

UPPER SADDLE RIVER PLANNING BOARD MEETING MINUTES

THURSDAY, MARCH 27, 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 March 13, 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.

PLEDGE OF ALLEGIANCE

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

Absent: Mayor Minichetti, Councilman DeBerardine, Mr. Preusch, Ms. Rosenthal, Mr. Richardi

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

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

CORRESPONDENCE

After reviewing E-Mail correspondence dated March 27, 2014 from John Lamb, Esq., and Michael Profita, Esq., Mr. Virgona advised 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, April 9, 2014 meeting at 9:00 p.m. without further noticing required.

ANNOUNCEMENTS

Mr. Virgona announced the Public Hearing regarding the application of ***N&N Lilline LLC, 23 Lilline Lane, Block 704 – Lot 17*** is carried to the Wednesday, April 9, 2014 meeting at 7:30 p.m. with re-noticing of property owners located within 200 ft. required.

Mr. Virgona announced the Public Hearing regarding the application of ***Vito & Sandra Modugno, 431 East Saddle River Road, Block 810 – Lot 8.01*** is carried to the Wednesday, April 9, 2014 meeting at 7:30 p.m. without further noticing required.

RESOLUTIONS (*Memorialization*)

1. Variance Application of **Pellum Bengu**
25 Parker Place – Block 506 – Lot 7
(Building Height/Reconstruct New Dwelling)

APPROVED

Mr. Madaio reviewed the Resolution. A motion by Councilman Durante seconded by Mr. Polizzi to open the meeting to Members of the public. No one appeared to provide comment. A motion by Mr. Polizzi seconded by Councilman Durante to close the meeting.

A motion by Mr. Polizzi seconded by Mr. Friedman to adopt the Resolution as presented.

Roll Call

Ayes: 5 Mr. Polizzi, Mr. Friedman, Mr. Stutman, Mr. Bakal, Mr. Virgona

2. Variance Application of **Todd Berry**
22 Oak Drive – Block 1210 – Lot 4
(Rear Yard Setback/*Inground Pool*)

APPROVED

Mr. Madaio reviewed the Resolution. A motion by Councilman Durante seconded by Mr. Polizzi to open the meeting to Members of the public. No one appeared to provide comment. A motion by Mr. Polizzi to close the meeting seconded by Councilman Durante.

A motion by Mr. Stutman seconded by Mr. Polizzi to adopt the Resolution as presented.

Roll Call

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

PUBLIC HEARING

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

Robert Maloof, Esq., representing Mr. Raghunathan, advised the applicant is proposing to install an inground swimming pool in the rear yard of the property requiring two (2) variances: side yard setback and maximum improved lot coverage.

Thomas Skrable, P.E. duly sworn by Mr. Madaio testified to being familiar with the property having prepared the plot plan and grading plan for the original dwelling constructed according to those plans. The following were submitted and identified: **A-1:** *Soil Erosion and Sediment Control Plan and Pool Plan prepared by Thomas Skrable, P.E., dated September 9, 2013;* **A-2:** *Landscaping Plan prepared by Michael Hartnett, L.A. dated November 15, 2013;* **B-1:** *Christopher Statile, P.E, review letter dated December 26, 2013.* Mr. Skrable testified to the topography of the property sloping from high east to low west. The proposed plan includes the construction of the pool and patio in the rear yard, and covered basement entry with steps for ease of access to store pool equipment. A small cabana is proposed near the south east corner of the lot. The primary variance is for the location of the pool having a 23.3 ft. side yard setback vs. 35 ft. required due to the 20 ft. minimum setback separation distance requirement from the septic to the edge of the pool. The variance required for exceeding the maximum 30% lot improvement coverage is due to the nine (9) existing window wells included

by the Zoning Officer in calculating the coverage.

In response to comments from the Board, Mr. Skrable testified the existing window wells let light into the basement; without the wells, the coverage would not exceed the 30% permitted. The wells are block wall, with some having a plastic cover and account for 20 s.f. of lot coverage. The proposed size of the pool is 41.5 ft. x 21 ft. or 700 s.f. where a typical pool is 800 s.f.

Mr. Skrable described the proposed patio shape, testifying that no patio is proposed on the east side of the pool due to the steep slope in the grade – all patio is located on the west side from mid pool.

In response to comments from the Board, Mr. Skrable testified the pool location can't be moved because it would encroach into the non-disturbance zone.

Ms. Boland, Board Engineer, commented the new basement steps may create a height issue. Discussion followed.

Mr. Maloof requested a brief recess at 7:55 p.m. and reconvened at 7:57 p.m.

Mr. Maloof proposed the following: Mr. Skrable will submit a design showing a covered basement entry, if not possible without occurring another variance, and then the steps will be removed.

Mr. Maloof requested a waiver from the submission requirement to provide a listing of property owners and adjacent properties on the plans.

In response to a suggestion to rotate the pool counter clockwise, Mr. Skrable advised this was not possible.

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

A motion by Mr. Polizzi seconded by Mr. Stutman to close the Hearing.

Michael Hartnett, L.A. duly sworn by Mr. Madaio, testified he is a full time employee of B&B Pools, the intended contractor. Mr. Hartnett testified he developed the conceptual plan and worked out details with Mr. Skrable. Due to the required setback from the septic field, this was the only location to put the pool. Mr. Hartnett testified to the pools construction and proposed landscaping.

In response to comments from the Board, Mr. Hartnett testified a double row of evergreens is proposed to provide screening so the pool is not visible from the neighboring properties uphill. The evergreens measure 8-10 ft. in height at planting and will mature over years reaching a height of 20-25 ft. Other plantings proposed are flowering shrubs, dogwood, Japanese maple, holly and other native plantings that will hold up to deer. Discussion followed.

A Board Member suggested moving the proposed Norway spruce trees out of the buffer, closer to the pool, and adding additional deciduous trees to the buffer supplemented with evergreens planted behind.

Mr. Hartnett testified the 700 s.f. pool is smaller due to the encroachment into the setback; the construction technique provides less sound due to digging further into the ground.

A motion by Mr. Polizzi seconded by Mr. Friedman to open the Hearing to Members of the public regarding Mr. Hartnett's testimony.

Richard Colton – 36 Hampshire Hill Road, advising he is the westerly neighbor, provided comment pertaining to root protection of several existing large trees located in the side buffer.

In response, Mr. Hartnett testified digging will be done by hand as to not disturb the root systems. The grade is not being raised, and silt fencing will be installed so not to disturb the area.

With no further comments from the public, a motion by Mr. Friedman seconded by Mr. Polizzi to close the Hearing.

Arthur Michels, P.P., duly sworn by Mr. Madaio, testified to reviewing Borough Ordinances, proposed site plan, landscaping plan, application, septic code and visiting the site. Mr. Michels reviewed the statutory provisions for granting the requested C-1 and C-2 variances testifying the existing conditions and features of the property present extraordinary and exceptional difficulties. Adequate light, air and open space is preserved; the recreation space and proposed landscaping abates any potential negative impacts of the pool, promoting a desirable visual environment. The general improvements account for 31 s.f., a small indistinguishable deminimus effect on the zone plan. Mr. Michel's concluded the granting of the two (2) variances advances the purposes of Municipal Land Use Law since the benefits substantially outweigh any detriments to the public good or impairment to the zoning ordinance.

With no comments from the Board, a motion by Councilman Durante seconded by Mr. Polzzi to open the Hearing to Members of the public regarding Mr. Michel's testimony. No one appeared to provide comment. A motion by Mr. Polizzi seconded by Councilman Durante to close the Hearing.

Discussion followed. Mr. Maloof advised the applicant will amend the application reducing the patio, and will remove the pine trees out of the buffer, adding more deciduous trees, with spruce trees planted on the inside. A revised plan with or without the steps will be submitted.

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

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

A motion by Mr. Stutman seconded by Mr. Friedman to approve the application as presented with amendments as discussed.

Roll Call

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

2. Variance & Soil Moving Application of **Rachel Hayek & Scott Smith**
37 Weiss Road – Block 2301 – Lot 10
(Lot Frontage; Height; *Soil Moving/New Home Construction*)

Robert Maloof Esq., representing the applicant, advised the proposed development of the new home is fully conforming with the exception of height. The original request for a height variance has been reduced to 38.4 ft. vs. 35 ft. required, thereby eliminating a D variance. Mr. Maloof advised this is a pre-existing non-conforming flag lot, therefore the applicant is not seeking a variance for lot frontage; the only variance request is for height.

Jeff Houser, P.E, duly sworn by Mr. Madaio, submitted and identified the following: **A-1:** *Site Plan, prepared by Houser Engineering dated October 28, 2013 revised through February 27, 2014; A-1-A: Proposed Amended Residential Development, prepared by House Engineering, dated October 28, 2013 last revised March 27, 2014. A-2: Section Location Plan prepared by Houser Engineering, dated January 13, 2014; A-3: Plan of Survey, prepared by Charles Saladin, dated June 12, 2013; B-1: E. Boland, P.E. review letter dated March 13, 2014;*

Mr. Houser testified the property is located on the north side of Weiss Road with an existing ranch dwelling serviced by a well and underground oil tank. The applicant proposes to demolish the existing dwelling and construct a new 5,491 s.f. home with 685 s.f. inground pool, and 160 s.f. pool house, with an outdoor kitchen. The new dwelling will be serviced by natural gas, new septic, refurbished well, new circular driveway in front of the home, and power lines moved below grade. The home will be orientated the same as the existing dwelling. The first floor is set at 83.5 ft. slightly higher than natural existing grade. A total of 1,995 c.y. of soil are to be moved during construction with a net export of 23 c.y. from the site. The excavation for the foundation and pool will be used to grade the driveway and level out the area for the pool. Four (4) seepage pits are proposed to receive excess run off – resulting in a zero net run off.

Mr. Houser reviewed the proposed building height testifying the 83.5 ft. first floor elevation is due to the ordinance definition of height. The existing driveway provides access to an under house garage, resulting in a building height of 38.4 ft. when the ridge elevation is measured from the lowest existing natural grade.

In response to comments from the Board, Mr. Houser testified the applicant is really restoring what was pre-existing. The lower level driveway was created by cutting into the grade to provide access to the garage and as a result, is at a much lower grade than the surrounding area.

Mr. Houser distributed a series of photographs identified and marked **A-4** *depicting the cut in driveway, from what point the measurements have been calculated, but will not be there when the home is completed. A-5: Depicts the existing driveway; A-6: Depicts area homes; A-7: Depicts the front elevation with lowered roof.*

Mr. Houser described the topography when entering from Weiss Road as having an 18 ft. grade change from the existing driveway until reaching the stem of the driveway at which point it levels out. A loose stone boulder wall varying from 4-5 ft. exists on the easterly property line. The grading needs to be raised up in the area of the foundation and pool. Over all there is a 3 to 1 slope off the back side of the driveway. Two (2) lawn inlets are proposed to collect excess water.

In response to comments from the Board, Mr. Houser testified there is no major drainage issue; the driveway entrance on Weiss Road has an existing inlet and curbing. The driveway will be re-paved and pitched up from the road capturing water from the high side. Soil test logs encountered no ground water. Mr. Houser testified the 10 ft. wide driveway is to remain exactly as it exists, but will be repaved with a berm created at the entrance.

In response to comments from the Board, Mr. Houser testified the antenna located south of the existing dwelling has been removed.

A motion by Mr. Bakal seconded by Mr. Polizzi to open the Hearing to the public regarding Mr. Houser's testimony. No one appeared to provide comment. A motion by Mr. Polizzi seconded by Mr. Bakal to close the Hearing.

Ms. Boland, Board Engineer, recommended swales be constructed to the left of the seepage pits on the lower side, closer to the neighbors. Mr. Houser agreed to construct a swale, staying away from the trees, and direct water away and into seepage pits.

Arthur Michels, P.P. duly sworn by Mr. Madaio, provided a summary statement, testifying he had reviewed the zoning ordinance, site plan, architectural plans, correspondence and conducted a site visit of the subject property. Referring to **A-8: Aerial View of Surrounding Properties**, Mr. Michels testified the proposed dwelling and pool are well positioned to maintain privacy for the properties located to the north, south, east and west. The variance for height is necessary because the area of the existing garage was excavated to allow access to the garage, resulting in the grade to be lower than the original lowest grade. Based on knowledge of statutory requirements, the variance can be granted based on the C-1 and C-2 criteria. The negative criteria have been met without substantial detriment or impairment of the zoning plan. The positive criteria have been met by advancing the purposes of Municipal Land Use Law.

A motion by Councilman Durante seconded by Mr. Polizzi to open the Hearing to Members of the public regarding Mr. Michel's testimony. No one appeared to provide comment. A motion by Mr. Polizzi seconded by Councilman Durante to close the Hearing.

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

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

A motion by Mr. Friedman seconded by Mr. Wortmann to approve the application for the requested height variance and soil moving permit as presented with drainage recommendations provided by the Board Engineer.

Roll Call

Ayes: 8 Mr. Friedman, Mr. Wortmann, Councilman Durante, 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 provide testimony.

ADJOURNMENT

A motion to adjourn the meeting by Mr. Virgona seconded by Mr. Polizzi was unanimously approved by all Members present. Meeting adjourned at 9:23 p.m.

Respectfully submitted,

Linda Marmora, Clerk