

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

September 24, 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. Siburn, Mr. Delia, Mr. Sylvester and Mr. Mustacchi. Mr. Daniel Bernstein, Board Attorney, was also present.

Adoption of Minutes

September 10, 2015

A motion was made by Mr. Siburn, seconded by Mr. Miller, and carried by unanimous voice vote to adopt the minutes of the September 10, 2015 Conference Meeting as presented.

Adoption of Resolutions

App.#4-14: Berkeley Heights Realty, Inc., (Enrite gas station), 525

Springfield Ave.,

Block 611, Lot 7 (HB-3 Zone)

Denial of application for preliminary and final site plan approval with variances for a canopy over the gas station pumps.

A motion was made by Mr. Siburn, seconded by Mr. Delia, to adopt the Resolution as to denial of the application. The roll call vote was 3-0 with Mr. Sullivan, Mr. Siburn and Mr. Delia voting in favor.

**App.#4-14: Berkeley Heights Realty, Inc., (Enrite gas station), 525
Springfield Ave.,
Block 611, Lot 7 (HB-3 Zone)**

Approval of application to install an 8 feet tall brick kiosk which would be 4 feet by 6 feet.

A motion was made by Mr. Delia, seconded by Mr. Siburn, to adopt the Resolution as to approval of the application. The roll call vote was 3-0 with Mr. Sullivan, Mr. Siburn and Mr. Delia voting in favor.

Applications for Review:

App.#17-15: Thomas Altomare, 36 Ferndale Drive, Block 801, Lot 4 (R-15 Zone)

Proposed deck 16' x 21.6' with stairs to grade does not conform to principal rear yard setback requirement of 40'. In addition, the proposed deck does not conform to height restrictions. The existing deck will be removed. Relief is needed from Section 6.1.1B "Schedule of General Regulations" for the setbacks and Section 3.1.8 "Decks" for the height. Nonconforming issues include principal rear yard setback for the house, principal rear yard setback for the existing deck and height of the existing deck.

Monica Altomare was sworn and introduced the contractor, Dan Masterson.

Dan Masterson, contractor, was sworn, gave his background and experience and was accepted as an expert witness. Mr. Masterson stated that the applicant's house had a larger deck that is being removed and replaced with a smaller deck in connection with remodeling of the house. A variance is needed for the rear setback that was 11' and now will be 15'. The proposed deck will be about 100 square feet smaller.

Mr. Masterson presented Exhibits A-1- A-6 – photographs showing the back of the house, the corner of the property, the metal fence on the property and the woods behind the house.

In response to questions from the Board, Mr. Masterson stated that the deck will be about 70-80 feet away from Lot 3, the original deck was built without a permit or variance, the shed will remain where it is and the Altomares have owned the house for 13 years. He further stated that the door under the deck is just for egress and there will be no storage under the deck.

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 and the hearing was closed to the public.

A motion was made by Mr. Miller, seconded by Mr. Siburn, with respect to App.# 17-15: Thomas Altomare, 36 Ferndale Drive, Block 801, Lot 4 (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 6-0 with Mr. Sullivan, Mr. Miller, Mr. Siburn, Mr. Delia, Mr. Sylvester and Mr. Mustacchi voting in favor and none opposed.

App.#19-15: Maurizio Voi & Dee Shen, 35 Rogers Ave., Block 2704, Lot 4.02 (R-20 Zone)

Proposed in-ground pool, pool surround, waterfall and pool equipment to be located in the rear yard. Relief is needed from Section 6.1.1B "Schedule of General Regulations" because "other" coverage, which is currently nonconforming at 11.02% (compared with 10% permitted), would increase to 16.59%. The permitted "total" lot coverage of 25% would also be exceeded (Existing: 25.28% and currently nonconforming; Proposed: 30.78%).

Dee Shen was sworn and introduced Chris Chrysanthou, general manager of Pool Town, who gave his background and was accepted as an expert witness.

Mr. Chrysanthou stated that the applicant is proposing to put a 17' x 33' pool in the backyard with 3' decking and some additional concrete in the yard. The lot coverage allowed is 25% and the proposed is 30.78% so a variance is being requested.

Mr. Chrysanthou presented Exhibits A-1 – A-4 – photographs of both sides of the house showing where the pool will be located, the deck and the backyard.

Mr. Sullivan noted that the Board is concerned about impervious coverage. He advised that the neighbors on either side also have pools and when they appeared before the board they reduced their coverage to 28.3% and 28.92%. The Board would like to see this proposal reduced to below 30%.

Mr. Chrysanthou stated that the coverage could be reduced to 29.5% and Ms. Shen agreed to that reduction.

It was noted that a drainage plan needs to be submitted to 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 and the hearing was closed to the public.

A motion was made by Mr. Mustacchi, seconded by Mr. Sylvester, with respect to App.#19-15: Maurizio Voi & Dee Shen, 35 Rogers Ave., Block 2704, Lot 4.02 (R-20 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. Siburn, Mr. Delia, Mr. Sylvester and Mr. Mustacchi voting in favor and none opposed.

App.#21-15: Tal & Etya Novik, 17 Briarwood Drive, Block 801, Lot 18 (R-15 Zone)

Proposed addition to a single-family dwelling in order to expand the existing one-car garage to a two-car garage (13' x 23'). Also, a new roof will be constructed to cover the existing front porch (8' x 12'). Relief is needed from Section 6.1.1B "Schedule of General Regulations" because a principal front-yard setback of 50' is required, while the existing setback is 44.90,' and the proposed setback to the covered front porch roof would be 44.' The required principal side-yard setback is a minimum of 12', while the existing is 13.36' and the proposed side-yard setback to the new garage is proposed at 6' and the proposed front-yard setback is 46.59.' Nonconforming issues are lot area and principal front-yard setback.

Etya and Tal Novik were sworn and stated that they want to add a garage to the currently existing one-car garage at the end of the property. The addition would create a 6' side yard setback. They are also adding a portico over the front porch.

The applicants presented Exhibits A-1 – A-6 – photographs of the front view showing the present garage with cones indicating the location of the proposed garage, the rear view showing the approximately 6' distance from the proposed garage to the neighbor's fence, and the house across the street with a similar garage addition.

In response to questions from the Board, the applicants stated that they are not knocking down the existing garage, the roof will be pitched similar to the neighbor's garage, there will be no room in the roof for storage, there will be no excavation and no disturbance to the existing tree. The applicants agreed to submit a drainage plan to the Township Engineer and to provide some shrubbery as a buffer in the 6' area.

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 and the hearing was closed to the public.

A motion was made by Mr. Siburn, seconded by Mr. Miller, with respect to App.# 21-15: Tal & Etya Novik, 17 Briarwood Drive, Block 801, Lot 18 (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 5-1 with Mr. Miller, Mr. Siburn, Mr. Delia, Mr. Sylvester and Mr. Mustacchi voting in favor and Mr. Sullivan opposed.

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.

Mr. Delia recused himself and left the meeting (8:35).

James Mulcahy and Barbara Mulcahy, owners, were sworn. Mr. Mulcahy stated that at the last meeting they failed to submit a color rendering and that has now been included. The sign will be black with white lettering, which is the latest logo for Remax. He noted that there is only one sign that is visible because of the shrubbery that obstructs the entrance and there is no visible sign for drivers coming east. Mr. Mulcahy further noted that the package he has provided includes photos of other signs in town including the YMCA, the Berkeley Heights Shopping Center and Berkeley Meadows as well as signs from other national companies that use their logos and colors such as TD Bank, Walgreens and

Wells Fargo. Remax is the only tenant in Heritage Square that does not front the parking lot.

Open to Public

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

Julie Lloyd, Downtown Beautification Committee, was sworn and stated that the Committee would be willing to work with the Heritage Square tenants to come up with some ideas about signage. They are pro-business and want to support Remax, but they want a downtown that is quaint and charming and in compliance with design standards. There are already two signs that identify Remax, and the Committee is concerned that if this sign is permitted the other tenants will also want signs. The Committee has been working with Mr. Mistretta on the new Master Plan and one of their recommendations is that blade signs not be allowed. They are also making recommendations as to sign colors. Ms. Lloyd also noted that most of the signs that the applicant provided are for businesses that are not in the plaza.

Mr. Mulcahy noted that Remax is the only tenant in Heritage Square that does not front the parking lot. All of the other stores are visible with signage above the building. Mrs. Mulcahy stated that they see many out-of-town people and they have trouble finding the office. Mr. Mulcahy stated that there is not enough room for a 4 x 4 sign on columns and this is a non-intrusive, single pole, easy to install sign.

In response to questions from the Board, the applicants stated that they get both out-of-town customers and walk-ins. The proposed sign would help them to be seen.

Board Comments

Mr. Sullivan stated that he likes free standing signs and he likes this sign. He is in favor of blade style signs. He suggested that as a condition of approval the existing signs be removed from the Heritage Square sign.

Mr. Siburn said he likes the sign too and agrees that there are too many signs.

Mr. Miller said he does not like the design of the proposed sign and would like something more consistent with the other signage.

Mr. Mustacchi said he agrees with the need for the sign but there should be some uniformity and some interaction with the Beautification Committee on the sign.

Mr. Mulcahy said they would agree to remove one sign on Springfield Avenue.

A motion was made by Mr. Sullivan with respect to App.#16-15: Remax Integrity, 501A Springfield Avenue, Bl. 206, L. 1 (DD Zone) to approve the proposed sign with the condition that the sign on Springfield Avenue be removed. The motion was not seconded.

A motion was made by Mr. Mustacchi with respect to App.#16-15: Remax Integrity, 501A Springfield Avenue, Bl. 206, L. 1 (DD Zone) to approve the proposed free standing sign with the elimination of two existing signs.

Discussion took place with regard to the motion and the applicant advised that they would like to reconsider the options discussed and carry the hearing to the next meeting of the Board.

The application was carried to October 8, 2015 with no further notice required.

Adjournment:

A motion was made by Mr. Miller, seconded by Mr. Siburn, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 9:13 PM.

Regina Giardina, Secretary Pro Tem