

**MINUTES OF THE SADDLE RIVER ZONING BOARD OF ADJUSTMENT  
HELD: WEDNESDAY SEPTEMBER 16, 2015 at 7:00P.M., MUNICIPAL BUILDING**

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**PRESENT:** Chairman Montana, Board Members Dowden, Kakaty, Nazzaro, Trobiano, Alt. #2,  
Attorney David Rutherford, Municipal Clerk Macari

**ABSENT:** Board Members Laurite, Perrin, Raia, Mastriano, Council Rep Kerner

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**SUNSHINE LAW:** Chairman Montana stated: "I have been informed by the Clerk that adequate notice has been provided by mailing a notice to The Herald News and The Record on December 31, 2014 and posting a notice in the Office of the Borough Clerk and on the Borough website."

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF MINUTES**

A motion was made to approve the July 15, 2015 minutes by Board Member Nazzaro. Seconded by Board Member Dowden.  
Roll Call Vote: AYES: Unanimous

**MEMORIALIZING RESOLUTION (S):**

**ZBA-13-15**

**Blk 2101 Lot 27  
277 Mill Road  
Mr. Richard Naramore  
Construct an addition to expand 2<sup>nd</sup> floor bathroom  
Lot is pre-existing non-confirming; existing  
structure encroaches into the required front yard  
and side yard setbacks as well as the 25' non  
disturbance zone. Expansion would create a further  
encroachment etc.  
**APPROVED****

Attorney Rutherford gave an overview of the resolution at this time.

A motion to **approve** the Naramore resolution was offered by Board Member Nazzaro.  
Seconded by Board Member Kakaty  
Roll Call Vote: AYES: Unanimous

**APPLICATIONS:**

**Blk 1502 Lot 25  
Jinsong & Hong Xu Li  
39 Woodcliff Lake Road  
Construct a new dwelling, pool, patio & screened  
porch, non-confirming barn to remain;  
proposed site plan indicates encroachment  
into the rear yard setback  
**APPROVED****

Bruce Whitaker, McDonnell & Whitaker, LLC, Ramsey, NJ represented the client and explained the application in detail at this time. The application has been submitted for allowing an existing barn on the property to remain and the applicant is appealing the zoning decision or requesting for variance relief.

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The application consists of the request to allow the existing 1462 square foot barn that is located within the rear yard setback to remain.

Mr. Whitaker further stated that, under the Municipal Land Use Law, any structure existing at the time of the passage of an ordinance, may be continued upon the lot and any such structure may be restored or repaired in the event of partial destruction thereof. The zoning officer, John Scialla, recognizes that it is pre-existing, non-conforming as the barn pre-dates 1900. He further stated that many of the Borough residents would like the barn to remain due to its historical significance.

Martin Spence, Borough Engineer, Saddle River and Scott Levy, Borough Landscape Architect, Hamburg, NJ were sworn in at this time.

Mr., Spence addressed this issue at this time, highlighting several deficiencies with the barn to include that it is in need of repairs as well as the encroachment into the rear yard setback.

**OPEN TO THE PUBLIC:**

Jerry Treglia, 41 Woodcliff Lake Road stated that the proposed dwelling will tower over the barn and he is not in favor of this. Attorney Rutherford stated that the issue before the Zoning Board of Adjustment is only hearing the non-conforming aspect of the barn and to overturn John Scialla' s decision based on the testimony from Mr. Whitaker. The house and its location will not be ruled upon at this meeting.

Jonathan Kurpis, 12 East Allendale Road stated that he comes before the Board in the capacity of resident, Borough Historian and Chairman of the Landmarks Commission; he has never appeared before this Board in the past. He further stated that he has some concerns about the location of the barn as it pertains to the proposed construction and wants to insure that protective measures are in place, as this barn is an historical treasure.

Board Member Nazzaro had a concern that the barn is very close to the proposed dwelling and she also feels that it, in order to preserve the barn, repairs are necessary.

Mr. Whitaker reiterated that, according to the zoning official, a building permit cannot be issued as there is a non-conforming structure on the property, so repairs are not possible at this time.

Board Member Dowden agrees that it is non-conforming and Board Member Trobiano stated that she would like to see the barn restored. Board Member Kakaty stated he does not feel that the applicant should be denied a building permit and should be able to make the necessary repairs on the barn.

Chairman Montana stated that he feels that the applicant has the legal right to proceed accordingly. He further stated that protective measures must be in place in order to protect the barn and they could include having the contractor tender a performance bond or fencing the property around the barn.

Attorney Rutherford stated that he would grant the appeal, overturning John Scialla's decision, and grant approval for the barn to remain and include the concerns regarding the preservation and protection of the barn, which will be deemed historic.

A motion to **approve** the Jinsong & Hong Xu Li was offered by Board Member Nazzaro  
Seconded by Board Member Dowden.

Roll Call: AYES, Unanimous

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Attorney Whitaker requested that, as a variance was not required, the escrow be returned to the applicant.

**Blk. 1607 Lot 37 & 38  
120 West Saddle River Road  
Eileen Brady & Stephen Campbell  
Installation of lights on top of wall at driveway  
Proposed lighting is limited to two such fixtures  
CARRIED**

Home owners Eileen Brady and Stephen Campbell, 120 West Saddle River Road were sworn in at this time.

Mr. Campbell stated that the application has been submitted for construction of a shed which encroaches into the setbacks as well as the placement of lights on top of a recently constructed retaining wall at the driveway limits. Additionally, the property is known as two separate lots and the applicant is seeking to combine them into one lot, which would eliminate a current variance condition as related to improved lot coverage.

Mr. Campbell stated that the driveway was expanded and a retaining wall was installed to simplify the ingress and egress and he would now like to install lighting on the retaining wall for safety reasons.

Tibor Latincsics, Engineer, Conklin Associates, Ramsey, NJ was sworn in at this time and was qualified as an expert witness. Mr. Latincsics referenced the lighting and shed zoning permit plan, which was marked Exhibit A-1 at this time. Photographs detailing the driveway and the retaining wall were marked Exhibit A-2; these were explained in detail at this time. The driveway is located at a dangerous bend on West Saddle River Road. The proposed additional lighting will provide the ability to execute a safer ingress and egress into the property.

The applicant is proposing to construct a 12' x 14' shed within the front yard setback. Mr. Latincsics explained that the location of the shed, stressing that the property has several hardships and this is the most viable location. The shed is proposed to be located 25' back from the front building of the existing dwelling. The applicant is also seeking to merge two lots into one, which would rectify lot coverage issues on Lot 38.

Mr. Spence stated that he has prepared a report dated September 14, 2015 and reviewed the report in detail at this time.

Mr. Spence asked about illumination levels of the proposed lighting and Mr. Campbell addressed this at this time. Mr. Campbell further stated that these lights can be put on motion sensors or a timer if necessary.

Mr. Levy stated that, if the shed could be shifted north, it would provide additional screening from the roadway. He further stated that the construction of the retaining wall severely impacted the trees in that area and he suggested adding more trees. Mr. Levy addressed the lighting and suggested that low level lighting be used with some type of timer or motion detector.

**OPEN TO THE PUBLIC:**

John Bishop, 110 West Saddle River Road stated that he would like to insure that the dwelling would not be able to be expanded if the lots were combined. As the lots are undersized, any proposed construction would require a variance.

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Marilyn Goldfisher, 124 West Saddle River Road stated that initially permits were not issued when work commenced on this property. She further stated that her property has been negatively impacted with the construction as well as lighting that currently exists on the garage. She further stated that she is concerned that there are too many lights being proposed in this application.

She stated that she is concerned about the proposed shed and would like it moved away from her line of sight. Ms. Goldfisher presented photographs of the subject property and they were marked Exhibit G-1 at this time.

Mr. Campbell stated that the shed will not be a height concern and the proposed lights can be down shielded in order to minimize their impact.

Board Member Trobiano asked about the height of the shed and Mr. Latincsics explained this in detail. The retaining wall and driveway were also addressed.

Chairman Montana asked Mr. Campbell about the location of the shed and he stated that the proposed location is the optimum location on his property. The lighting was discussed again, specifically the amount of fixtures, the placement and the amount of watts proposed.

Board Member Kakaty stated that he has no issue with the shed, he did however want a condition written into the resolution regarding the replacement of any trees on the property that may die due to the construction of the retaining wall. He further stated that he feels that only two fixtures should be necessary to accomplish their goal.

Board Member Nazzaro stated that the shed does not present an issue but she has some concerns about the lighting. There was a discussion about the retaining wall being considered a fence; it presents different lighting allowances.

Council Member Dowden stated that the lighting is excessive as presented. He further stated that the shed doors face the street and, as garage doors are not permitted to face the street, he is not in agreement with this location.

Board Chairman Montana asked Mr. Campbell if he would be willing to amend his lighting plan to minimize the impact on neighboring properties, present clarification on the location and height of the shed and agree to install additional screening. Attorney Rutherford was in agreement and encouraged the applicant to consider this alternative.

Mr. Campbell stated that he will consider these recommendations and would like to carry this matter to the October 21, 2015 meeting of the Zoning Board of Adjustment.

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**Blk. 2101 Lot 32  
59 Twin Brooks Road  
Bal & Sharon Dail  
Additional balconies and canopy over rear patio  
Result in excessive building coverage. Driveway  
Stanchions were constructed encroaching into  
the required from yard setback of 10' from the property  
line.  
APPROVED**

Doreen Winn, Esq., represented the applicant and explained the application in detail at this time.

This application has been submitted for as-built conditions for a recently constructed dwelling that exceeds the building coverage. Additionally, the applicant had constructed piers that encroach into the right-of-way and originally had submitted for relief. The applicant has subsequently removed this item from the application and the stanchions are being relocated to comply with the zoning code.

At this time, the following individuals were sworn in: Joseph Careri, J. Careri Construction, Saddle River, NJ, Sharon Dail, home owner, Mark Braithwaite, Architect, Ho-Ho-Kus, NJ and Tibor Latincics, Engineer and Planner, Ramsey, NJ. The professionals were qualified as expert witnesses.

Ms. Dail stated that the property was purchased in 2012 with the intention of building a single family dwelling. She further stated that it was not her intention to require any variances for this construction and her architect and builder were advised accordingly. The plot plan was marked Exhibit A-1; she further stated that the home was built per this plot plan.

All inspections were passed and, when the final as-built survey was reviewed, the building coverage was in excessive by 7.3% due to the canopy over the rear patio and additional balconies.

Mr. Latincics reviewed the final plot plan and this was marked Exhibit A-2. This plan was discussed in detail at this time. The final as-built survey was marked Exhibit A-3. A blown up version of the as-built survey was marked Exhibit A-4 and the Zoning Official's denial letter was marked Exhibit A-5. When preparing building coverage calculations for this survey, the roof coverings of the two front balconies were not included in the calculations; recent photographs of same were marked Exhibit A-6. The rear canopy over the patio were omitted from this plan, making the building coverage 7.16%, which is 140.4 square feet over the maximum allowable. Exhibit A-7 is the architectural drawings of the structure.

Attorney Winn asked Mr. Latincics to outline how the benefits outweigh the detriments on the balconies and the rear canopy and he did so in detail at this time, stressing that they are not visible from the front of the structure.

Mr. Spence stated that he has prepared a report dated September 15, 2015 and he addressed this report at this time. The improved lot coverage was unchanged and there was no drainage impact.

**OPEN TO THE PUBLIC:** No one wished to be heard.

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Board Member Dowden stated that he feels that this is an innocent error and is de minimis in nature.

Board Members Trobiano and Kakaty were in agreement. Board Chairman Montana stated that these additions are not visible and can't be removed at this time, however, he would like to see the lot coverage remain at 19.81% as a condition of the resolution.

Attorney Winn stated that her client is in agreement with this option.

Attorney Rutherford outlined the contents of the resolution at this time, reiterating that the condition will be that the lot coverage will be frozen at 19.81%

A motion to **approve** the Dail application was offered by Board Member Kakaty  
Seconded by Board Member Trobiano  
Roll Call Vote: AYES, Unanimous

**OLD BUSINESS:**

**NEW BUSINESS:**

**ADJOURNMENT:**

As there was no further business to discuss, a motion was made to adjourn and seconded.

Respectfully submitted,

Marie Elena Macari  
Borough Clerk

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