

BOROUGH OF UPPER SADDLE RIVER PLANNING BOARD

MEETING MINUTES – WEDNESDAY, APRIL 10, 2013

REGULAR MEETING

Councilman DeBerardine acting Board Chairman in Mr. Virgona's absence, called the meeting to order at 7:52 p.m. The following statement was read: Pursuant to The Open Public Meetings Act P.L. 1975, Chapter 231, proper notice of this meeting has been provided by fax and mail to The Record and The Ridgewood News on December 28, 2012 at which time the date, time, place and purpose of the meeting was set forth and notice was posted on the official bulletin board in the Borough Hall.

PLEDGE OF ALLEGIANCE

Present: Mayor Minichetti, Mr. Preusch, Mr. Friedman, Mr. Prober, Mr. Stutman, Mr. Wortmann, Ms. Rosenthal, Mr. Richardi, Mr. Abramson, Councilman DeBerardine

Absent: Mr. Virgona, Mr. Polizzi, Ms. Miller

Also Present: Mark Madaio, Planning Board Attorney
Joel Minch, P.E., for Christopher Statile, P.E., Planning Board Engineer

CORRESPONDENCE

1. Letter dated April 3, 2013 from James Jaworski, Esq., Re:
Application of A.D.P.P. Enterprises, LLC – 142 Route 17 North (Block 1304 – Lot 10)

Mr. Madaio advised the Board was in receipt of a letter from Mr. Jaworski formally withdrawing the referenced application.

PUBLIC HEARING

1. Variance Application of **Gutierrez**
547 West Saddle River Road – Block 102 – Lot 5.01
(Building Height; Rear Yard Setback; Improved Lot Coverage/*Second Floor Addition to Existing Carriage House*)

David Rutherford, Esq., represented the applicant. Mr. Rutherford advised the applicant is seeking bulk variances to expand the existing accessory structure for visiting family members. The single family home with a detached carriage house had been historically used as a kennel. Previous owners of this property appeared before the Zoning Board on two prior occasions: In 1987 the Zoning Board gave the owner the right to use it with the provision the kitchen was to be removed. In 1995, an application to use it with the kitchen was denied by the Board.

The current owner, Mr. Gutierrez, encountered issues with the issuance of the CCO when purchasing the property in 2012. The property had to be brought into compliance by removing the kitchen, a condition of the 1987 Resolution. Subsequently the stove was removed and the permanent CCO was issued. Mr. Rutherford advised the stove has not been reinstalled and will not be installed.

Mr. Rutherford reviewed the requested variances to permit a small expansion of the existing closet and bathroom on the second floor of the carriage house. All improvements will be within the existing footprint of the building, requiring a variance for a rear yard setback of 33 ft. where 35 ft. is required. The existing height of the building is 24 ft. where 20 ft. is permit, requiring a variance to permit the height to continue. The existing improved lot coverage is 42.27% where 30% is permitted; this will not change.

The following exhibits were submitted and identified: *A-1*: Boundary Survey prepared by Brooker Engineering, dated June 15, 2012; *A-2*: Plot Plan, Notes & Zoning prepared by Peter B. Cooper, last revised to March 11, 2013; *B-1*: Christopher Statile, P.E., review letter dated January 24, 2013; *B-2*: Christopher Statile, P.E., review letter dated March 28, 2013; *B-4*: John Walsh letter dated July 27, 2012; *B-5*: John Walsh letter dated August 2, 2012; *B-6*: John Walsh letter dated, August 8, 2012; *B-7*: John Walsh letter dated August, 9, 2012; *B-7*: John Walsh letter dated December 11, 2012; *B-8*: CCO dated June 26, 2012; *B-9*: CCO dated August31, 2012.

Mr. Madaio advised in the event the Board approves the requested bulk variances, the approval would be recorded by Deed at the County.

Peter Cooper, Architect, was duly sworn by Mr. Madaio. Mr. Cooper distributed and reviewed a series of (12) photographs depicting the existing conditions of the carriage house, identified: *A-3*. Mr. Cooper testified to the addition of two (2) dormers – (1) proposed for the left side and (1) proposed on the front side. The dormer proposed on the left side is obscured by the sloped roof; the dormer proposed off the front side is clean and attractive. Mr. Cooper testified the proposed addition to the carriage house, which is not seen from the road or neighbors due to the heavily screened property, is elegant and attractive.

In response to comments from the Board, Mr. Cooper testified to there being only one and a half baths existing, this will not change. The proposed closet expansion measures 12 ft. x 12 ft. Discussion followed.

In response to comments from the Board regarding the concern that the size of the expanded closet can serve as a second bedroom, Mr. Cooper testified it is highly unlikely the closet could become a bedroom with only (1) non-operating window and having no access other than from the Master Bedroom, nor would it meet construction code to qualify as a bedroom.

Mr. Cooper further testified the carriage house is without a basement or a coat closet.

Mr. Rutherford advised the 8 ft. x 7 ft. sized kitchen area is used to serve breakfast and lunch.

Mr. Cooper testified the kitchen area contains a refrigerator, microwave; sink, but no stove, like that of an efficiency unit in a hotel. The removal of the stove was compliant with the Zoning Officer's requirement.

Mr. Wortmann advised having served as a Member of the 1987 Zoning Board of Adjustment, recollected the kitchen was to be removed in its entirety with the condition that the carriage house be for the use of family members as stipulated in the Resolution.

Board Members discussed the definition of a kitchen.

Mr. Rutherford advised based upon the Zoning Officer's letter dated August 8, 2012, the only requirement was to remove the stove to be in compliance, which was done last year. Mr. Rutherford advised of his client's position, that is, the issue of the kitchen was resolved by the Zoning Officer, and is not an issue for this Board. The only issue for the Board is the request for bulk variances.

A Board Member commented that by the carriage house having a kitchen, it permits two independent houses to exist on one property. The 1987 Resolution wanted to ensure the carriage house would not become a primary residence, only an accessory. Discussion followed regarding a suggestion that family members take their meals at the primary residence.

Mr. Rutherford stated the suggested use of the carriage house was permitted by variance.

In response, Mr. Madaio advised the Board is concerned with the lingering issue of the kitchen.

In response to comments from the Board, Mr. Gutierrez advised he is presently seventy years old, and his wife, Ms. Gutierrez will soon be seventy.

Mr. Rutherford stated he hears the Board's concerns and asked for a brief recess in order to confer with his client.

The Board recessed at 8:25 p.m. and reconvened at 8:30 p.m.

Mr. Rutherford advised Mr. Gutierrez will not be successful in addressing the Board's concerns, and therefore has withdrawn his application.

PUBLIC COMMENT

Council DeBerardine opened the meeting to Members of the public. No one appeared to testify.

ADJOURNMENT

A motion to adjourn by Mr. Friedman seconded by Mr. Abramson was unanimously approved by all Members present. Meeting adjourned at 8:40 p.m.

Respectfully submitted,

Linda Marmora
Clerk

