

UPPER SADDLE RIVER PLANNING BOARD MEETING MINUTES

WEDNESDAY, APRIL 9, 2014

Mr. Virgona called the meeting to order at 7:30 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 23, 2013 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: Mr. Virgona, Mr. Polizzi, Council Durante, Mr. Preusch, Mr. Friedman, Mr. Prober, Mr. Stutman, Ms. Rosenthal, Mr. Bakal, Mr. Richardi

Absent: Councilman DeBerardine, Mr. Wortmann

Also Present: Mark Madaio, Esq., Planning Board Attorney
Eileen Boland, P.E., Planning Board Engineer

CORRESPONDENCE

After reviewing correspondence dated April 9, 2014 received from John Lamb, Esq., and Michael Profita, Esq., Mr. Virgona announced the applications of *Creative Gardens and Concerned Citizens of USR, Inc. 409 East Saddle River Road – Block 810 – Lot 6* have been carried to the Wednesday, May 14, 2014 meeting without further noticing required.

APPROVAL OF MINUTES: A motion by Councilman Durante to adopt the minutes of the March 27, 2014 meeting seconded by Mr. Friedman was unanimously approved by all Members present.

RESOLUTIONS (*Memorialization*)

1. Application of **Raghunathan** ***APPROVED***
32 Hampshire Hill Road – Block 206 – Lot 3
(Improved Lot Coverage; Side Yard Setback/*Inground Pool*)

Mr. Madaio reviewed the Resolution. A motion by Mr. Polizzi to adopt the Resolution as presented seconded by Councilman Durante.

Roll Call

Ayes: 7 Mr. Polizzi, Councilman DeBerardine, Mr. Prober, Mr. Friedman, Mr. Stutman, Mr. Bakal, Mr. Virgona

2. Application of **Rachel Hayek & Scott Smith**
37 Weiss Road – Block 301 – Lot 10
(Lot Frontage; Height; Soil Moving/**New Home Construction**)

APPROVED

Mr. Madaio reviewed the Resolution. A motion by Councilman Durante to adopt the Resolution as presented seconded by Mr. Friedman.

Roll Call

Ayes: 7 Councilman Durante, Mr. Friedman, Mr. Prober, Mr. Stutman,
Mr. Bakal, Mr. Polizzi, Mr. Virgona

PUBLIC HEARING

1. Application of **Mach 2 Investments, LLC**
38 Cherry Lane – Block 105 – Lot 2
(Front Yard Setback; As Built *Re- Construction*)

Frank Kolodziej – applicant, representing himself, testified to being the private lender for the developer of the house, and to receiving full title of ownership when the developer defaulted on the mortgage after construction was completed.

Tibor Latincsics, P.E. duly sworn by Mr. Madaio, testified to preparing the following exhibits submitted and identified: **A-1:** *As-Built Survey – Block 105 – Lot 2, 38 Cherry Lane – dated January 17, 2014;* **A-2:** *10 Scale Blow Up of Map of Property;* **A-3:** *2007 Aerial Map;* **A-4:** *Photograph of Home Depicting Overhangs in Question.* Mr. Latincsics testified to the subject property being a slightly oversized lot located at the corner of Cherry Lane and Tanglewood Hollow backing up to the Sparrowbush Creek. The neighborhood features homes that are substantially setback from the right-of-way, providing sufficient air light and open space. The subject dwelling was formerly a ranch home that has been significantly remodeled into the home presented in Exhibit **A-4**, but still remains a one and half storied home. The foundation line meets the 50 ft. front yard setback, however, three (3) small overhangs on the western side of the home encroach 0.9 ft. into the front yard setback located on Tanglewood Hollow, highlighted in Exhibit **A-2**.

In response to comments from the Board, Mr. Latincsics testified the garage existed however there are indications the prior roof line had been extended over the front yard setback. The garage wall was erected to the same length prior to the renovation.

Frank Kolodziec was duly sworn by Mr. Madaio. In response to comments from the Board, Mr. Kolodziec testified to funding the reconstruction in September 2011, visiting the property in September 2012, and to the home fundamentally being completed as depicted in Exhibit **A-4**.

In response to comments from the Board, Mr. Kolodziec testified he was a private lender and did not require a permit to be shown. He was aware taxes were current and that building permits had been issued.

Mr. Latincsics testified the applicant has been working down the checklist items that need to be satisfied in order to obtain a certificate of occupancy. Mr. Latincsics testified to the following issues that have been resolved: the septic system was replaced; the soil moving permit was retroactively applied for; and issues attributable to the Sparrowbush Creek have also been resolved.

In response to comments from the Board, Mr. Latincsics described the style of the previous home as a California Ranch with overhangs longer than those of the existing remodeled home. Mr. Latincsics testified the aesthetic benefits of these overhangs would far outweigh any benefits of removing them.

Mr. Kolodziec circulated a digital photograph of the home prior to the renovations, depicting the longer overhangs.

Ms. Boland, Board Engineer, reviewed comments provided in prior correspondence from Christopher Statile, P.E., in which the applicant was referred to the DEP for their review of soil moving that was conducted without being issued the proper permits. Ms. Boland advised the DEP has recently signed off on this matter, and the “As Built” before the Board matches the foot print of the original submission.

Mr. Madaio clarified the existing foundation was used and the new wall is in the same location, the only difference being the eave and the soffit hang over (1) ft. on the western side of the home; all other sides conform.

Mr. Latincsics testified the eaves are important; the siding is high-quality and the overhang is vitally important due to the fact there are no gutters.

A motion by Councilman Durante seconded by Mr. Friedman to open the Hearing to Members of the public regarding testimony provided by Mr. Latincsics and Mr. Kolodziec. No one appeared to provide comment.

A motion by Mr. Friedman seconded by Councilman Durante to close the Hearing to the public.

A motion by Mr. Friedman seconded by Councilman Durante to approve the application as submitted.

Roll Call

Ayes: 8 Mr. Friedman, Councilman Durante, Mr. Preusch,
Mr. Stutman, Ms. Rosenthal, Mr. Prober, Mr. Polizzi, Mr. Virgona

2. Application of **N&N Lilline LLC**
23 Lilline Lane –Block 704 – Lot 17
(Side Yard Setbacks; Height/Retaining Wall)

William Smith, Esq., represented the applicant. Thomas Skrable, P.E. duly sworn by Mr. Madaio, testified the applicant is proposing to construct a new dwelling with a side loading garage on the south side of the property which is located on the west side of Lilline Lane. Variances are requested to construct an (8) ft. high retaining wall vs. (3) ft. permitted; and construction of a turnaround area requiring a 10 ft. side yard setback vs. 35 ft. permitted along the southern side yard buffer area.

In response to comments from the Board, Mr. Skrable testified the house is wider in the middle, with the first floor elevation (2) ft. below the road, if it were to be pushed any lower would not be a marketable property.

Mr. Skrable testified reducing the size of the house is always an option, however, this is not an overly large house, the building coverage is only 6% and the depth of the house is 35 ft. The only person that will be able to see the proposed (8) ft. wall is the neighbor to the south. Landscaping will be provided in the buffer and the applicant will work with the Shade Tree Commission regarding any tree issues. Justifying the variance request, Mr. Skrable testified the existing grade of 93.4% makes it impossible to maneuver a K turn and requires a higher retaining wall.

Discussion followed regarding the feasibility of shifting the house over (2) ft. by orienting a different style house on the deep lot.

In response, Mr. Skrable testified anything to increase the depth would create a height variance. The highest point of the wall is to the rear along the turnaround.

Board Members commented they are concerned with 8 ft. wall located on the 10 ft. side yard setback line. Discussion followed.

Mr. Skrable testified he could design a tiered wall having landscaped areas.

In response to comments from the Board, Mr. Skrable testified the driveway slope is 7%, but could be revised to 10%. The other option is a 6 ft. wall encroaching into the non-disturbance zone, creating a unique buffer with only (2) trees and nothing else.

Further discussion ensued regarding other solutions to the proposed (8) ft. wall.

Mr. Virgona opened the Hearing to Members of the public regarding Mr. Skrable's testimony. No one appeared to provide comment.

Mr. Smith stated many of the issues are related to the architectural plan and requested the application be carried to the May 14, 2014 meeting with further noticing required.

3. Application of **Vito & Sandra Modugno**
431 East Saddle River Road – Block 810 – Lot 8.01
(Side Yard Setback; Use Variance/ *Detached Garage Addition*)

Mr. Madaio counseled the record reflect Ms. Rosenthal recused herself from this application and adjourned the meeting at 8:30 p.m.

Mr. Modugno was duly sworn by Mr. Madaio. In response to Mr. Madaio, Mr. Modugno testified he is not asking this Board to lift certain conditions of a prior Resolution. Mr. Modugno addressed each of the conditions: granted a 30 ft. side yard setback, but used only 21 ½ ft.; conformed to the 25 ft. maximum height; constructed the garage as submitted; enhanced with not one but two rows

of evergreen trees, that have grown to 24 ft.in height and are very hardy; the space above the garage shall not be used for living space; nor contain any interior plumbing.

The following Exhibits were submitted and identified: **A-1:** *Prior Resolution dated October 16, 2003;* **A-2:** *(4) Buffer Photos;* **A-3:** *Photo of Southern View Taken from Neighboring Property;* **A-4:** *(3) Photos of Pergola As Viewed from Neighboring Property;* **A-5:** *Area Map;* **A-6:** *Google Earth Aerial Photo;* **A-7:** *As Built with Addition;* **A-8A & A-8 B:** *(2) Pages; Existing Plans Modugno Garage dated February 6, 2014; Proposed Plans Modugno Garage dated February 6, 2014;* **A-9:** *Alteration to the Modugno Garage dated December 3, 2013;* **B-1:** *John Walsh Letter dated December 20, 2013;* **B-2:** *Eileen Boland. P.E. review letter dated February 24, 2014.*

Mr. Modugno testified he is proposing to convert the rear one-third of the garage for use as a cabana area and also proposing to install a roof on the existing pergola to provide a larger covered outdoor space.

In response to comments from the Board, Mr. Modugno testified the north side of the pergola will have an (8) ft. wall buffered with a planting of trees.

Discussion ensued pertaining to conditions of the prior Resolution.

Mr. Madaio explained the Zoning Board granted a variance to build the structure, not intending it be used for anything but a garage.

In response to comments from the Board, Mr. Modugno testified the garage is the only accessory structure located on the property.

Discussion followed. Mr. Virgona advised the applicant is requesting to rescind conditions of the prior Resolution and therefore required to make legal argument based on Municipal Land Use Law.

A motion by Councilman Durante to open the Hearing to Members of the public regarding this application seconded by Mr. Friedman. No one appeared to provide comment.

Mr. Modugno requested the application be carried to the Wednesday, May 14, 2014 meeting without further noticing required.

PUBLIC COMMENT

A motion to open the Meeting to Members of the public by Councilman Durante seconded by Mr. Friedman. Upon no one appearing to provide comment, Mr. Virgona closed the Meeting.

ADJOURNMENT

A motion to adjourn by Mr. Preusch seconded by Councilman Durante was unanimously approved by all Members present. Meeting adjourned at 9:03 p.m.

Respectfully submitted,

Linda Marmora, Clerk

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