

**MINUTES OF THE SADDLE RIVER ZONING BOARD OF ADJUSTMENT
HELD: WEDNESDAY OCTOBER 19, 2016 at 7:00P.M., MUNICIPAL BUILDING**

PRESENT: Chairman Montana, Board Members Dowden, Laurite, Kakaty, Nazzaro, Trobiano
Alt. #2 Council Representative Gray, Attorney David Rutherford

ABSENT: Board Members Decrosta Alt. #1 and Raia

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 September 21, 2016 minutes by Board Member Dowden. Seconded by Board Member Nazzaro.

Roll Call AYES: Chairman Montana, Members DeCrosta, Nazzaro and Raia.
Abstain: Members Dowden & Laurite

MEMORIALIZING RESOLUTION (S):

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

**ZBA-13-16 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
APPROVED**

A motion was made to approve the Hekemian application by Board Member Montana. Seconded by Board Member Nazzaro.

Roll Call AYES: Chairman Montana, Nazzaro.
Abstain: Members Dowden, Laurite, Kakaty & Trobiano

APPLICATION: **Blk. 1103 Lot 7 – George Wald
3 Bridal Way
As built site plan indicates patio located in the rear yard setback, no prior approvals sought
APPROVED**

Attorney Whitaker gave an overview of the application.

Mr. George Wald of 11 Denison Drive, Saddle River, New Jersey was sworn in by Attorney Rutherford.

**MINUTES OF THE SADDLE RIVER ZONING BOARD OF ADJUSTMENT
HELD: WEDNESDAY OCTOBER 19, 2016 at 7:00P.M., MUNICIPAL BUILDING**

Mr. Wald stated he has been involved in the construction business and construction of single family homes for over fifty (50) years. Mr. Wald stated he was involved with the construction of the home noted in the application. Mr. Wald stated the testimony describing the application and stipulations explained by Attorney Whitaker are true and accurate. Mr. Wald explained he had the patio constructed based on the landscaping plan for the property and will replace the landscaping that has died. In addition, he stated he would supplement with additional trees that Mr. Levy has suggested in their previous discussion. Mr. Wald stated the patio is of flat paver stone with no walls and nothing above the flat surface.

Attorney Rutherford swore in Borough Engineer Martin Spence and Borough Landscape Architect Scott Levy at this time.

Mr. Spence discussed his engineering report dated September 20, 2016 of the application in detail. The variance request is summarized as a patio area encroaching into the rear yard setback of approximately 550 SF. The rear yard setback requirement is 50 feet; the proposed is 35 feet with the variance being 15 feet.

Mr. Levy discussed the landscaping that was previously in place on the property and the type and placement of the proposed landscaping. Mr. Levy noted that Mr. Wald added the eight – three inch caliper maple trees of canopy height to provide additional screening for the neighbors in the rear of the property. Attorney Whitaker clarified that the eight maple trees were part of the condition and that Mr. Wald had indeed provided even more supplemental landscaping than what was stipulated. Attorney Whitaker stated he is not taking issue with the procedure but wanted to be clear his prior testimony was to show the sequence of events and that Mr. Wald followed the plan and did not do this intentionally on his own.

Open to the Public: Mr. Arthur Lynch of 34 Locust Lane was sworn in by Attorney Rutherford. Mr. Lynch owns the property behind Mr. Wald and slightly to the right. He commended Mr. Wald on the construction of the home. Mr. Lynch requested further landscaping as the home encroaches in the rear setback and is quite visible to him, especially in the winter. Mr. Whitaker stated the additional landscaping by Mr. Levy will be a condition of this application. In addition, there is a dead tree Mr. Lynch is concerned with which he would like removed; Mr. Wald stated that he will take care of it.

Ms. Trobiano clarified that the home was built in the setback, not by Mr. Wald's choosing but to conform to the setback requirements of Saddle River.

Mr. Dowden asked to revisit how the patio went from 99 SF to the size it is now as it is much larger. This was discussed in detail.

Chairman Montana stated the application is based on a C1 variance. Chairman Montana's main concern is the screening of the patio. Each Board Member was asked their opinion of this and an in depth discussion of the size and screening of the patio took place.

Borough Landscape Architect Levy stated the benefit from the additional planting would bring back the environmental aspect to property and the surrounding neighborhood. What is being gained from the additional planting material would be better for the benefit the surrounding neighbors, neighborhood and site itself.

Attorney Rutherford stated if the Board were to approve the application, the conditions would be that

**MINUTES OF THE SADDLE RIVER ZONING BOARD OF ADJUSTMENT
HELD: WEDNESDAY OCTOBER 19, 2016 at 7:00P.M., MUNICIPAL BUILDING**

the dead Ash tree would be removed by the applicant, the eight three inch canopy trees would be added and the dead plants that were shown on the plan approved by the Planning Board would be replaced and there would be no improvements added to the patio above grade level.

A motion was made to **approve** the Wald application by Board Member Nazzaro. Seconded by Board Member Trobiano.

Roll Call AYES: Chairman Montana, Nazzaro, Laurite Trobiano.

NAY: Members Kakaty & Dowden

**APPLICATION: Blk. 1105 Lot 27.07 – Tom Babbington
10 Red Rock Trail
Existing Cul-de-sac lot does not comply with the
required lot frontage and lot width. Proposed dwelling
encroaches into the required front yard setback proposed wall
encroaches in the required front yard setback from the property
line. Site plan indicates existing structures in the required side
yard and 25' non-disturbance zone; structures indicated to be
removed.
APPROVED**

Attorney Whitaker gave an overview of the application. He discussed the need for the variances due to the combination of the irregular shaped lot, steep topography, dissected by Wandell Brook and most significantly the required 150' Riparian Zone to Wandell Brook.

Attorney Rutherford swore in Mr. William Moore, NJ Licensed Landscape Architect with Cipriano Landscape design, P.O. Box 5123, Ridgewood, New Jersey 07451, Mr. Michael Scro, NJ Licensed Architect, 240 West Crescent Avenue Architect in Allendale, New Jersey, and Tibor Latincsecs, Licensed Engineer with Conklin Associates, 29 Church Street, Ramsey, New Jersey 07446.

Mr. Latincsecs discussed the exhibit list prepared as follows for Block #1105 Lot #27.07 in detail.

- A-1 was filed in 1980 Map #7832, Final Plat Sawmill Estates Homes-Section Two, Saddle River, Bergen County, prepared by Andrew Marshall Jr.
- A-2 Plot Plan Soil Erosion Control Plan
- A-3 Details Soil Movement Plan
- A-4 10' Scale Enlargement of Plot Plan Exhibit A-2
- A-5 10' Plotting of Existing Conditions and Topography
- A-6 Area Plan #1
- A-7 Area Plan #2
- A-8 Landscaping plan by Cipranio Design
- A-9 Architectural Plans by Z+ Architecture

Mr. Moore, Landscape Architect, explained that, on the upper portion of the lot, there had been a lawn at one time. There are many dead trees in this area as well. The lower portion of the lot has a beautiful stand of hardwood trees leading down the slope to Wandell Brook. There are existing buffers of vegetation with live trees throughout the site which will be maintained and remain intact. The bluestone walkway and slate retaining walls in the northern area of the

**MINUTES OF THE SADDLE RIVER ZONING BOARD OF ADJUSTMENT
HELD: WEDNESDAY OCTOBER 19, 2016 at 7:00P.M., MUNICIPAL BUILDING**

property will be removed. The area will be properly graded and there will be buffer installed as well as 10 to 12' high spruces, with a layered approach to the vegetation. There will be evergreens, hardwood trees to provide a canopy as well as flowering and ornamental trees and vegetation at approximately eye level. This theme will be carried out throughout the property to soften and provide further buffering.

At this time Mr. Scro was qualified as an expert witness. Mr. Scro explained the design of the home. A few highlights of his testimony are as follows. A turret was used to help turn the corner of the garage and soften the look. As the portico is facing north, the landing does not benefit from sun melt off and was created larger to avoid being a safety hazard. The door area is an open element and is an entry way from the driveway. The window boxes make for a less protracted view of the house. An effort was made to modulate the home's appearance.

Borough Engineer Martin Spence summarized his engineering report dated October 18, 2016. Several of the highlights of his report are as follows: The property at 10 Red Rock Trail is an irregular pie shape with approximately 180.07' lot frontage. It was the subject of a prior subdivision which granted the reduced frontage consistent with zoning regulations/approvals. The lot is 2.21 acres which translates to 96,456 SF. An application is pending before the NJDEP for environmental permits including Riparian Zone permits. Due to the topography and the Wandell Brook, much of the property is generally undevelopable and inaccessible. There are some existing remnants of improvements at the north west corner of the property. The Wandell Brook runs generally north to south and is located approximately 2/3 into the property. There is a 150' Riparian Zone associated with its water course and under the jurisdiction of the NJDEP. The Riparian Zone regulates undisturbed areas along water sources to protect existing slopes and vegetation. The applicant has filed an application to the NJDEP and should update the Board with the status. The property has mild slope conditions for approximately 100-110' from the front property line then the property has steep slopes down to Wandell Brook. The slopes are within 25% to 35%+ where the improvements to the rear of the house and rear yard are proposed. The portico is located at the front of the dwelling and is an additional 12' depth. The limits of the disturbance to the rear are approximately 175' from the front property line. The residence is proposed to be a 6 bedroom residence. The proposed building coverage would be 5.72% and improved lot coverage would be 13.09%. The site improvements will be further reviewed during any Soil Relocation application before the Planning Board. The applicant shall correct the lot area used for calculations of building and improved coverages using 96,456 SF. The corrected/revised building coverage should reflect 5.72% where the improved lot coverage is 13.09%. The area where the footprint of the building is located is the flattest portion of the property and is ideal for the placement of the house.

Scott Levy, Borough Landscape Architect, stated he had no concerns regarding the landscaping of the property as the landscaping is quite extensive. Some canopy trees and vegetation should be added to mitigate the impact of the height of the walls.

Attorney Whitaker recognizes that Mr. Levy will have additional comments as the soil movement aspect of the application is addressed.

Open to the Public: Mr. Allwyn Levine, of 8 Red Rock Trail, was sworn in by Attorney Rutherford. Mr. Levine stated he is concerned with the size and the scope of the proposed house. Due to the type of lot there is only approximately one acre of buildable land and the house will take up most of it. The pool and the patio appear to overlook Mr. Levine's property.

**MINUTES OF THE SADDLE RIVER ZONING BOARD OF ADJUSTMENT
HELD: WEDNESDAY OCTOBER 19, 2016 at 7:00P.M., MUNICIPAL BUILDING**

Ms. Trobiano clarified that Mr. Levine owns the property to the left of the applicants. Mr. Spence stated there would be 135 feet between the two homes.

Mr. Spence stated the flat area is the ideal location for the home with regard to septic placement

Mr. Kakaty believes this is a text book C1 application for variance given the irregular lot with its size and topographical constrains.

All other Board members agreed.

Chairman Montana sees this application as a C1 variance. The portico will be an improvement to the design of the house and even though it exacerbates the setback, it is essential. For all of these reasons Chairman Montana supports the application for approval.

Attorney Rutherford stated the Board would approve the application based upon section C1A and C1B as it relates to shape, size, brook and topography of the lot. The variance in the non-disturbance zone would be granted so as to permit the instillation of the well. The resolution will also indicate part of the reason the Board granted approval of the application was based upon the extensive landscape plan to mitigate the impact of the variances granted.

Attorney Whitaker stated there will be a soil movement application heard by the Planning Board with notices given.

Borough Engineer Spence stated it should be clear the zoning site improvements would be based on the site plan and not the landscape plan.

A motion was made to **approve** the Babington application by Ms. Trobiano. Seconded by Mr. Laurite.

Roll Call AYES: Chairman Montana, Members Dowden, Laurite, Nazzaro, Kakaty and Trobiano.
Absent: Members DeCrosta & Raia

**APPLICATION: Blk. 1801 Lot24 – Luk/Duong
 30 Lower Cross Road
 Proposed add a level and covered front porch
 encroach into the required front yard setback.
 APPROVED**

Attorney Whitaker gave an overview of the application and the irregularities of the lot. The applicant is asking for a variance to add a second floor to an existing one story structure which currently encroaches into the front yard setback. A proposed new covered portico is also proposed which will further reduce the existing front yard setback. The existing structure was placed in its current location as the Mill Race Pond is located in the rear yard of the property which takes up approximately 1/3 of the total property.

Attorney Rutherford swore in Edward N. Rovetto, Architect, of 166 Cozy Lake Road, Oakridge, New Jersey 07438 and he was qualified as an expert in his field.

Mr. Rovetto gave testimony to the proposed renovations of the structure i.e. adding a level and a covered front porch which would encroach into the required front yard setback in detail.

**MINUTES OF THE SADDLE RIVER ZONING BOARD OF ADJUSTMENT
HELD: WEDNESDAY OCTOBER 19, 2016 at 7:00P.M., MUNICIPAL BUILDING**

Borough Engineer Spence discussed his engineering report dated October 19, 2016. A summary of his engineering comments are as follows: Soil erosion and sediment control measures due to the anticipated construction and disturbance, double row of silt fence should be shown between the dwelling and the pond. Tree protection should be shown in detail. An upgrade to drainage improvements due to the scope of work and increase in improved lot coverage should be provided. If any improvements are proposed to the driveway, this should be shown at the time of any building permit submittals.

Landscape Architect Scott Levy stated that the existing evergreens and canopy trees in the center of the property that will and provide some sort of screen of the portico. The portico is necessary and an improvement to the architecture. The existing tree lines in the front and side should be protected from construction materials and construction storage. Mr. Levy cautioned that the trees should not be removed without permission during construction. Any tree removals should be planned and permitted.

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

Ms. Trobiano stated that she had no problem with the proposed structure due to the topographical constrains of the property.

Mr. Kakaty understands the merit of the C1 variance in this instance. He asked Mr. Rovetto if it would be possible to limit the height of the portico. Mr. Rovetto stated if the portico was reduced in height the proportions would not be right and it would not be as pleasing to the eye.

All other Board members had no questions and agreed to approve the C1 variance.

Chairman Montana stated this is definitely a C1 variance. While every application stands on its own historically, the Board takes great consideration of property that is affected by brook, lake, pond or river. The line of site is acceptable. Chairman Montana stated he is in favor of the application.

A motion was made to **approve** the Luk/Duong application by Mr. Dowden. Seconded by Mr. Kakaty.

Roll Call AYES: Chairman Montana, Members Dowden, Laurite, Nazzaro, Kakaty & Trobiano.

OLD BUSINESS:

NEW BUSINESS:

ADJOURNMENT:

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

A motion was made by Member Nazzaro to adjourn and was seconded by Member DeCrosta.

Respectfully submitted,

Joy C. Convertini
Municipal Clerk