

# MINUTES

## BOARD OF ADJUSTMENT

### TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Conference Meeting

October 13, 2016

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. Boyer, Mr. Siburn, Mr. Smith, Mr. Nappi, Mr. Delia, and Mr. Mustacchi. Mr. Bernstein, Board Attorney, was also present.

#### Adoption of Minutes

September 22, 2016 Regular Meeting

A motion was made by Mr. Siburn, seconded by Mr. Miller, and carried 7-0 to adopt the minutes of the September 22, 2016 Regular Meeting as presented.

#### Adoption of Resolutions:

**App.#13-16: Jeffrey Gold, 15 Overhill Way, Block 3505, Lot 8 (R-20 Zone)**  
*Proposed new portico (approx. 8' x 6' in size) to be constructed over existing front porch. Relief is needed from Section 6.1.1B "Schedule of General Regulations" for insufficient front yard setback. (Required setback: 50'; existing: 40.4'; proposed: 40.4')*

A motion was made by Mr. Boyer, seconded by Mr. Nappi, to adopt the above Resolution. The roll call vote was unanimous with Mr. Miller, Mr. Boyer, Mr. Siburn, Mr. Smith, Mr. Nappi, Mr. Delia, and Mr. Mustacchi voting in favor and none opposed.

**App.#16-16: Joe Milmo, 101 Twin Falls Road, Bl. 4501, L.18 (R-20 Zone)**

*Proposed construction of second-story addition, new one-story addition, and new covered front porch requires relief from Section 6.1.1B "Schedule of General Regulations" for insufficient front, side and combined side yard setbacks. Nonconforming issues include lot area, lot width, principal front, side and combined side yard setbacks.*

A motion was made by Mr. Siburn, seconded by Mr. Delia, to adopt the above Resolution. The roll call vote was unanimous with Mr. Sullivan, Mr. Miller, Mr. Boyer, Mr. Siburn, Mr. Smith, Mr. Nappi, and Mr. Delia voting in favor and none opposed.

**Informal Review of New Applications:**

**App.#17-16: Joseph & Licienne Sodano, 55 Shadow Lane, Bl. 504, L. 65 (R-15 Zone)**

*Proposed installation of an 8' x 8' x 10' high residential storage shed which does not comply with the required side yard setback of 10'. Existing, nonconforming issues for this property are lot area, lot width, and principal front-yard setback.*

Mr. Bendush was present on behalf of the applicant who is seeking a variance to place a shed 4 ft. from the property line. Mr. Bendush mentioned he had spoken with Mr. Bernstein about placing shrubbery on the street side of the project to try to make the shed nearly invisible from the street.

Mr. Sullivan stated that the Sodanos had been before the Board a few years ago for a shed. It was a zoning violation that had come to the Board of Adjustment.

Mr. Bernstein explained that there was controversy at that time with the neighbor on the left side, Georgene Granholm. The Sodano shed was approx. 6" from the side line. The Board doesn't grant variances that close to the line. In a separate case, Georgene Granholm was cited for a raised deck that was built to support a hot tub, and Mr. Bendush, on behalf of the Sodanos, filed an action. It's currently pending in court.

Mr. Bernstein mentioned that Mr. Bendush came up with the idea of possibly dismissing the action if the Sodanos are able to obtain a variance for the shed through the current application. Mr. Bernstein added that the shed must be located a minimum of 4 ft. from the property line. That would be a reasonable distance compared with the 6" in the previous request. Mr. Bernstein could not speak for the Board but historically 4 ft. isn't an overwhelming number for the Board whereas 6" is.

Discussion continued about the former Sodano application and the Granholm application and the dispute between the neighbors.

Mr. Bendush added that the new application is more consistent with what's been approved in the past and would be suitable to Ms. Granholm and the other neighbors.

Mr. Miller and Mr. Bernstein discussed whether this constitutes the same or a new application for the shed. Mr. Bernstein confirmed that it is a significantly different application compared with their previous request for a shed 6" from the property line.

Mr. Bendush mentioned that both properties – the Sodano and the Granholm properties – are severely affected by their location in the flood plain. He confirmed that the Notices are ready and will be mailed out for the October 27 hearing date.

**App.#19-16: Faiq Fazal, 185 Chaucer Drive, Bl. 1002, L. 21 (R-15 Zone)**

*The applicant is proposing to remove the existing greenhouse room (approx. 11' x 20') and replace it with a larger, one-story addition (approx. 16' x 20'). The existing "building coverage" of 15.08% marginally exceeds the 15% allowed. The proposed addition would increase this number to 15.79%. Other existing, nonconforming issues for this property include lot area, lot width, and driveway too close to side property line.*

Mr. Faiq Fazal introduced himself as the owner of 185 Chaucer Drive. He also introduced Mr. Nisar Naqvi as his contractor.

Mr. Fazal stated that he wants to replace a greenhouse with a bedroom for his family. In order to replace the greenhouse with a viable bedroom, they need to add another 106 sq. ft. As a result, coverage increases from 15.08% to 15.79% and coverage is limited by ordinance to 15%.

In response to questions from the Board, Mr. Fazal mentioned that the existing greenhouse is currently being used as a sunroom. The greenhouse was there when he bought the house.

Mr. Delia brought up a discrepancy in the numbers on the application compared with the plot plan. Mr. Sullivan asked Mr. Fazal to double check with his architect on the numbers and make sure the side yard setback figures are correct. Mr. Sullivan stressed that three things need to match: the plot plan, the survey, and the application.

Mr. Sullivan confirmed that Mr. Fazal's public hearing would take place on October 27 and advised Mr. Fazal to mail out the Notices.

**App.#18-16: Richard D. Arnold, 132 Fairview Ave., Bl. 905, L. 3 (R-15 Zone)**

*Proposed construction of an asphalt surface area (30' x 35') to be used as a basketball ½ court. Relief is needed from Section 6.1.1B of the Zoning Ordinance because "other" coverage will reach 15.94%. (Maximum "other" coverage allowed: 10%; existing: 11.05%; proposed: 15.94%.) Nonconforming issues are driveway too close to the property line and those variances approved in variance resolution Case No. 17-91.*

Mr. Arnold was present and stated that he is seeking a variance to add impervious surface behind his garage to serve as a basketball area for his son. The driveway is too sloped for such purposes. Rather than drive his son every night to the gym, he'd like his son to play at home. No lights are proposed because his son will use the basketball court after school, not at night.

Mr. Sullivan requested that Mr. Arnold stake out the proposed location in the yard with four stakes and yellow caution tape and take a few photos from the backyard looking into the yard and also bring photos showing the distances from the sides and rear of the house and from the adjoining neighbor's home. Mr. Arnold was advised to clarify all distances and dimensions, especially the dimension off the back property line and the distance from the house to the play area.

Mr. Arnold stated that the hoop would be located so that shooting the basketball would be towards the side property to avoid shooting into the sunlight. The requested size of the court was originally 35 ft. x 30 ft. but Mr. Arnold mentioned that he has decided to reduce the size to 28 ft. x 30 ft.

The application was deemed complete and scheduled for hearing on October 27, 2016. The applicant was instructed to send the required notices.

**App.#11-16: Berkeley Development Company, L.P., 390-400 Springfield Ave., Bl. 701, L. 2 & 3 (and to be known as Lots 2.01 and 3.01) (DD-Zone)**

*Proposed rehabilitation of existing Shopping Plaza ground sign in order to display the name of the shopping plaza and the names of multiple tenants. Variances are required for height of the sign from grade, maximum sign width, maximum sign height, maximum sign square footage and an increase in sign content in order to display multiple tenant names on the sign. Applicant will also seek any and all other variances, design waivers, or special exceptions as may be required upon review of the application by the Board and its professionals.*

Wendy Berger, attorney for the applicant, introduced herself. Ms. Berger stated that they took the comments received at the first hearing and hired Mr. Tobia as planner. Last time they discussed having a sign placed on the property to help the Board visualize the project and that has been done.

Mr. Tobia was asked to explain the new proposal. Mr. Tobia stated that the original proposal for the sign was too ambitious with a 17 ft. high sign. They have redone the plans with a 3 ft. haircut off the top of the sign and subtle changes to the design. They have moved the sign back 1.5 feet further from Springfield Avenue for an improved setback. The sign will be ground lit with no internal lighting, no box type structure, and individual panels of artificial wood that are applied to the brick. There will be no plastic or metal. They will use the same brick that's on the CVS building and existing signs. The new sign will have a bronze topper, a decorative element, to match the bronze façade materials on the main building in the back. They have fabricated a banner with the exact proportions. Mr. Tobia showed the Board a photo of the fabricated sign which is 14 ft. high (compared with the 17 ft. height on the previous design).

Mr. Tobia further stated that compared with the existing pylon sign, the proposed sign is 1.5 ft. lower in height with the same width of 10 ft. The main panels on the proposed sign would be 20" x 96," while the small panels would be 16" x 48." The new location would be 1.5 ft. farther from the street. The new sign will no longer be internally lit. Gooseneck lamps will not be used because those would be too busy on this sign.

Mr. Miller inquired about having the address on the sign so customers can find the tenants' businesses. Mr. Tobia replied that they will at least get the number on the sign which is also important for emergency services. They are revising the landscaping plans and will transplant trees and/or shrubs as needed.

Mr. Tobia commented that the proposed sign will mimic the Village Shopping Center sign in New Providence, a sign that the Berkeley Heights Board seems to

like. The New Providence sign is 2.5 ft. lower than the proposed Berkeley Heights sign but the width is the same. New Providence has fewer tenants on the sign.

Mr. Tobia brought a picture of another proposal for the shopping center sign which is designed to be 2 ft. lower, but has no scalloping on the top and looks more modern with a flat top. Mr. Tobia stated his opinion that the higher sign with the decorative topper looks more traditional. A few of the Board Members expressed preference for the scalloped, more traditional design.

Ms. Berger mentioned that the applicant will need additional time and would not be ready for the public hearing on October 27. Discussion took place about scheduling the applicant. Mr. Sullivan announced that the public hearing date for the Berkeley Development sign application would possibly be January 12, 2017, and new legal notices would need to be sent out.

Discussion followed about the lamppost on Springfield Avenue which obstructs the view of the sign and how to improve visibility of the sign. The sign also serves as a driveway identifier for drivers.

Next, the tenants at the shopping center were invited to speak.

Ms. Ann Christensen from the Massage Envy Spa thanked the Board for their tireless efforts and said they look forward to being more visible. She thanked the Meas and added that time is of the essence for them because they are set back and their customers tell them they cannot find the store.

Mr. Sullivan added that he was happy to see the tenants in the back represented on the sign. When asked about the CVS panel on the proposed sign, Ms. Berger said there are restrictions in the lease which require that CVS be represented on the sign. The lease also dictates where CVS is placed on the sign.

Discussion continued about the visibility of the individual tenants' panels on the sign.

It was stated again that the Berkeley Development sign application would be back in January 2017 with new notice required unless the Board receives any cancellations which would result in an open slot on an earlier agenda.

The meeting was adjourned by unanimous voice vote at 8:41 p.m.

Connie Valenti, Secretary