

# UPPER SADDLE RIVER PLANNING BOARD ZOOM MEETING MINUTES

THURSDAY, OCTOBER 22, 2020

Mr. Virgona called the meeting to order at 7:05 pm. 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, 2019 and October 10, 2020 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 and on the Boro Website.

**Present:** Mr. Virgona, Mr. Polizzi, Mayor Minichetti, Ms. DeFuccio, Mr. Bakal,  
Mr. Richardi, Mr. Bonjuklian

**Absent:** Mr. Rotella, Mr. Preusch, Mr. Donato, Mr. Jacobs, Mr. DeBerardine, Ms. Schaum

**Also Present:** Mark Madaio Esq, Planning Board Attorney  
Kevin Boswell PE, for Marisa Tiberi PE, Boswell Engineering/Borough Engineer

**APPROVAL OF MINUTES:** A motion by Mr. Polizzi to adopt the minutes of the October 14, 2020 meeting seconded by Ms. DeFuccio was unanimously approved by all Members present.

## **PUBLIC HEARING**

1. Variance Application of **Jeffrey & Stacy Edelman**  
**30 Blue Spruce Drive - Block 704 – Lot 28**  
(Location/*Proposed Pool*)

David Rutherford Esq, representing the applicants, provided a brief overview of the existing conditions on the property located at the intersections of Blue Spruce Drive and Clover Lane, resulting in (2) front yards. Mr. Rutherford presented the plan to construct an inground pool, partial patio, new walkway, fencing and the removal of a portion of the driveway requiring variance relief for the proposed pool to be located in the side yard forward of the home's rear building line. Extensive landscaping is proposed subject to approval.

The following exhibits were identified: **A-1:** *Site Plan dated thru July 6, 2020 prepared by Kent Rigg, Engineering & Land Surveying; A-2: Landscape Renderings, prepared by Visionscape; A-3: Property Photographs taken by Stacy Edelman; A-4: Aerial Photographs of the Property; A-5: Colored Site Plan Rendering; A-6: Bergen County Soil Conservation Waiver; **B-1:** *Boswell Engineering Review Letter dated July 28, 2020.**

Kent Rigg PE, duly sworn by Mr. Madaio, testified the corner lot requires the property to have (2) front yard setbacks one on Blue Spruce Drive and one on Clover Lane. The corner property located on the south side of the Blue Spruce cul-de-sac is fairly flat, shallow and wide having five (5) sides. The property behind the house on Blue Spruce Drive is considered the rear yard and has limited use due to its 35 ft. depth, the setback requirements and location of the well. The only feasible location for the proposed pool is in what is considered the side yard, which meets the setback requirements.

Mr. Rigg briefly reviewed the existing site improvements containing non-conformities proposed to remain: the existing deck, walkway and driveway off Clover Lane. In order to reduce overall impervious coverage, a portion of the existing dual driveway will be removed.

In response to comments from the Board, Mr. Rigg testified the proposed pool measures 14 ft. x 31.5 ft. and the patio 172 sf. The proposed pool is located 44 ft. from the eastern property line and the patio 37.5 ft. from the eastern property line. In response to a Board Member regarding the ability to inscribe a 150 ft. circle into this lot, Mr. Rigg testified he is not certain.

Stacy Edelman, duly sworn by Mr. Madaio, referencing various photographs of the property and renderings of the proposed landscaping, testified the area on the east side of the house is the backyard and the only location for the proposed pool and patio.

In response to comments from the Board, Ms. Edelman testified the existing mature landscaping will be transplanted on the property.

Mr. Boswell referencing Exhibit B-1, commented the coverage complies, the pool being oriented forward of the property line is the only variance required; the application is exempt from stormwater management and requires a permit to move 240 cy of soil and 40 cy of fill.

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

Upon no one appearing to provide comment and with no further comments from the Board, Mr. Virgona closed that portion of the Hearing.

Mr. Rutherford provided a brief summary stating the proposed pool meets all the setback requirements, has existing screening, and the side yard is the only location for the construction of the modest pool and patio.

A motion by Mr. Richardi to approve the application as submitted seconded by Mr. Bonjuklian.

### **Roll Call**

**Ayes:** 7 Mr. Richardi, Mr. Bakal, Mayor Minichetti, Ms. DeFuccio, Mr. Bonjuklian, Mr. Polizzi, Mr. Virgona

2. Application of **Michael Williams**  
**520 West Saddle River Road – Block 204 – Lot 27**  
(Side Yard Setback/*Proposed Pool*)

Jay Atkins Esq, represented the applicant. Mr. Atkins advised the applicant is requesting site plan approval, minor soil moving permit and a bulk variance to permit the construction of a pool having a 21 ft. right side yard setback vs. the 35 ft. required.

The following Exhibits were identified: **A-1:** *Pool Plan prepared by Mark Mantyla PE, revised through August 23, 2020;* **A-2:** *NJDEP Permit dated September 15, 2020;* **B-1:** *Boswell Engineering Review Letter dated September 2020.*

Mark Mantyla PE, duly sworn by Mr. Madaio testified to the environmental constraints associated with the subject property and why the pool can only be located in the proposed location. The property

is encompassed with wetlands, mandated to comply with NJDEP regulations, and with the existing septic field and topography of the site, making the installation of the pool to be located 35 ft. from the side yard as required is impossible.

In response to comments from the Board, Mr. Mantyla testified none of the improvements are above grade. The nearest neighboring home is located 75 ft. from the proposed pool, being the properties are buffered by significant landscaping, the proposed pool and improvements provide no visual impact. A patio is not proposed in order to minimize disturbance and fencing is proposed along both sides of the property.

Mr. Boswell commented he concurs with Mr. Mantyla, that due to the environmental constraints, the location of the pool must be moved closer to the side yard setback. Mr. Boswell also commented, flag stone steps are needed from the existing patio and driveway in order to get to the pool.

Discussion followed. It was agreed the flag stone path if permitted as per the NJDEP permit, it cannot be located outside of the 35 ft. side yard setback.

A motion by Mr. Richardi seconded by Mr. Polizzi to open the Hearing to Members of the public. No one appeared to provide comment.

Gerry Gouldey, Anthony & Sylvan Pools, duly sworn by Mr. Madaio, testified no structure is visible, there is an existing 6 ft. fence on the other side of the gunite pool which will be surrounded by landscaping and the pool equipment is to be located on a concrete pad adjacent to the home. Mr. Gouldey also testified it will not be problem to locate a flag stone path outside the property line.

With no further comments from the Board or public, Mr. Virgona closed that portion of the meeting.

Mr. Atkins provide a brief summation, stating the hardship is created by the environmental constraints of the large lot, and the proposed pool does not provide any negative impact to the neighbors. Mr. Atkins requested the Board grant approval of the application as the applicant has met the criteria for granting a c (1) variance.

A motion by Mr. Bakal to approve the application as submitted seconded by Ms. DeFuccio.

### **Roll Call**

**Ayes:** 7 Mr. Bakal, Ms. DeFuccio, Mayor Minichetti, Mr. Jacobs, Mr. Bonjuklian, Mr. Polizzi, Mr. Virgona

3. Application of **Angel and Ana Leon**  
**15 Arrowhead Drive- Block 920 – Lot 7**  
(Height (d) Variance/*Proposed Basement Access; Front Yard Fence*)

*Mr. Madaio counseled the record is to reflect Mayor Minichetti and Councilwoman DeFuccio have adjourned this portion of the meeting as the applicant is requesting a D variance.*

Mr. Madaio explained to the applicants a (D) variance request requires five (5) affirmative votes to be approved. Being only five (5) Board Members were present, it is their decision whether or not to proceed at this time. Mr. & Ms. Leon advised they wished to proceed in presenting the application.

Angel and Ana Leon, Karen Arent LA and Rick Eichenlaub PE, were duly sworn by Mr. Madaio.

The following Exhibits were identified: **A-1**: *Tree Removal Preservation Planting & Fence Plan, prepared by K.A.L.A. dated October 13, 2020*; **A-2**: *Engineering Plans, prepared by RL Engineering, dated October 14, 2019 last revised August 8, 2020*; **A-3**: *Architectural Plans prepared by Harry J. Goldstein, dated August 4, 2020*; **B-1**: *Boswell Review Letter dated September 24, 2020*; **B-2**: *Boswell Review Letter dated October 16, 2020*.

Karen Arent LA, representing the applicants, advised the applicant's visiting elderly parents stay in the guest bedroom located in the basement of the home and for safety reasons need access from the basement to the outside. The proposed exterior stairwell into the basement creates a new lowest point creating a height of 40.75 ft vs. the 35 ft. permitted. Ms. Arent testified the proposed stairwell is located on the side of the home and did not require a variance for location.

Ms. Arent testified the proposed 6 ft. high aluminum open black fencing located along the front yard area requires a variance along the south side vs. 4 ft. permitted. On the north side it remains compliant as it ties into the rear building line of the home.

In response to comments from the Board, Mr. Leon testified there is no kitchen in the basement and it will not be used as separate living quarters.

Rick Eichenlaub PE, testified the constructed building height is in compliance at 34.7 ft., however the excavation for the proposed stairwell creates a new lowest point from which the roof height is measured, altering the height to 40.75 ft. The proposed stairwell and retaining wall are under the permitted 30% lot coverage.

In response to comments from the Board, Mr. Eichenlaub testified a drain will be provided at the bottom of the stairway with a sump pump directing runoff into the seepage pit.

Board Members commented if the stairway had a roof it would not require a variance as the roof would extend to the outside wall, be under the 30 % lot coverage and the 15% building coverage.

A motion by Mr. Bonjuklian to open the Hearing to Members of the public seconded by Mr. Richardi. No one appeared to provide comment.

With no further comment from the Board, Mr. Virgona closed that portion of the Hearing.

A motion by Mr. Richardi to *deny* the application for a variance to permit a 6 ft. fence in the front property seconded by Mr. Polizzi.

### **Roll Call**

**Ayes**: 5 Mr. Richardi, Mr. Polizzi, Mr. Bakal, Mr. Bonjuklian, Mr. Virgona

A motion by Mr. Richardi to approve the (d) variance application for height to permit the construction of an exterior stairwell into the basement seconded by Mr. Bonjuklian.

### **Roll Call**

**Ayes**: 7 Mr. Richardi, Mr. Bonjuklian, Mr. Bakal, Mr. Polizzi,  
Mr. Virgona

The Board recessed at 9:10 pm and reconvened at 9:20 pm.

Mr. Polizzi, Board Vice Chairman, requested a Roll Call of those Board Members present.

**Roll Call**

**Present:** Mayor Minichetti, Ms. DeFuccio, Mr. Virgona, Mr. Polizzi, Mr. Bakal, Mr. Richardi, Mr. Bonjuklian

**4. 2020 Housing Element and Fair Share Plan**  
(Borough of Upper Saddle River, Bergen County, New Jersey)  
Joseph Burgis, PP, Borough Planner

*Mr. Madaio counseled the record is to reflect Board Chairman, James Virgona has recused himself due to a potential conflict. Mr. Polizzi, Board Vice Chairman, resumed the Chair.*

Mr. Burgis advised the 2020 Housing Element and Fair Share Plan has been prepared to address the Borough's Third Round affordable housing obligation in accordance with the NJ Fair Share Housing Act.

Mr. Burgis reviewed the three sections of the Fair Share Plan to address those obligations: The Housing Element, containing the Borough's background data, the Fair Share Obligation describing the Borough's constitutional obligation to provide affordable housing, and the Fair Share Plan.

Mr. Burgis reviewed the Third Round Housing Needs per the Settlement Agreement with the Fair Share Housing Center dated January 23, 2020. Mr. Burgis explained the vacant land adjustment (VLA) and the realistic development potential (RDP) and reviewed the overlay zones located along the Route 17 corridor.

A motion by Mr. Richardi to open the Hearing to Members of the public seconded by Mr. Bonjuklian. No one appeared to provide testimony.

Mr. Burgis advised the Plan is consistent with the goals and objectives of the Borough's Master Plan and the adoption and implementation of the Housing Element and Fair Share plan are in the public interest and serve to protect the public health and safety and promote the general welfare.

Mr. Madaio advised there will be no specific changes to the Plan, but a minor amendment to Page 30 – Section A: *“The Borough is awaiting the funding schedule, construction schedule and pro forma from the Development Entity, and the Borough will furnish these, and related documents, to FSHC upon receipt, and if determined necessary amend this Plan accordingly”*.

With no further comments from the Board or public, Mr. Polizzi closed that portion of the Hearing.

A motion by Mr. Richardi to memorialize the Resolution adopting the 2020 Housing Element and Fair Share Housing Plan dated October 9, 2020 seconded by Mr. Bakal.

**Roll Call**

**Ayes: 6** Mr. Richardi, Mr. Bakal, Mayor Minichetti, Ms. DeFuccio, Mr. Bonjuklian, Mr. Polizzi

**PUBLIC COMMENT**

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

Mr. Polizzi announced the next meeting of the Planning Board is Wednesday, November 18, 2020 at 7:00 pm Via ZOOM.

**ADJOURNMENT:**

A motion to adjourn by Mr. Richardi seconded by Mr. Bonjuklian was unanimously approved by all Members present. Meeting adjourned at 10:05 pm.

Respectfully submitted,

Linda Marmora, Clerk

