

**MINUTES OF THE SADDLE RIVER ZONING BOARD OF ADJUSTMENT
HELD: WEDNESDAY JULY 20, 2016 at 7:00P.M., MUNICIPAL BUILDING**

PRESENT: Chairman Montana, Board Members DeCrosta, Alt. #1, Nazzaro, Raia, Trobiano
Alt. #2, Attorney David Rutherford

ABSENT: Board Members Dowden, Laurite, Council Representative Gray

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 16, 2015 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 June 15, 2016 minutes by Board Member Nazzaro. Seconded by Board Member Trobiano.

Roll Call Vote: AYES: Unanimous.

MEMORIALIZING RESOLUTION (S):

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

**ZBA-09-16 Blk. 1202 Lot 21 – Kim & William Pressman
19 Charlden Drive
Prior relief was sought by applicant for the
required combined side yards.
Current as-built conditions indicate building
coverage in excess of the prior approvals
which granted 6.85%. Shed must be
removed.
APPROVED**

A motion was made to approve the Pressman application by Board Member Raia. Seconded by Board Member Nazzaro.

Roll Call Vote: AYES: Unanimous.

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

**ZBA- 10-16 Blk. 1601 Lot 8 – Vincent & Janice Blehl
33 East Allendale Road
Reconstruct shed, construct detached garage,
which exceeds maximum square footage and
height permitted, fire pit, install solid six foot
fence, not permitted.
APPROVED (Shed only)**

A motion was made to approve the Blehl application by Board Member Trobiano. Seconded by Board Member Raia.

Roll Call Vote: AYES: Unanimous.

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APPLICATION:

**Blk. 1701 Lot 41.01 – Tonor, LLC/Kurtz
140 East Saddle River Road
Pool cabana as constructed exceeds the
maximum allowable area for an accessory
structure.
APPROVED**

Bruce E. Whitaker, of McDonnell & Whitaker, Ramsey, New Jersey attorney for the applicant offered an overview of the application and exhibit lists. Attorney Whitaker submits that variance relief is warranted for this application for the following reasons:

The property is over two (2) times the lot area that is required in the R-1 Zone.

The total building coverage for the main dwelling unit and cabana is only 3.66%, where 7% is the maximum permitted.

The vertical door serves as an improvement to the structure over the Bilco door without changing the purpose and cannot be seen.

The pool equipment is protected from the elements by the shed without walls. If the pool equipment was protected with a modular cover and not connected to the cabana no variance relief would be required.

Mr. Rick Marchesi, a Licensed Contractor of 12 Mountainside Avenue, Mahwah, New Jersey 07430, was sworn in and was qualified as an expert witness.

Mr. Marchesi referred to the marked exhibits and began a detailed explanation of same at Attorney Whitaker's request. He explained at the time the building permit was issued, the proposed structure was less than 1,000 sq. ft. Field changes were made to enhance the aesthetics of the door and provide a better egress and ingress as well as a roof over the pool equipment to protect it from the elements with open sides. As a result of these changes, 101.4 sq. ft. was added to the building causing the overage in lot coverage to increase from 1000 sq. ft. to 1,090 sq. ft. requiring a variance.

At this time Mr. Brian Rose, 86 East Allendale Road, Engineer and Scott Levy, Borough Landscape Architect of 16 Main Street, Hamburg, New Jersey were sworn in.

Mr. Rose gave a synopsis of the engineering report of the application with conclusion that the applicant shall submit escrow sufficient to cover the legal costs incurred by the Borough for the review and inspection of the application.

After review of the property and application Mr. Levy concluded if the variance was granted there would be no impact to the site. He stated there are some requirements that have not yet been met by the previous application as far as landscape instillation. Mr. Levy stated he has been in touch with Mr. Marchesi regarding same. There has been discussion of what needs to be done and then an inspection will need to be made.

OPEN TO THE PUBLIC: No one from the public wished to be heard.

Ms. Nazzaro asked for further clarification of the vertical door installation, which was given.

Mr. DeCrosta clarified that the space that was increased is not living space.

Ms. Trobiano stated that since the increased space is not living space coupled with the vertical door being safer and the fact the overall lot coverage is under what is allowed she finds these changes an

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improvement which has no detrimental impact and should be considered for approval.

Mr. Raia stated he does not believe the Building Department is at fault that the overages were not picked up.

Chairman Montana stated he sees this as a C2 variance with the benefits outweighing the detriments to the town. To go on record that a permit issued in error is not a permit and it is incumbent on the applicant to pick up mistakes.

Attorney Rutherford outlined the resolution language at this time. A motion was made to approve the resolution by Ms. Nazzaro. Seconded by Ms. Trobiano. **Roll Call Vote: AYES: Unanimous**

APPLICATION: **Blk. 1607 Lot 10 – Zion Evangelical Lutheran Church
96 East Allendale Road
Proposed Wellness Center use is not an approved
use within the zone.
APPROVED**

Mr. Stephen Perretta, Vice President of the Congregation Council of the Zion Evangelical Lutheran Church at 96 East Saddle River Road, Saddle River, New Jersey and Ms. Melanie Struble, licensed Clinical Social Worker and licensed in drug and alcohol counseling, Co-founder of the Body Image Boutique were sworn in by Attorney Rutherford.

Mr. Perretta explained the application is for a use variance, class D, as the existing office space is zoned for religious purposes and would like to change the usage to office space for a tenant to be assigned. There will be no changes to the building. There will be no additional parking needed. There will be painting and minor repairs done. The hours will be 9:00am-5:00pm Monday through Friday. There may possibly be some evening hours added which would let out no later than 8:00pm. Since it is counseling, there will be two (2) employees at all times and no more than one (1) or two (2) clients at any one time at the facility. When a class is done there may be up to five (5) clients. There are currently 28 parking spaces allotted. The times of the Wellness Center will not conflict with Church services. Ms. Struble stated the use would be changed to a wellness programming site to provide services to the community for all ages both male and female which would provide body positive images. Nutritional, individual, family and group counseling will be available.

Mr. Rose gave a synopsis of the engineering report of the application with conclusion that the existing parking available is sufficient for the change of use.

Mr. Levy had nothing further to add.

Ms. Nazzaro asked if being called a Boutique meant they would be selling clothing, Yoga items or things of that nature and asked for clarification on Ms. Struble licensing. Ms. Struble replied "No" to the selling of retail items and that she is considered a Mental Health Professional.

Ms. Trobiano asked if there would be regulation by the State, inspections or site approvals since licensing of Mental Health Care Professionals is done by the State.

Mr. Raia asked about the requirements for signage. Chairman Montana responded that the signage would fall under the square footage in this case without limitation. The use variance does not allow the use of a ground sign.

Mr. Perretta explained the Church has the right of refusal on the message of the sign.

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OPEN TO THE PUBLIC: No one from the public wished to be heard.

Attorney Rutherford outlines the resolution language at this time. A motion was made to approve the resolution by Ms. Nazzaro. Seconded by Mr. DeCrosta

Roll Call Vote: AYES: Unanimous

APPLICATION:

**Blk. 1902 Lot 23 – Hekemian, Robert & Mary Jane
17 Old Woods Road
Multiple improvements to the site without prior
approvals. Swing set encroaches into side yard
setback and 25 foot non-disturbance zone. Train
track encroaches into the rear and side yard non-
disturbance zone. Retaining wall encroaches into
non-disturbance zone and exceeds four foot height
requirement. Improved lot coverage exceeds max
allowable of 20%.**

Chairman Montana introduced the Hekemian application, Block 1902 Lot 23.

Attorney Robert J. Inglima, Jr. of One Deerhill Drive, Ho-Ho-Kus, New Jersey 07423, was sworn in. Attorney Inglima gave a detailed description of the application. Approval is being requested for existing improvements and their placement in the rear yard and the retaining wall. The existing improvements being a train track, swing set and a retaining wall which encroach into the rear and side yard setbacks and the non-disturbance zone. In addition, the improved lot coverage exceeds the permissible 20%. The retaining wall is in excess of four feet with the proposal to remain at five feet ten inches. The existing retaining wall was replaced as it had become unstable from erosion due to storm water runoff. The creation of a level area in the rear yard which is on the north side of the existing pool cabana in order to have a place to operate the trains. This area is as far from the downhill neighbor as possible and it is tucked in to the area next to the retaining wall and is lower than the property to the east. He discussed the list of people who would be providing testimony regarding the application. There will be testimony provided regarding the existing landscaping and proposed additional landscaping. Part of the train was present for the Board to see. Attorney Inglima provided detail pertaining to the train, how it runs, and the type of track for the train.

Attorney Rutherford swore in Mr. Gerard Fitamant, Civil Engineer, of 300 Kimble Drive, Parsippany, New Jersey, of Langan Engineering.

Mr. Fitamant provided to the Board an overview of his background and was recognized by the Board as an expert witness as a licensed Professional Engineer in the State of New Jersey. Mr. Fitamant explained that he had visited the site of the application on several occasions. He explained that he had reviewed the applicant's property as well as similar ones in the area. He performed a site inspection recently to determine the conditions of the property as of the date of the hearing. Conklin & Associates prepared exhibits including a land survey (A-1), site plan (A-2), which is based on the land survey, letter from Mr. John Scialla, Borough of Saddle River Construction Official (A-3), non-disturbance zones (A-4), pictures of the retaining walls (A-5) train tracks and retaining wall pertaining to the landscape (A-6) and an ariel overview plan (A-7) showing all of the existing conditions of the

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property at 17 Old Woods Road. Mr. Fitamant explained each of the exhibits in detail. Mr. Fitamant explained the breakdown of improved lot coverage. The proposed improved lot coverage is 22,813 sq. ft. or 19.72% of the total lot area of 115,438 square feet which conforms to the Zoning Ordinance requirements. The mulch areas under the swing set (770 sq. ft.) and the elevated model railroad train tracks (1,590 sq. ft.) are excluded from the above calculation. If the mulch area were included in the calculation the improved lot coverage would be 25,173 sq. ft. or 21.8% which exceeds the 20% set forth in the Zoning Ordinance. Mr. Fitamant stated that the mulch should not be considered part of lot coverage as it allows for drainage. Mr. Fitamant discussed the existing retaining wall of 5'.10" which stands in violation of the 4' allowable height, pursuant to Section 183-6 of Chapter 183 (Soil Relocation) of the Code of Saddle River. It was discussed that this is not a Zoning requirement but a Planning Board requirement. Mr. Fitamant discussed the existing retaining wall. He explained it was built to replace a stone wall that was breaking down due to erosion from storm water runoff and had retention issues. The existing wall retains the slope coming down from the higher property from the east into the lowest areas of the northeast corner of the site. The wall serves a salutatory service of retaining the slope and preventing further erosion and allowing for the sustainability of plant life in the area of the retaining wall. There is a proposed site on the plan for giant arborvitae that would be installed along the top of the retaining wall, the northeast corner which is the eastern border of the property. This wall provides a more stable environment for the proposed arborvitae. The conifers provide a dense screening between the rear yard and the street. Additional plantings would not be suggested due to the existing density of the landscape in this area.

Attorney Inglima clarified with Mr. Fitamant that there is 50 foot rear setback line within the applicant's property as well as another 50 feet right of way from West Church Road before the next abutting property or nearby property.

Ms. Nazzaro asked for clarification pertaining to curb line location and if the platform and train tracks are movable. Mr. Fitamant addressed this matter.

Open to the Public: Mr. Jay Gordon, of 12 West Church Road, on the downhill side of 17 Old Woods Road, asked if there was a formal storm water drainage analysis done as a result of the improvements made. Mr. Fitamant stated there was not. Attorney Inglima responded, pursuant to the ordinance the top of the retaining wall is not counted as improved lot coverage. It is treated as if the water simply seeps through the ground either above or below the wall itself. It is our position that the train tracks do not have impervious characteristics with the exception of the few patio blocks.

Attorney Rutherford swore in Ms. Mary Jane Hekemian, of 17 Old Woods Road. Attorney Inglima discussed and clarified with her the statement he rendered regarding the property as to what items were present on the property when they purchased it. He also discussed in detail with her the reason for the train in the backyard. Ms. Hekemian stated the train set gives her husband and son, who have both suffered strokes much pleasure. In addition, the Hekemian's bring terminally ill children to their home from Hackensack Hospital to ride the trains. The Hekemian family sees the pleasure the children obtain from it to be part of the family's community outreach.

Ms. Nazzaro asked if there would be a possibility of flowers being planted in the mulch beds. Ms. Hekemian replied not at this time.

Open to the Public: No one from the public wished to be heard.

Attorney Rutherford swore in Mr. Robert Hekemian Jr., of 17 Old Woods Road. The drainage of the property was discussed at length. Attorney Inglima asked if the Hekemian's would make an effort to abate the concerns of Mr. Gordon with regard to the drainage issues. Mr. Hekemian addressed this

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matter and reiterated the importance and pleasure provided by these trains.

Mr. Levy asked for clarification with regard to the stone wall and the vegetation that existed prior to the drainage issues. Mr. Hekemian Jr. addressed this in detail.

Chairman Montana asked Mr. Hekemian Jr. if they had considered moving the train set so that it would not be so far into the non-disturbance zone. Mr. Hekemian Jr. stated they have already rearranged some of the pieces to make the track narrower however if they moved it any farther they would have to take down several well established trees.

Open to the Public: No one from the public wished to be heard.

Attorney Rutherford swore in Mr. Frank Parker, of 3117 Hilltop Road, Mahwah, New Jersey. Mr. Parker is the owner of FP Executive Landscape Design. Attorney Inglima asked Mr. Parker to describe the condition of the previous retaining wall and the slope of the earth. Mr. Parker did so stating that it be replaced with a retaining wall with pins, a geogrid fabric and gravel under it which helps to prevent the wall from collapsing. The gravel placement enhances the drainage of the area. He feels the wall which is present now has a better means of preserving the slope; it is structurally sound and constitutes an aesthetic enhancement with an upgraded appearance to the area. In addition, he stated the dead shrubbery will be replaced; additional shrubbery could be planted for further aesthetics to the area with a continuous barrier for those with a view from the north.

Mr. Rose, asked about the length of the geogrid and if there is a seepage tank. Mr. Parker answered his questions. Chairman Montana clarified with Mr. Rose that if the variance was granted the applicant would need to appear before the Planning Board to ask for a waiver for the retaining wall as it is 5'10" and the maximum allowable is 4'.

Open to the Public: No one from the public wished to be heard.

Attorney Rutherford swore in Mr. Khaled Mostafa, of 21 Old Woods Road, Saddle River, New Jersey. Attorney Inglima asked if Mr. Mostafa had any questions, concerns or objections with the proposed changes in the property should the applicant's variance request be granted. He stated that he did not.

Open to the Public: No one from the public wished to be heard.

Attorney Inglima requested that if there are members of the public here tonight that are unable to return for the balance of the hearing of the application to ask questions or voice concerns now would be a good time so as not to be inconvenienced with having to return for the next meeting of the Board pertaining to this application.

Open to the Public: No one from the public wished to be heard.

Chairman Montana stated the Board would like Mr. John Scialla, Construction Official, to appear at the next Board meeting so as to clarify any questions that arise.

This application will be further heard at the next meeting of the Zoning Board of Adjustment on September 21, 2016.

OLD BUSINESS:

NEW BUSINESS:

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ADJOURNMENT:

Open to the Public: No one from the public wished to be heard.

A motion was made by Ms. Nazzaro to adjourn and it was seconded by Mr. DeCrosta.

Respectfully submitted,

Joy C. Convertini
Municipal Clerk

PNWPZoning2016MinJuly