

BOROUGH OF UPPER SADDLE RIVER PLANNING BOARD

MEETING MINUTES – THURSDAY, JULY 24, 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 and July 1, 2014 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.

Present: Mr. Virgona, Mr. Polizzi, Councilman DeBerardine, Councilman Durante, Mr. Preusch, Mr. Friedman, Mr. Prober, Mr. Stutman, Mr. Bakal,

Absent: Mr. Wortmann, Ms. Rosenthal, Mr. Richardi

Also Present: Mark Madaio, Esq., Planning Board Attorney
Peter Ten Kate, P.E., for Eileen Boland, P.E., Boswell Engineering, Board Engineer

CORRESPONDENCE:

1. After reviewing correspondence from John Lamb, Esq., and Michael Profita, Esq., Mr. Virgona announced the applications of **Martin Wojcik/Creative Gardens and Concerned Citizens of USR, Inc., 409 East Saddle River Road, Block 810 – Lot 6** are carried to the August 13, 2014 meeting at 7:30 p.m.

APPROVAL OF MINUTES: A motion to adopt the minutes of the Thursday, June 26, 2014 meeting by Mr. Bakal seconded by Councilman Durante was unanimously approved by all Members present.

PUBLIC HEARING

1. Application of **Vito & Sandra Modugno** *(Continued from April 9, 2014)*
431 East Saddle River Road – Block 810 – Lot 8.01
(Side Yard Setback; Use Variance/Detached Garage Addition)

James Jaworski, Esq., representing the applicant, advised he was retained by Dr. Modugno after the April 9, 2014 Public Hearing. A revised application has since been submitted for the conversion of one bay of the existing (3) car garage for use as a cabana featuring a small half bath and a few kitchen amenities. Mr. Jaworski reviewed condition (5) provided in the 2003 Resolution that granted variances to construct the free standing garage, with the condition that the space above the garage shall not be utilized as living space. Mr. Jaworski advised there is no intention to modify that condition for use as living space; and there is no interior plumbing serving the second story. The third bay's garage door facing the neighbors to the north will be eliminated, as it has never been utilized as such, there being no access. Referencing the plaque presented by the Historic Preservation Commission, Photograph marked A-2; Mr. Jaworski stated the proposed plan promotes the conservation of this designated historic dwelling. Mr. Jaworski advised the applicant could have attached a garage to the house,

but instead chose to maintain the aesthetics and integrity of the original historic structure.

Discussion ensued regarding the definition of “living space”.

Mr. Jaworski stated the practical reality is the pool is seven to eight steps down from the dwelling with the closest bathroom being located half-way through the house via a staircase. A personal hardship is imposed upon children and elderly parents having to traverse not only the steps but the house to use the facilities. Mr. Jaworski stated cabanas are not unusual in Upper Saddle River.

Vito Modugno, applicant, duly sworn by Mr. Madaio, testified at the time the pool and garage were built he did not foresee a problem. However, circumstances have since changed; his family increased in size and the grandparents have become increasingly less mobile.

Mr. Jaworski submitted a letter dated July 23, 2014 from Albert Martorano, applicant’s architect identified as *A-10*, in which he states the proposed cabana was designed for seasonal use.

In response to comments from the Board, Mr. Jaworski clarified the applicant adhered to all (6) conditions of the 2003 Resolution. The applicant decreased the size of the side yard variance, constructing the garage at a 31 ft. side yard setback; planted an additional row of trees that have since matured to 24 ft. in height providing a dense buffer to the neighboring property without imposing any negative impact.

In response to comments from the Board, Mr. Modugno testified a window will replace the third garage door; and there will be no living space on the second floor. The second floor will continue to be used for storage and feature a batting net for the children. The second floor is heated, for which building permits were issued and a certificate of occupancy was issued.

Discussion followed.

Mr. Jaworski clarified the applicant is seeking approval to convert the use of the garage from a single use to two (2) uses by converting the unused third bay for use as a cabana and to cover the existing pergola with an overhang roof requiring a side yard setback of 30 ft. in keeping with the relief granted in the 2003 Resolution. Mr. Jaworski reiterated the dwelling is designated a historic building; a significant buffer exists between properties and the cabana conversion would be for seasonal use only. The applicant needs a solution to a practical problem and would accept any condition imposed by the Board.

A motion to open the Hearing to Members of the public by Councilman Durante seconded by Mr. Friedman.

Robert Bakal, 22 Cottontail Trail, commented “he senses a problem between the letter of the law versus the spirit of the law with regard to the issue of plumbing being located in the garage.”

With no further comments from the Public, Mr. Virgona closed that portion of the meeting.

The Board recessed at 8:30 p.m. and reconvened at 8:40 p.m.

Mr. Jaworski advised Dr. Modugno will accept any conditions imposed by the Board in a Resolution to be recorded by Deed restriction filed with the County.

Board Members discussed imposing the following conditions: No heat in the cabana portion of the garage, no stove or microwave, service counter only, no cook top, no range, no burners , no open flames, no separate stairs from the garage, no plumbing in garage portion of the building anywhere, and no habitable use of the garage or second floor.

In response to comments from Councilman Durante, Mr. Jaworski advised the applicant will install a hardwired fire system in the garage, cabana and second story.

Mr. Jaworski requested the restricted use of the cabana begin April 1 through October 31.

A motion by Mr. Polizzi to open the Hearing to Members of the public seconded by Councilman Durante. No one appeared to testify.

A motion by Councilman Durante to close the Hearing to Members of the Public seconded by Mr. Polizzi.

A motion by Councilman Durante seconded by Mr. Friedman to approve the application to permit living area in the garage by creating a cabana in the unutilized portion of the garage's third bay; to permit the roof change of the pergola to a solid roof, the installation of (2) seepage pits as exhibited in A-7 ; and the interior renovations provided all conditions discussed by the Board are met.

Roll Call

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

PUBLIC COMMENT

Mr. Virgona opened the meeting to Members of the Public. No one appeared to testify.

ADJOURNMENT

A motion to adjourn by Councilman Durante seconded by Councilman DeBerardine was unanimously approved by all Members present. Meeting adjourned at 9:12 p.m.

Respectfully submitted,

Linda Marmora
Clerk