

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Conference and Regular Meeting

July 23, 2015

The 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.

Roll Call:

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

Informal Review of Submitted Application:

App.#16-15: Remax Integrity, 501A Springfield Avenue, Bl. 206, L. 1 (DD Zone)

Proposed new ground sign, 2' x 2' x 52" high off the ground. The carved PVC sign will contain the company name and logo. Relief is needed from Section 5.4.2.DD of the ordinance which allows for façade signs only and prohibits ground signs. On July 16, 2013, the business was issued zoning approval to install one façade sign, a window sign and a message sign on each of the two existing ground signs located at the entry drives to the complex. All of these signs have been installed.

James Mulcahy and Barbara Mulcahy, owners of the applicant, were present.

Mr. Mulcahy stated that they want to install a ground sign that would be installed in a flower bed just outside the entrance to the office. The sign will consist of a single aluminum pole 52" in height with a 2' x 2' carved pvc sign.

In response to questions, Mr. Mulcahy stated that the temporary sign that is there now looks shabby and they want to spruce it up. The sign is needed so that people can see the office as they are driving down Springfield Avenue. There is

an existing sign on the facia of the building and the directory sign has their name on it. The colors of the sign are proposed to be black and white with red, white and blue for the Remax letters in accordance with the franchise requirements.

The applicant was asked to provide a color rendering of the proposed sign and to look at the signs along Springfield Avenue to see what colors have been approved in the past. It was noted that the Board prefers colonial style signs. It was also suggested that the applicant contact the Downtown Beautification Committee to obtain their input.

It was noted that a corporate entity is normally required to be represented by an attorney at the public hearing but Mr. Bernstein recommended that the requirement be waived in this instance.

The application was deemed complete and scheduled for hearing on September 24, 2015. The applicant was instructed to send out the required notice.

Applications for Review:

App.#10-15: Elizabeth & Horacio Marcos, 124 Rutgers Avenue, Block 1704, Lot 6

Proposed principal one-story addition to a house on a corner lot. Relief is needed from Section 6.1.1B "Schedule of General Regulations" because the addition will not meet the setback requirements along Central Street, an unimproved paper street. Existing nonconforming issues are: setbacks from Rutgers Avenue and Central Street as well as lot width. (R-15 Zone)

Horatio Marcos and Elizabeth Marcos were sworn. Mr. Marcos presented Exhibit A-1 – photo board including photos of views of the house and the property showing where the addition will be constructed. Mr. Marcos advised that the proposed addition will be a new master bedroom.

In response to questions, Mr. Marcos stated that the addition will match the rest of the house and he will comply with the drainage requirements as required by the Township Engineer.

Open to Public

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

A motion was made by Mr. Siburn, seconded by Mr. Nappi, with respect to App.#10-15: Elizabeth & Horacio Marcos, 124 Rutgers Avenue, Block 1704, Lot 6 to approve the application with variances for setbacks, 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 6-0 with Mr. Sullivan, Mr. Miller, Mr. Boyer, Mr. Siburn, Mr. Nappi and Mr. Delia voting in favor and none opposed.

App.#15-15: Donna Posner-Aflalo, 54 Berkshire Drive, Block 3503, Lot 12 (R-20 Zone)

Portico (4' x 7') over existing front porch encroaches into principal front yard setback. (The required front yard setback is 50'. The house without the portico has a nonconforming setback of 40.3'. The portico setback is 36.3'.) The applicant is also proposing to build a shed that is larger than the 100 sq. feet allowed by ordinance. (Proposed shed size: 150 sq. ft.) Also the addition of the shed increases "other" coverage to 14.20% (existing: 13.34%; allowed: 10%). Relief is needed from Sections 6.1.1B and 6.3.1B.4 of the Land Use Ordinance. Existing nonconforming issues are: lot area, lot width, principal front yard setback, existing "other" coverage, driveway location.

Donna Posner-Aflalo and Yoram Aflalo were sworn. Ms. Posner-Aflalo stated that a variance is needed for a portico in front of the home and for a 15 x 14 shed. Ms. Posner-Aflalo presented Exhibit A-1 – photographs showing the work that has been done on the home since its purchase in September of 2014. They want the portico to provide protection for guests coming to the home and they are asking for a larger shed that will fit their riding lawn mower, snow blower and other equipment.

In response to questions, Ms. Posner-Aflalo stated that the portico is already on the house. While her husband was ill the builder went ahead to construct the portico without the permit and Mr. Bocko told them they had to come before the Board. They did get permits for all the other construction.

Discussion took place with regard to the location of the driveway. It was noted that the driveway is on the property line and this is a pre-existing condition for which the applicant is seeking approval.

Open to Public

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

Christopher Quinn, attorney representing neighbors Mark and Margaret Belluche asked if the shed is intended for residential use only and not for any commercial use. He further asked if the applicant would consider lowering the height of the shed from 14' and if any buffering will be provided.

Mr. Aflalo stated that the shed will not be used in connection with his construction business and he would be willing to reduce the height to 12'. The applicant intends to put up a 5' fence with a landscape buffer including trees.

Discussion took place regarding the proposed size and location of the shed. The required setback is 15' and the proposed location is 10' from the back property line. It was noted that the size of the shed is much larger than anything previously approved by the Board and the applicant was asked to consider reducing the size.

The applicant agreed to reduce the size of the shed to 10' x 12' with 12' height with a 12' setback on the side and 15' setback in the rear. The shed will be for residential use only with no water or electricity and it will be buffered with 4' trees or shrubs.

A motion was made by Mr. Miller, seconded by Mr. Delia, with respect to App.#15-15: Donna Posner-Aflalo, 54 Berkshire Drive, Block 3503, Lot 12 (R-20 Zone) to approve the application with variances for the front yard setback, shed size and driveway on the property line, 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 6-0 with Mr. Sullivan, Mr. Miller, Mr. Boyer, Mr. Siburn, Mr. Nappi and Mr. Delia voting in favor and none opposed.

App.#14-15: Dave & Ruth DeBang, 41 Hamilton Avenue, Block 1108, Lot 4 (R-15 Zone)

Proposed principal second story addition over the first floor of single family home located on the corner of Hamilton Ave. and College Ave., an unimproved or paper street. The project includes interior renovations to the first floor and a roof overhang over the existing front steps. Variances are needed because the existing house has insufficient front yard setbacks, lot depth, and lot area. According to Section 8.1.1B of the land use ordinance, no nonconforming single family dwelling and no single family dwelling on a nonconforming lot may be enlarged, extended or increased. Relief is also needed from Section 6.1.1B "Schedule of General Regulations" to allow the insufficient setbacks. The

existing principal front yard setback along Hamilton Avenue is 14.81' (proposed addition: 14.81'; required: 50') and the existing principal front yard setback along College Avenue is 15.74'; (proposed addition: 29'; required: 50').

Dave DeBang, applicant, was sworn. Daniel Dubinett, architect, was sworn, gave his educational background and experience and was accepted as an expert witness.

Mr. Dubinett stated that the property is located in the R-15 zone on a corner property. One of the streets is a paper street and both streets require a 50' setback. The existing house is non-conforming. The applicant wants to maintain the home as it is and renovate the inside. They propose to create a second floor above the center of the home to provide three bedrooms and two bathrooms.

Mr. Dubinett presented Exhibit A-1 – plan with highlighting showing where the building is permitted. The front setback is 14.81 and that will remain the same. Mr. Dubinett also presented Exhibit A-2 – google earth map of the property, and Exhibit A-3 – photographs of the home and the property.

In response to questions, Mr. Dubinett stated that there is no intent to use the home as a two-family home and the only purpose is to provide bedrooms. There will be a new roof, new siding and new windows. They will keep the existing landscaping and improve it. Mr. DeBang stated that he intends to live in the home with his family.

Discussion took place with regard to the lot size and it was suggested that the applicant contact the tax assessor and arrange to have the two lots merged.

Open to Public

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

A motion was made by Mr. Boyer, seconded by Mr. Siburn, with respect to App.#14-15: Dave & Ruth DeBang, 41 Hamilton Avenue, Block 1108, Lot 4 (R-15 Zone) to approve the application with variances, subject to the conditions 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 6-0 with Mr. Sullivan, Mr. Miller, Mr. Boyer, Mr. Siburn, Mr. Nappi and Mr. Delia voting in favor and none opposed.

Adoption of Resolutions

App. #32-14: Ronnie & Emilie Nieves, 25 Liberty Avenue, Block 2004, Lot 2

At the public hearing of this application on January 22, 2015, the Board voiced concerns about the significant impervious coverage ratios. As a result, many changes were made to the original plans, including elimination of the proposed breezeway, removal of the detached garage with a new garage to be attached to the house, changing the wrap-around porch to a front porch, etc. Revised plans were submitted to the Board Office on April 13 and again on May 18. (R-15 Zone)

A motion was made by Mr. Miller, seconded by Mr. Delia, to adopt the Resolution as to approval of the application. The roll call vote was 4-0 with Mr. Sullivan, Mr. Miller, Mr. Nappi and Mr. Delia voting in favor.

Adoption of Minutes

June 11, 2015

A motion was made by Mr. Siburn, seconded by Mr. Miller, and carried by unanimous voice vote to adopt the minutes of the June 11, 2015 Conference and Regular Meeting as presented.

Adjournment:

A motion was made by Mr. Boyer, seconded by Mr. Delia, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 8:35 PM.

Regina Giardina, Secretary Pro Tem