

BOROUGH OF UPPER SADDLE RIVER PLANNING BOARD MEETING MINUTES

THURSDAY, JANUARY 26, 2017

Mr. Virgona called the meeting to order at 7:32 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 16, 2016 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, Councilman DeBerardine, Mr. Donato, Mr. Jacobs, Mr. Bonjuklian

Absent: Mayor Minichetti, Mr. Preusch, Mr. Bakal, Ms. Miller, Mr. Richardi

Also Present: Mark Madaio, Esq., Planning Board Attorney
Nicole Ogrosso, P.E., for Eileen Boland, P.E. Boswell Engineering,
Board/Borough Engineer

APPROVAL OF MINUTES: A motion to adopt the minutes of the January 11, 2017 meeting by Councilman DeBerardine seconded by Mr. Bonjuklian was unanimously approved by all Members present.

PROFESSIONAL SERVICES RESOLUTIONS (*Memorialization*)

A motion by Mr. Polizzi seconded by Councilman DeBerardine to adopt the Professional Services Resolutions authorizing the award of contract by the Planning Board for Professional Legal Services to Mark Madaio, Esq.; and Professional Engineering Services to Eileen Boland, P.E, Boswell Engineering was unanimously approved by all Members present.

PUBLIC HEARING

1. Variance Application of **Carl & Risa Calarco**
59 Dimmig Road – Block 1225 – Lot 10
(Side & Front Yard Setbacks/*New Window Well*)

Bruce Whitaker, Esq., representing the applicants, provided a brief overview of the application to install a window well in the finished basement located on the westerly side of the basement proposed at 33 ft. vs. 35 ft. required.

Risa Calarco, duly sworn by Mr. Madaio, testified the windowless basement is used for recreational space by her young children. Currently only one egress exists, up the stairs and through the mud room to the garage.

Ms. Calarco testified to the safety concerns and issues of not having the ability or option to exit the basement in an emergency via a second means of egress.

In response to comments from the Board, Ms. Calarco testified the basement is not and will never be used as a bedroom.

The following Exhibits were submitted and identified: **A-1:** *Proposed Window & Egress Well prepared by Zampolin & Associates*; **A-2:** *Plot Plan prepared by McNally Engineering dated June 11, 2016 last revised January 11, 2017*; **B-1:** *Boswell Engineering Review Letters dated August 16, 2016 and January 19, 2017.*

Doug Doolittle, P.E., Mc Nally Engineering, duly sworn by Mr. Madaio, testified to preparing the Plot Plan, described the existing conditions and reviewed the proposed window well. Mr. Doolittle testified the existing front and side yard setbacks measured to the roof overhang are non-conforming having a side yard setback of 34.5 ft. vs. 35 ft. required; and a front yard setback of 47.8 ft. vs. 50 ft. required. Mr. Doolittle testified if the home had been centered on the lot, a variance would not be required. The proposed location is the only logical place for the window well.

In response to comments from the Board, Mr. Doolittle testified the window well is at ground level with a depth of 4.5 ft. The well was designed to meet the safety code, with steps in the curvature to ensure there is amply room to get out. The well cover is made of clear plastic and will also allow daylight and also to keep debris, leaves and water out.

Discussion followed regarding the issue of classifying the basement having a window, closet and bath as a bedroom.

In response to comments from the Board, Ms. Calarco testified the home has (5) bedrooms; the basement will not be used as a bedroom. Mr. Whitaker advised the applicant will deal with the Health Department concerning any issues.

A motion to open the Hearing to Members of the public regarding the testimony provided by Ms. Calarco and Mr. Doolittle. Upon no one appearing to provide comment, Mr. Virgona closed that portion of the Hearing.

Mr. Whitaker summarized the application stating the variance is warranted, the window well is at ground level, is not a structure; a very small infringement into the side yard setback, and meets the purposes of MLUL promoting public health, welfare and safety. Mr. Whitaker stated relief can be granted without substantial detriment to the Zone Plan and Zoning Ordinances.

A motion by Mr. Polizzi to open the Hearing to Members of the public seconded by Mr. Bonjuklian.

Karen Petrosino, 78 Carlough Road, expressed concern the basement had no windows providing access.

With no further comments from the Board or public, Mr. Virgona closed the Hearing.

A motion by Mr. Jacobs seconded by Councilman DeBerardine to approve the application subject to Board of Health approval.

Roll Call

Ayes: 6 Mr. Jacobs, Councilman DeBerardine, Mr. Donato, Mr. Bonjuklian, Mr. Polizzi, Mr. Virgona

2. Amended Soil Moving Permit & Variance Application of **Salamon Rozenberg**
4 Overbrook Road – Block 1011 – Lot 6
(Rear Yard Setbacks/*New Driveway, Walkway; Pool, Patio, Fence Location*)

Bruce Whitaker, Esq., representing the applicant, advised a new two story dwelling is currently under construction on the property located in the R- Residential Zone. The previous dwelling featured a swimming pool encroaching 18.5 ft. in to the rear yard setback vs. 35 ft. required; the patio encroached 13.4 ft. into the side yard setback vs. 35 ft. required; and a driveway encroaching into the 10 ft. side yard buffer. The previous improvements (pool, patio and driveway) were removed during the course of the new construction. The applicant is proposing to construct a new pool 25 ft. from the rear yard setback vs. 35ft. required; and a new patio 20 ft. from the rear yard setback vs. 35 ft. required.

The following Exhibits were submitted and identified: **A-1:** *Plot Plan, Plan, prepared by Weissman Engineering, dated July 9, 2015, revised thru November 9, 2016;* **A-2:** *Landscape Plan, prepared by Landscape Perceptions, dated December 1, 2016;* **B-1:** *Boswell Review Letter, dated December 6, 2016.*

Robert Weissman, P.E., duly sworn by Mr. Madaio, testified to preparing the Plan, described the existing conditions and the proposed location for the new pool and patio, testifying from engineering prospective, this is an appropriate location in the rear of the house. The proposed fence is a typical safety fence and code compliant, what is shown on the plan would be modified to be conforming; chain link fencing would run down the side and rear.

In response to comments from the Board, Mr. Weissman testified the proposed 18 ft. x 36 ft. pool will be located 25 ft. from the rear yard lot line and the patio will be 20 ft. from the rear yard lot line vs. 35 ft. required. The proposed pool is smaller than a typical pool, does not feature a Jacuzzi or waterfall, only coping and patio.

Mr. Virgona opened the Hearing to Members of the Board.

In response to comments from the Board, Mr. Weissman testified the old pool was removed during construction of the new home; the pool was shown of the Plot Plan as to be removed.

Mr. Weissman testified an alternate location in the side yard had been contemplated, but that would trigger other variances. Discussion followed regarding the issue of a non-conforming pool being removed and a non-conforming pool being proposed.

A motion to open the Hearing to Members of the public regarding the testimony provided by Mr. Weissman. No one appeared to provide comment.

Mr. Whitaker advised the applicant would consider the shifting the pool.

Mr. Whitaker requested the application be carried to the Thursday, March 23, 2017 meeting, at which time alternate plans would be presented for the Board's consideration.

3. Variance Application of Stoneledge Realty LLC
49 Stone Ledge Road – Block 513 – Lot 28
(Building Height/As Built)

Bruce Whitaker, Esq., representing the applicant, provided an overview of the application for the requested height variance to permit the home to maintain a height of 36 ft. Mr. Whitaker advised the applicant constructed the single family home and discovered the roof ridge exceeded the maximum permitted height of 35 ft. by (1) ft. measured from the existing grade.

The following Exhibits were submitted and identified: **A-1:** *Site Plan prepared by Houser Engineering, dated February 18, 2016 revised thru July 27, 2016*; **A-2:** *Google Map of Surrounding Area*; **A-3:** *Photographs of Home Under Construction*; **A-4:** *Aerial Map of Property in Relation to Adjoining Homes*; **B-1:** *Boswell Review Letter dated December 7, 2016.*

Tyler Vandervalk, P.E., Houser Engineering, testified to having prepared the Site Plans for this property, being familiar with the property, reviewing and preparing the analysis, and testified to the existing lot conditions. Mr. Vandervalk testified the lot from property line to property line slopes 16 ft. down to the east; because of the 16 ft. drop, a level path had to be created for the house to fit on. The steep slope on the west side drops 7 ft. on the existing grade; the retaining wall was built in order to get as low as possible because of the definition of height in the Borough Code. Mr. Vandervalk testified the house was lifted 31 ft. due to the substantial slope, resulting in a framing error.

Mr. Vandervalk testified the ridge height for the garage is several feet lower than the ridge of the house. The area that is non-conforming is the ridge of the house itself; the home sits further back at 88 ft. vs. 50 ft. required. The ridge line of the house is 117 ft. to the front property line and 127 ft. to the curb line.

Mr. Vandervalk testified the 1 ft. differential is not for the entire structure, only for the roof ridge.

Mr. Vandervalk testified he took no exceptions to the comments provided in the Boswell Engineering review letter dated December 7, 2016.

A motion by Councilman DeBerardine seconded by Mr. Bonjuklian to open the Hearing to Members of the public.

Karen Petrosino, 78 Carlough Road, questioned why the discrepancy was not recognized at the start of construction.

Richard Rotonde, Builder, duly sworn by Mr. Madaio testified he was engaged to build the house and offered a sequence of events explaining the first floor error. The foundation was at the right elevation, but it was not until the final as-built survey was conducted, it was discovered a framing error occurred when matching the pitch of the roof. Discussion followed.

In response to comments from the Board, Mr. Rotonde testified that he had communicated with the Architect and the Engineer regarding the height of the foundation. The discrepancy was discovered when the roof was completed.

Nicole Ogrosso, P.E, commented a roof ridge certification was not submitted prior to the installation of the roof; it was too late once the roof was completed and the error was discovered.

A motion by Mr. Polizzi seconded by Mr. Bonjuklian to open the Hearing to Members of the public.

Karen Petrosino, 78 Carlough Road – questioned knowing they had to refill to grade, why wasn't the building height lowered.

Mr. Whitaker stated the roof height is not discernable as being too high; the slope and design of the roof is appropriate for the home designed; complying with the height requirement for this style home would create a hardship. The (1) ft. differential is not readily discernable and offers no adverse impact to the Zone Plan or Zoning Ordinance.

Discussion followed. Members agreed the benefit of extra height is not in the living space. The application is for (1) ft. and when having to measure from the lowest existing grade, in this case, measuring from the old underground garage resulted in the off measurements.

In response to additional comments provided by *Karen Petrosino, 78 Carlough Road* regarding the removal of trees that had screened her property prior to construction, Members discussed a requirement to provide additional plantings in order to provide a denser buffer.

Mr. Whitaker advised the applicant is amenable to provide additional plantings on the sloping area, and in the area where the house is located to screen the home from the neighboring property.

A motion to open the Hearing to Members of the public regarding the application. Upon no one appearing to provide comment, Mr. Virgona closed the Hearing.

A motion by Councilman DeBerardine seconded by Mr. Bonjuklian to approve the application conditioned upon the planting of additional trees as approved by the Shade Tree Commission.

Roll Call

Ayes: 6 Councilman DeBerardine, Mr. Bonjuklian, Mr. Donato, Mr. Jacobs, Mr. Polizzi,
Mr. Virgona

PUBLIC COMMENT

A motion by Mr. Bonjuklian seconded by Councilman DeBerardine to open the Meeting to Members of the public. No one appeared to provide comment.

ADJOURNMENT

A motion to adjourn by Councilman DeBerardine seconded by Mr. Bonjuklian was unanimously approved by all Members present. Meeting adjourned at 9:40 p.m.

Respectfully submitted,

Linda Marmora, Clerk

