

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Re-Organization and Conference Meeting

January 14, 2016

The Re-Organization and Conference Meeting of the Board of Adjustment was called to order at 7:35 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. Boyer, Mr. Smith, Mr. Siburn, Mr. Nappi, Mr. Delia, Mr. Mustacchi and Mr. Sylvester. Mr. Miller was absent. Mr. Daniel Bernstein, Board Attorney, was also present.

Reorganization:

Mr. Sullivan was nominated to serve as Board Chairman on the motion of Mr. Siburn, seconded by Mr. Sylvester. There were no further nominations and Mr. Sullivan was elected Board Chairman by roll call vote 8-0.

Mr. Miller was nominated to serve as Board Vice Chairman on the motion of Mr. Delia, seconded by Mr. Mustacchi. There were no other nominations and Mr. Miller was elected Board Vice Chairman by unanimous voice vote 8-0.

Designation of and Adoption of Resolutions:

The 2016 Meeting Schedule was approved, and the Resolution memorializing the same was adopted, on the motion of Mr. Siburn, seconded by Mr. Boyer and carried by unanimous roll call vote 8-0.

The Courier and The Star Ledger were designated as Official Newspapers, and the Resolution memorializing the same was adopted, on the motion of Mr. Siburn, seconded by Mr. Boyer and carried by unanimous roll call vote 8-0.

Regina Giardina was designated to provide Secretarial Services, and the Resolution memorializing the same was adopted, on the motion of Mr. Siburn, seconded by Mr. Boyer and carried by unanimous roll call vote 8-0.

Connie Valenti was designated as Board Secretary, and the Resolution memorializing the same was adopted, on the motion of Mr. Siburn, seconded by Mr. Boyer and carried by unanimous roll call vote 8-0.

Connie Valenti was designated as Escrow Official, and the Resolution memorializing the same was adopted, on the motion of Mr. Siburn, seconded by Mr. Boyer and carried by unanimous roll call vote 8-0.

The firm of Schulman, Wiegmann & Associates was designated as Court Reporter, and the Resolution memorializing the same was adopted, on the motion of Mr. Siburn, seconded by Mr. Boyer and carried by unanimous roll call vote 8-0.

Executive Session

The Board entered into Executive Session at 7:40 p.m. on the motion of Mr. Sullivan, seconded by Mr. Smith and carried 8-0 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. Smith, seconded by Mr. Nappi and carried 8-0.

Mr. Siburn left the meeting (7:45).

Designation of and Adoption of Resolution:

Daniel S. Bernstein of Bernstein & Hoffman was appointed as Board Attorney, and the Resolution memorializing the same was adopted, on the motion of Mr. Delia, seconded by Mr. Nappi and carried by unanimous roll call vote 7-0.

Adoption of Resolution:

Resolution appointing Daniel S. Bernstein, Esq. to represent the Board of Adjustment in litigation entitled Licienne Sodano vs. Berkeley Heights Board of Adjustment.

A motion was made by Mr. Boyer, seconded by Mr. Smith, to adopt the above Resolution. The roll call vote was unanimous with Mr. Sullivan, Mr. Boyer, Mr. Smith, Mr. Nappi, Mr. Delia, Mr. Mustacchi and Mr. Sylvester voting in favor.

Discussion

ANCO Environmental Services Application #12-15

August Santore, attorney, stated that he has recently been retained to represent the applicant with respect to this application. Mr. Santore discussed the present status of the application and whether or not the application should be bifurcated for the hearings of the use variance and site plan. He further stated that the applicant will work on the application and at the same time try to mitigate some of the problems that exist on the site.

The application was scheduled for public hearing on March 24, 2016 with appropriate notices to be provided.

Adoption of Resolutions:

App.#11-14: 174 Snyder Ave.BH, LLC, 174 Snyder Ave., Block 801, Lot 50 (R-15 Zone)

Application for a certificate of pre-existing nonconforming use for a four-family residence was denied by the Board in February 2015, and the application for a use variance for a four-family residence was denied at the April 9, 2015, Board of Adjustment meeting. A d-variance for three apartments (two one-bedroom apartments and one two-bedroom apartment) within the existing structure was approved on April 9, 2015, and memorialized by resolution on June 11, 2015. The resolution required that the Applicant submit a plot plan and revised architectural plans and appear at a public hearing on public notice for Board consideration of the plans.

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A motion was made by Mr. Delia, seconded by Mr. Nappi, to adopt the Resolution approving the Plot Plan. The roll call vote was unanimous with Mr. Sullivan, Mr. Smith, Mr. Nappi, Mr. Delia, Mr. Mustacchi and Mr. Sylvester voting in favor.

App.#18-15: Ondina Purcell, 685 Mountain Avenue, Block 2006, Lot 30, (R-15 Zone)

Proposed principal addition consisting of an attached one-car garage (12 ft. x 27ft.) and new living space (9 ft. x 12 ft.). Also proposing to enclose the existing covered porch. Relief is needed from Section 6.1.1B "Schedule of General Regulations" because the proposed addition will result in insufficient side yard and combined side yard setbacks.

A motion was made by Mr. Smith, seconded by Mr. Nappi, to adopt the above Resolution. The roll call vote was 4-1 with Mr. Sullivan, Mr. Smith, Mr. Nappi and Mr. Delia voting in favor and Mr. Mustacchi opposed.

App.#25-15: Alan & Linda Quayle, 60 Evergreen Drive, Block 2202, Lot 2 (R-15 Zone)

Applicant is proposing to construct a second story addition over the existing first floor of this single family dwelling. Also proposing a new portico to cover the front porch. The existing house is nonconforming as to principal front yard setback and lot area. Relief is needed from Section 6.1.1B "Schedule of General Regulations" which requires a principal front yard setback of 50' where 41.12' is existing and 37.12' is proposed to the new portico over the front porch and 41.12' is proposed to the new second story addition. Relief is also needed from Section 8.1.1B "Nonconforming Buildings" which prohibits a nonconforming structure from being enlarged, extended or increased.

A motion was made by Mr. Nappi, seconded by Mr. Smith, to adopt the above Resolution. The roll call vote was unanimous with Mr. Sullivan, Mr. Smith, Mr. Nappi, Mr. Delia and Mr. Mustacchi voting in favor.

App.#27-15: Peter Bruno, 9 Gregory Court, Block 4201, Lot 2.01 (R-20 Zone)

Construction of new deck to replace existing deck. Relief is needed from Section 6.1.1B. "Schedule of General Regulations" because the new deck will encroach into the required rear yard setback. In addition, the deck (or portion thereof) which does not comply with the rear yard setback requirements may not exceed 4 ft. above the ground level and may not exceed 400 sq. ft. in accordance with Section 3.1.8 "Decks." The proposed deck will exceed the 4 ft. height limit and the size limitation described in Section 3.1.8. Nonconforming issues are existing "other" coverage and total lot coverage.

A motion was made by Mr. Delia, seconded by Mr. Mustacchi, to adopt the above Resolution. The roll call vote was unanimous with Mr. Sullivan, Mr. Smith, Mr. Nappi, Mr. Delia and Mr. Mustacchi voting in favor.

App.#28-15: Mr. & Mrs. Mark Collins, 43 Riverbend Road, Block 504, Lot 81 (R-15 Zone)

Proposed second story addition over a portion of the existing first floor of this split level house. A new bedroom and bathroom will be added with additional interior renovations. A new deck is also proposed. Relief is needed from Section 6.1.1B "Schedule of General Regulations" because the existing house has a front yard setback of 44 ft. (vs. 50 ft. required) and the setback to the proposed second story addition would be 46.7 ft. Relief is also needed from Section 8.1.1B.1.: "No nonconforming single family dwelling and no single family dwelling on a nonconforming lot may be enlarged, extended or increased unless said enlargement by itself conforms with all requirements of the zoning ordinance." Nonconforming issues are lot area, lot width, lot depth, and principal front yard setback.

A motion was made by Mr. Nappi, seconded by Mr. Delia, to adopt the above Resolution. The roll call vote was unanimous with Mr. Sullivan, Mr. Smith, Mr. Nappi, Mr. Delia and Mr. Mustacchi voting in favor.

Adoption of Minutes

December 10, 2015

A motion was made by Mr. Smith, seconded by Mr. Nappi, and carried by unanimous voice vote to adopt the minutes of the December 10, 2015 Regular Meeting as presented.

Informal Review of Submitted Applications:

App.#26-15: New York SMSA Limited Partnership d/b/a Verizon Wireless, 200 Connell Drive, Block 4301, Lot 1.011 (OR-B Zone)

Applicant is seeking to construct a wireless communications facility on the roof of the office building located at 200 Connell Drive. The facility will consist of twelve panel antennas arranged in three arrays of four antennas each. Two of the arrays will be placed behind stealth screening, and the third array will be mounted to an existing penthouse and painted to match the color of the penthouse façade. A use variance is requested, as wireless communications facilities are not permitted in the OR-B Zone. In addition, a height variance is requested to permit the antenna and equipment screening to extend to seventy feet, which is the same height as the existing rooftop penthouse. (The OR-B

Zone has a height limitation of fifty-five feet, and the roof of the building is already at a height of fifty-nine feet.)

Michael Breen, attorney representing Verizon Wireless, stated that Verizon has identified the need for additional wireless coverage and is proposing to install a rooftop wireless antenna on 200 Connell Drive. Two of the antennae will be located on the roof, one will be mounted on the façade of the penthouse and one will be located at the rear of the equipment cabinets. The equipment cabinets will be on the roof. Mr. Breen stated that this is an excellent location for this type of facility since it will not be easy to see and will be difficult to identify.

Gary Lucas, professional engineer with Verizon Wireless, indicated on the plan the location of the existing HVAC units and the empty space that will be used for the cabinets. Mr. Lucas submitted photographs that show what will be visible on the roof.

In response to questions from the Board, Mr. Lucas stated that the height of the tallest antenna will be 70' which matches the top of the penthouse.

Mr. Breen stated that a use variance is needed as well as a variance for height. The applicant will present a radio frequency engineer to testify at the public hearing and to answer questions.

The application was deemed complete and scheduled for hearing on January 28, 2016 with notice to be sent by certified mail.

App.#1-16: Ronnie & Emilie Nieves, 25 Liberty Ave., Block 2004, Lot 2 (R-15 Zone)

The application #32-14 for additions to the house was approved by the Board of Adjustment on May 28, 2015, and memorialized by Resolution on July 23, 2015. A new application is being submitted due to a change in plans which calls for demolishing the existing house and constructing a new home on the lot. Variances are needed for a) insufficient front yard setbacks on both Wardle and Liberty Avenues (corner lot); b) rear yard setback; c) building coverage and d) total lot coverage. Nonconforming issues include lot area and lot depth.

Emilie Nieves was present and stated that she and her husband obtained an approval last year for a renovation of their home. When they went for the permit it was denied and the zoning officer told them to come back to the Board with a revised application. Instead of the addition originally approved, they are now proposing a new dwelling.

Mr. Sullivan reviewed the new application and advised the applicant that it is not automatic that the new proposal will be approved because the scope of the project has changed. The new proposal will require new review by the Board.

Mrs. Nieves stated that the new house will not be larger than the previously proposed renovated house.

The application was deemed complete and scheduled for hearing on January 28, 2016 with notice to be sent by certified mail.

Adjournment:

A motion was made by Mr. Smith, seconded by Mr. Delia, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 8:30 PM.

Regina Giardina, Secretary Pro Tem