10' from the property line. The applicant would be willing to remove the existing fence and replace it. Mr. Sullivan advised that the ordinance allows for construction starting at 7:00 a.m. Monday through Saturday.

Joseph Mulally, 34 Washington Avenue, was sworn and stated that most of the other properties conformed to the setback requirements when they were built. The homes recently built are large houses on small properties and that has created water problems for them and their neighbors. He is concerned about the berm since there is a water issue now and this will be another large house. He asked what the square footage of the new house will be.

Mr. Romeo stated that the proposed house will be 3,400 square feet. Mr. Bernstein advised that the Board will require a drainage plan to be submitted to the Township Engineer for approval.

Mr. Mulally also expressed concern about the erosion of the road and his and his neighbors' driveways due to the existing water problem, the road icing problem, the further extension of the house with the bay windows, and the possibility of an old oil tank being left on the property.

Mr. Santore stated that the applicant will address those issues in accordance with all township requirements. Mr. Sullivan suggested that the Township Engineer and Public Works Department be contacted regarding the icing problem.

Josie Mulally, 34 Washington Avenue, was sworn and stated that her house was built by her father and he was in compliance with all the requirements when it was built. She is concerned about the proposed house being too big for the lot.

Mr. Bernstein advised that the applicant meets the lot coverage requirements and only needs variances for the setbacks.

Carol Palmieri, 35 Washington Avenue, was sworn and stated that she is very concerned about water. When the Abbey house was built a new pipe was put in by the utility company and now all the water comes up through the cap and runs across her driveway causing a foot of ice in her driveway.

Mr. Sullivan suggested that Mrs. Palmieri contact the utility company and send an email to the Township Engineer and to the Township Administrator.

John Palmieri, 35 Washington Avenue, was sworn and asked where the dirt will go. He said when the two houses were built on Putnum the dirt was not removed and that caused them to get more water.

Mr. Sullivan advised that a soil permit will be obtained and that will require that the soil be removed.

Mr. Santore advised that the applicant will comply with all the requirements regarding soil removal. He stated that the existing home has no drainage measures and the new home will meet all the current standards for drainage. The applicant will comply with all the drainage measures that are required by the Township Engineer.

Mr. Santore summarized the application and noted that the applicant is taking down a home that is 4' off the road and providing a 31' setback. The applicant has demonstrated the intention to take the neighbors' concerns into account and will adhere to the Engineer's requirements.

In response to a question from the Board, Mr. Santore advised that the proposed house will be 33' in height. It was suggested that the height be changed to 30' to comply with the Township ordinance. The applicant agreed.

A motion was made by Mr. Miller, seconded by Mr. Siburn, with respect to App.#5-15: Rominnella Associates LLC, 27 Washington Ave, Bl.1802, L.2 (R-15 Zone) to approve the application with variances, subject to the conditions as discussed and further subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board. The voice vote was 6-1 with Mr. Sullivan, Mr. Miller, Mr. Smith, Mr. Siburn, Mr. Delia and Mr. Sylvester voting in favor and Mr. Nappi opposed.

**Adoption of Resolutions:**

**Settlement of Litigation - App.#28-14: Edward Koch, 170 Killarney Dr., Bl. 3505, L. 35**

Proposed inground pool with an at grade surrounding paver patio, waterfall feature and a raised patio (15' x 15' x 4' high) at the exit slider doors from the rear of the house. Relief is needed from Section 6.1.1B "Schedule of General Regulations" because 1) the accessory rear yard setback is proposed to be less than the required 15' and 2) the proposed side yard setback is less than the required 12'. Also, the proposed "other" and "total" lot coverages will exceed the maximum permitted coverages of 10% and 25%, respectively. The at grade pool surround will be constructed with a permeable paver system and was therefore not counted in the calculation of "other" coverage. Nonconforming issues are lot depth, lot area, principal front yard setback and existing building coverage.

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

**Adoption of Minutes**

March 12, 2015 Regular Meeting

A motion was made by Mr. Siburn, seconded by Mr. Miller, and carried by unanimous voice vote to adopt the minutes of the March 12, 2015 Regular Meeting as presented.

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**Adjournment:**

A motion was made by Mr. Siburn, seconded by Mr. Sylvester, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 9:20 PM.

Regina Giardina, Secretary Pro Tem