

MINUTES OF THE SADDLE RIVER ZONING BOARD OF ADJUSTMENT
HELD: WEDNESDAY SEPTEMBER 21, 2011 at 7:00P.M., MUNICIPAL BUILDING

PRESENT: Board Members Cohen, Dowden, Montana, Kakaty, Perrin, Raia, Gatto, Alt. #1, Nazzaro. Alt. #2, Council Representative Toomey, Attorney David Rutherford

ABSENT: Chairman Petrocine

SUNSHINE LAW: Vice Chairman Montana stated: "I have been informed by the Clerk that adequate notice has been provided by mailing a notice to The Ridgewood News and The Record on December 27, 2010 and posting a notice in the Office of the Borough Clerk."

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

A motion was made to approve the July 20, 2011 minutes with corrections by Board Member Gatto. Seconded by Board Member Dowden
Roll Call Vote: AYES: Unanimous

MEMORIALIZING RESOLUTION (S): There were none.

APPLICATIONS:

**Blk. 2002 Lot 1
12 West Saddle River Road
Villa Marie Claire
Variance for proposed canopy within front
yard setback
APPROVED**

John Schepisi, Esq., Schepisi & McLaughlin, P.A., Englewood Cliffs, NJ represented the applicant and gave a brief overview of the application.

He stated that the application is for the addition of a canopy to the existing structure, to be installed over the front entrance. The proposed canopy violates the required front yard setback requirements.

At this time, Suzanne Brown, Nadaskay Kopelson Architects, Morristown, NJ and Daniel LaMothe, Paramus, NJ, professional engineer were sworn and qualified as expert witnesses.

The site plan was marked Exhibit A-1 at this time. Mr. LaMothe illustrated the location of the canopy for the Board and discussed setback calculations as well as explaining the necessity of the canopy.

Suzanne Brown, a licensed architect in the state of New Jersey, asked that the architectural rendering of the subject canopy, dated March 18, 2011 be marked as Exhibit A-2. She briefly explained the canopy she designed and described the design, stressing that it will be aesthetically in keeping with the neighboring homes.

Borough Engineer Martin Spence prepared a report regarding this application dated September 20, 2011 and explained this to the Board at this time. He reiterated that it is a minor

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improvement, with no impact on drainage.

Scott Levy, Landscape Architect, stated that the canopy enhances the current structure and has no negative impact on any landscaping currently on the property.

Vice Chairman Montana stated that this application is de minimis in nature and asked that it be acted on at this time.

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

A motion to **approve** the Villa Marie Claire application was offered by Board Member Kakaty. Seconded by Board Member Cohen
Roll Call Vote: AYES, Unanimous

**Blk. 1603 Lot 5
155 West Saddle River Road
Alan Greico
Requesting variance for a proposed 80 sq. ft.
shed at the northwest corner of property
DENIED**

Attorney Rutherford stated that the applicant's notices and publications were in order and all of the jurisdiction requirements have been met.

Attorney Chris Botta, Botta & Associates, Ramsey, NJ represented the applicant and explained the application to the Board at this time.

The applicant is seeking a variance to construct an 80 square foot shed for the storage of tools, with the design being consistent with both the home and the garage on the property. The proposed location of the shed will encroach in the side yard setback; photographs were shown to the Board to illustrate the location on the property.

Alan Greico, 155 West Saddle River Road, Saddle River, NJ home owner was sworn in at this time. Mr. Botta asked Mr. Greico about the property as well as the current structures on the property and he explained this in detail to the Board. He explained that he needed additional storage for garden tools and supplies and reiterated that the cedar siding and roofing will be consistent with the home on the property. The shed height will be approximately 9 feet and will barely be visible from West Saddle River Road. No trees will be removed for the construction of this shed. If the shed were placed within the setbacks, it would be in the middle of the backyard, due to the configuration of the property; it will not have a negative impact on any neighboring properties.

Borough Engineer Spence prepared a report dated September 20, 2011 regarding this application and explained this to the Board at this time. The existing house and garage already exceed the required building coverage due to the size of the property and the proposed shed would slightly increase the existing lot coverage calculations. It will have minimal impact on the drainage on the property.

Borough Landscape Architect Scott Levy stated that the current landscaping is adequate and the proposed location of the shed poses no issues on the property.

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

Vice Chairman Montana asked Mr. Greico why he has not considered adding an appendage to the rear of his garage for the storage of these tools and Mr. Greico stated that there is not enough space at the rear of the garage to provide the adequate space needed.

Board Member Dowden asked about adding an appendage to the side of the garage for the storage of tools as it would eliminate a variance request. Board Member Raia stated that he feels this creates another encroachment and adding an appendage to the side of the garage would be a better alternative. Mr. Greico stated that to extend the roof line from the garage would not provide the width needed and it has very low side walls.

Board Member Cohen stated that she was not convinced that it was going to be unobtrusive to the neighbors and was also concerned about the excessive lot coverage this would create. The existing lot coverage is 37.11% and the proposed shed would increase it to 37.74%. The addition of an appendage to either the side or rear of the garage would increase the lot coverage calculations as well.

Board Member Nazzaro stated that if the corner, where the shed location was proposed was screened properly, it would be less visible than an appendage on the garage.

Attorney Botta stated that the applicant would be willing to install additional landscaping if the Board was in agreement. Additionally, the height of the shed could be reduced as well.

Scott Levy stated that the character of the property as is currently exists is extremely appealing and adding an appendage to the garage would detract from this.

Board Member Gatto agreed that the aesthetics of the property were a positive attribute and reducing the height of the shed and adding more buffering would be beneficial. Board Member Kakaty was in agreement with this but felt this application was pushing the envelope with the lot coverage calculations.

Board Member Perrin was not in favor of this application and would prefer to see something attached to the garage to accomplish the same goal.

Board Member Raia agreed with the concept of adding an appendage to the garage, due to the lot coverage issues.

Vice Chairman Montana felt that there were strong points on both sides but did not feel that adding an appendage to the side of the garage was the appropriate solution.

A motion to **approve** the Greico application with the addition of screening and the reduction of the roof height to nine feet was offered by Board Member Gatto

Seconded by Board Member Montana

Roll Call Vote: AYES, Vice Chairman Montana, Board Member Gatto

NAYES, Board Members Kakaty, Cohen, Dowden, Raia, Perrin

(APPLICATION DENIED)

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**Blk. 1403 Lot 28
56 Fox Hedge Rd.
Robert J. Principe
Construct new single family home
With in-ground pool does not provide
50% open side yards, etc.
APPROVED**

Attorney Bruce Whitaker, McDonnell, Whitaker, LLC, Ramsey, NJ represented the applicant and explained this application to the Board in detail.

Attorney Rutherford stated that the affidavit of publication has been submitted and all of the jurisdiction requirements have been met.

Attorney Whitaker stated that this home is relatively modest for this property, which is skewed and narrows tremendously in the rear.

At this time, Tibor Latincscics, Professional Engineer, Conklin Associates, Ramsey, NJ, Brad Meumann, Landscape Architects, Land Concepts, Franklin Lakes, NJ, and Kevin Spink, Canzani Architects, Paramus, NJ, were all sworn in.

Mr. Latincscics stated that he prepared the plot plan, dated May 4, 2011 and last revised September 7, 2011; it was marked as Exhibit A-1 and he reviewed this plan in detail at this time.

Exhibit A-2 outlined the existing topographic conditions including the footprint of the home currently on the property with photographs taken May 1, 2011. He further stated that the property is extremely irregular in shape; the front width is 259.4 feet with the balance of the property being an irregular triangle to the rear. The lot is 10% oversized but, due to the distribution of area, it is compromised by the irregular shape. Mr. Latincscics prepared a Land Use Analysis of this property which were marked Exhibits A-3 through 6; he reviewed this document which outlined the hardships that currently exist on the 2.249 acre property. He explained that the side yards converge on different angles, making the utility difficult. An aerial photograph of Fox Hedge Road, including the subject property was marked Exhibit A-7.

The proposed single family home is approximately 8,341 sq. foot with the building coverage being 6.9%. The improved coverage is at 16.7%. He further stated that the home, pool and cabana were designed to accommodate the converging side line, however two variances were still required for encroachment into the side yard setbacks. Mr. Latincscics outlined the setbacks on the property in detail at this time, stressing again the impact caused by the extreme narrowing of the property in the rear.

Mr. Latincscics stated that extensive drainage is going to be installed to insure that there will be no issues to any neighboring properties. He further stated that this variance, a C-1, is necessitated by the significantly skewed property distribution.

At this time, architect Kevin Spinks was qualified as an expert witness; the elevations of the property were marked Exhibits A-8, 9 & 10. Mr. Spinks discussed these exhibits at this time and explained that the rear porch, if removed to comply with setback requirements, would compromise the symmetry of the home.

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At this time, landscape architect Brad Meumann was qualified as an expert witness. The landscape plans were marked Exhibits A- 11 & 12. He explained the landscape plans in detail at this time, stressing that the buffer zones will remain with many evergreens on the north and south sides due to the shaded conditions there. He further stated that the applicant will be substantially adding to what currently exists on the property both in the buffer areas as well as around the dwelling. Canopy trees will be added as well to insure the landscape aesthetics are in keeping with neighboring properties. In total, 110 new trees and 456 shrubs will be installed on the property.

Borough Engineer Spence prepared a report regarding this application dated September 20, 2011 and explained this to the Board at this time. He reiterated that the side yard setback was 38.8 feet with a minimum of 40 feet required, and the combined side yard setback was 42.2 feet, with 50 feet required, both necessitating variances. He also reiterated that the area distribution on the lot is challenging, with the rear being irregular and narrowing significantly. The lot and building coverage comply with the zoning code.

Borough Landscape Architect Scott Levy stated that the applicant has responded favorably to the recommendations by his office. He briefly outlined the landscape plan once again and generally was in agreement that it was sufficient in all areas of the property.

Vice Chairman Montana asked why the house could have been shifted one foot to the north in order to negate one of the variances. Mr. Latincics stated that the home had already been scaled down for that area and it was not conducive to any further reductions or movement. In addition, Vice Chairman Montana asked why the house could not have been designed 7.7% smaller, in order to eliminate both variances. Mr. Spink stated that when the applicant designed the house, the desired room dimensions were calculated to the total square footage of the home and the need for variances arose. Vice Chairman stated that he was very much in favor of the design of the home but felt that reducing it by 7.7% could have been feasible.

Board Member Gatto stated that the plans for this property are very aesthetically appealing but the applicant could have stayed within the required parameters, considering they were starting with an empty lot.

Board Member Kakaty agreed with Board Member Gatto and did not feel this application represented a hardship.

Board Member Perrin felt that the home was positioned very well on a lot which such area distribution challenges and he was in favor of the application.

Board Member Raia stated that he does not feel the need to encroach into the side yard considering they are starting with an empty lot.

Board Member Cohen stated that she has a similarly shaped lot and she worked within the parameters of the lot when she built her house. She reiterated that the applicant should have worked with what they had and made the necessary accommodations.

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

Attorney Rutherford stated that the Board should focus on determining the primary reason for

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the variance relief; deciding whether it is factors that relate to the configuration of the property or is it factors related to the improvements that the applicant wishes to build?

If the Board finds that the variance relief being sought is to accommodate an unduly large home or one that is out of character with the neighboring homes, they must act accordingly. Additionally, the Board must articulate whether or not they believe that granting variance relief for this property would create substantial detrimental impact to the zoning ordinance.

Attorney Whitaker reiterated the Land Use Law to the Board and he further stated that "starting with a clean slate" or a vacant piece of property, should not be the litmus test in Land Use Law. Exceptional narrowness or exceptional shape is the criteria which should be used with the C-2 variance being sought with this application.

Board Member Dowden stated that the cases for these variances are very strong and the lot configuration is challenging at best.

The Board was in agreement that it was not detrimental to the neighborhood and was aesthetically appealing, given the constraints the lot presented.

A motion to **approve** the Principe application was offered by Board Member Dowden. Seconded by Board Member Perrin.

Roll Call Vote: AYES: Vice Chairman Montana, Bd. Members Cohen, Dowden, Raia, Perrin, Gatto
NAYES: Board Member Kakaty

**Blk. 1201 Lot 25
20 Warewoods Road
Richard Cowlan
Requesting a variance for a final as built site plan
for an existing in ground pool encroachment, etc.
APPROVED**

Attorney Bruce Whitaker, McDonnell, Whitaker, LLC, Ramsey, NJ represented the applicant and explained this application to the Board in detail.

He stated that this application does not involve any construction but rather obtaining the consent of the Board for an existing condition on the property. Upon the review of an open permit on this property, it was determined that pool equipment and a portion of a patio encroaches into the side yard setback. The pool contractor never sought the necessary permits from the Building Department for this work in 1990 and the company is now out of business.

At this time, Douglas Doolittle, Professional Engineer and Professional Planner, McNally Engineering, Oakland, NJ was sworn in and qualified as an expert witness.

Mr. Doolittle explained the property per the As-Built Survey dated April 29, 2011 and this was marked Exhibit A-1. On the side yard setback, the encroachment by the pool equipment is 39.4 feet where 40 feet is the minimum required and the encroachment for the patio and walkway is approximately 35 feet at its closest point of the curvature of a walkway and 39 feet at the closest point of the curvature of the patio. The encroachment in the rear yard is 47 feet to the pool equipment and approximately 42 feet at the closest point for the pad where 50 feet is required.

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The area is very isolated and heavily landscaped and the removal of the portion of the patio in question and the surrounding landscaping would be detrimental as there is limited access.

Photographs taken by Mr. Doolittle of the subject area were marked Exhibit A-2 and were explained to the Board in detail at this time.

Attorney Whitaker stated that the C-2 variance criteria pertains to this application and Mr. Doolittle was in agreement.

Borough Engineer Spence stated that he prepared a report regarding this application dated September 20, 2011 and explained his report in detail at this time. He stated that this situation has been existence for since 1990 and he has never received any complaints.

Borough Landscape Architect Levy stated that the addition of some evergreens around the pool area would be beneficial and was in agreement that the removal of the subject patio and pool equipment could have a negative impact to the plantings that currently exist at the site.

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

Attorney Whitaker was in agreement that the applicant would have to install additional landscaping around the subject area on the property and this will be a condition of the resolution.

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

COMMUNICATIONS:

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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