

MINUTES OF THE SADDLE RIVER ZONING BOARD OF ADJUSTMENT
HELD: WEDNESDAY FEBRUARY 17, 2010 at 7:30P.M., MUNICIPAL BUILDING

PRESENT: Chairman Petrocine, Board Members, Montana, Dowden, Kakaty, Raia, Perrin, Gatto, Alt.#1, , Attorney Rutherford

ABSENT: Board Member Cohen

SUNSHINE LAW: Board Chairman Petrocine 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 26, 2009 and posting a notice in the Office of the Borough Clerk."

PLEDGE OF ALLEGIANCE

REORGANIZATION:

Establishment of Zoning Fees:

Attorney Rutherford explained the changes in this resolution.

Resolution # ZBA 02-10 Offered by Board Member Montana. Seconded by Board Member Raia. Roll Call Vote: AYES, Unanimous

Adoption of By Laws:

Attorney Rutherford explained the changes in the By Laws. A motion to accept the amended By Laws was offered by Board Member Perrin. Seconded by Board Member Montana. Roll Call Vote: AYES, Unanimous

Annual Report:

Attorney Rutherford explained the Annual Report this time. A motion to accept the Annual Report as written was offered by Board Member Dowden. Seconded by Board Member Montana. Roll Call Vote: AYES, Unanimous

APPROVAL OF MINUTES

A motion was made to approve the January 20, 2010 minutes by Board Member Montana. Seconded by Board Member Perrin
Roll Call Vote: AYES: Unanimous

MEMORIALIZING RESOLUTION (S):

ZBA 04-10

**Blk. 1102 Lot 8
255 East Saddle River Road
Linda & John Rosato
Construction of patio, fireplace, outdoor
kitchen, inground pool, violate the required 25
foot setback; alter garage to include cabana
Items encroach in the 25 foot non disturb zone.
APPROVED**

At this time, Attorney Rutherford gave an overview of this resolution to the Board.

A motion to **APPROVE** the Rosato resolution was offered by Board Member Raia
Seconded by Board Member Perrin
Roll Call Vote: AYES, Unanimous

APPLICATIONS:

**Blk 1803 Lot 5
1 Spruce Road
Muhammad & Naseem Qadeer
Dwelling unit exceeds the maximum allowable
7%. Requesting permission to permit the
building coverage to be 7.56%
APPROVED**

Attorney Bruce Whitaker, McDonnell & Whitaker, Ramsey, NJ represented the applicant. He gave an extensive overview of the application at this time. He distributed a list of exhibits and explained to the Board that the coverage being sought is 7.56% based on how calculations were arrived at in 2004, when the home was under construction. He explained the additional items on the exhibit list in detail.

The original site plan did not indicate any covered porches and they created a non-conformance of building coverage. Attorney Whitaker stated that the code in the Borough of Saddle River contains discrepancies pertaining to building area and how it is calculated today in comparison to how it was calculated back in 2004.

Overall lot coverage is 10.74% and Attorney Whitaker stated that it will be increased slightly but it will not come close to the 20% allowed. He further stated that he is seeking both C-1 and C-2 variances; the former based upon the hardship that was created due to the discrepancy and the latter based upon the fact that the benefits will outweigh the detriments.

At this time, Douglas Doolittle, Licensed Engineer, Mahwah, NJ was sworn in and qualified as both an engineer and professional planner.

MINUTES OF THE SADDLE RIVER ZONING BOARD OF ADJUSTMENT
HELD: WEDNESDAY FEBRUARY 17, 2010 at 7:30P.M., MUNICIPAL BUILDING

Attorney Whitaker asked if Mr. Doolittle was the engineer of record at the time that the necessary permits were obtained for this construction and he stated that he was. He further asked Mr. Doolittle to explain the calculations that were arrived at in 2004. He explained that, when the as-built plans were submitted to obtain a C.O, the applicant was advised by the Saddle River Building Department that there were building coverage violations due to overhangs not originally calculated.

An additional driveway is going to be constructed with ingress and egress onto Spruce Road for safety reasons and this will increase the lot coverage from the existing 10.74% to 17.0%. Additional patios and walkways could potentially increase this to 18% or 19%. Mr. Doolittle explained the importance of the overhangs in question, from both a functional standpoint as well as an esthetic one.

Chairman Petrocine asked Borough Engineer Spence to give an overview of this application, which he did in detail at this time. The roof overhangs add another 508 square feet. Drainage improvements were made on the site and seven seepage pits are to be installed on the site. Mr. Spence further stated that the anticipated lot coverage which was submitted is approximately 17.5%.

Chairman Petrocine informed Attorney Whitaker that a recommendation to deal with any ambiguities in the zoning code has been made to the Mayor and Council. He further stated that he is not comfortable with approximate lot coverage calculations that are close to the allowable 20%. He asked Mr. Doolittle how he arrived at this calculation and he explained this in detail. The total lot coverage calculated by Mr. Doolittle is 16.65% as shown on Exhibit A-7, which is less than Mr. Spence's calculation of 17.5%.

Board Member Raia was not in agreement that there is a discrepancy in the ordinance and Attorney Whitaker addressed this and stated that the schedule and ordinance should have the same language. He further stated that the schedule does not use the language "building area" and there is no definition of the terms "principle building" or "improved lot coverage". Attorney Whitaker further stated that this is the cause for the confusion with this application.

Chairman Petrocine stated that the problem is the variance being requested is for building coverage because the building coverage submitted did not include the eaves and the "as built" plan includes the eaves in the coverage. The Board must now determine if this qualifies as a C-2 variance.

Board Member Montana stated that he feels the only way to resolve this issue is to put lot coverage restrictions on the property, perhaps not to exceed 16.65% as opposed to making the applicant remove existing construction in order to comply.

Chairman Petrocine also stated that he would want to make sure that an adequate

MINUTES OF THE SADDLE RIVER ZONING BOARD OF ADJUSTMENT
HELD: WEDNESDAY FEBRUARY 17, 2010 at 7:30P.M., MUNICIPAL BUILDING

landscape plan is in place prior to granting any variances.

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

Attorney Whitaker stated that he had no objection to both restricting the lot coverage to 17% as well as submitting the landscaping plan. He respectfully requested that the applicant be granted a temporary C.O. as the current structure on the property where the family is currently residing is not a sound structure.

Board Member Dowden stated that this applicant has been working on this property for since 2004 and asked why it has taken this long and why now, is there an urgency to move in. Attorney Whitaker stated that the applicant had to change architects, which contributed to this project taking as long as it has.

Attorney Rutherford addressed the language of the proposed resolution which would state that the building coverage would not be greater than 7.56% of lot area and the improved lot coverage would not exceed 17%. In addition, the applicant must submit a landscape plan for approval by Borough landscape architect Scott Levy.

The temporary CO being requested would also be included in the resolution as well as the approval of Borough Engineer Spence on final calculations.

Mr. Spence requested time restrictions be placed on this to insure that the temporary CO does not expire, particularly with the installation of the landscaping.

At this time, Borough Landscape Architect Scott Levy was sworn in and asked about the timing issue. He stated that it will depend on what plant material is going to be utilized, with the fall planting being completed by November 15, 2010 and the spring planting being completed by May 15, 2011.

A motion to **approve** the Qadeer application to include the terms outlined by Attorney Rutherford was offered by Board Member Montana. Seconded by Board Member Perrin.

Roll Call Vote: AYES, Unanimous

**Blk. 1301 Lot 11
65 Stony Ridge Road
Peter Barbieri**

**Construct a new single family dwelling
Violates the required front yard setback
DENIED**

Attorney Bruce Whitaker represented the applicant and explained the application in detail to the Board. He stated that the property is a corner lot and there are several non-conformities. The owner currently resides on the property and does not want to move but would rather construct a new dwelling. In addition, the applicant would like to preserve large pine trees on the property which impacts the proposed location.

Peter Barbieri, home owner, 65 Stony Ridge Road was sworn in. He reiterated the fact that the preservation of these white pine trees was extremely important to him as well as having the ability to change the ingress and egress from Wildwood Road to Stony Ridge Road for safety reasons. There is a shed on the property which will be removed and the current calculations are substantially below the approved lot coverage requirements.

Douglas Doolittle, licensed engineer and planner was sworn in and qualified as an expert witness. He confirmed the fact that he has been involved with this proposed plan from the inception and explained the property in detail to the Board at this time.

At this time, James Paragano, Architect, LLC, Madison, NJ was sworn in and qualified as an expert witness. He explained how the design of the home was arrived at, stressing that the property owner wanted it to fit on the property appropriately while maintaining as much of the landscaping as possible. He explained the architectural renderings in detail to the Board at this time, stressing that it will have a modest presence when completed and it is suited to the site and the neighboring homes.

At this time, William Boyce, Landscape Architect, Chestnut Ridge, NY was sworn in and qualified as an expert witness. Attorney Whitaker asked Mr. Boyce to describe the existing conditions on the property and what he took into consideration as it pertains to the design elements from a landscape architectural standpoint. Mr. Boyce distributed handouts to the Board which were marked Exhibit A1 through Exhibit A-3 and explained them in detail, outlining many of the specimen trees that are proposed. Attorney Whitaker asked Mr. Boyce to specifically discuss proposed plantings along the property line that borders Wildwood Road, where a slight encroachment exists, which he did. The 17 white pine trees, which the owner would like to preserve, were addressed and this portion of the plan was marked Exhibit A-4. Five will need to be removed in order to facilitate the construction of the home but more would need to be removed if the location of the home was moved.

At this time, Borough Engineer Martin Spence was sworn in. He stated that he prepared a report dated January 19, 2010 regarding the variances being sought and he explained this in detail to the Board at this time. There is an encroachment in the front

MINUTES OF THE SADDLE RIVER ZONING BOARD OF ADJUSTMENT
HELD: WEDNESDAY FEBRUARY 17, 2010 at 7:30P.M., MUNICIPAL BUILDING

yard setback as well as a 7% overage in building coverage. Six seepage pits are proposed which will significantly reduce runoff on the property.

At this time Borough Landscape Architect Scott Levy was sworn in. He stated that he was in favor of keeping the white pines as the scale of the structure would not be as prominent. The intrusion into the 25 foot non disturb zone was discussed and Mr. Levy stated that the proposed dwelling could be shifted approximately two feet in a northerly direction without compromising the integrity of the white pines. He discussed the silver maples on the property and it was his recommendation that they be removed.

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

Board Member Kakaty suggested that the square footage of the home be reduced in order to lessen the encroachment. Board Member Raia stated that he is in agreement with this, especially in light of the fact that the owner is starting over with a new dwelling. Board Member Perrin stated that with new construction, more consideration should have been given to code compliance. Board Member Montana stated that there are several limitations on the property but he was in favor with the proposed plan. Board Member Dowden agreed with the property limitations and asked about the porches, which was discussed.

Chairman Petrocine stated that the property is difficult one, with the building envelope being extremely small. By complying, all of the white pine trees would need to be eliminated, which he is not in favor of. There was some question regarding the trellis on the plan and if it was considered part of the building coverage on the property. It was decided that it is included in the overall lot coverage but not included in the building area, as the front porches are.

Chairman Petrocine stated that there are extenuating circumstances with this property due in part to the issue of two front yards creating a limited building envelope. Board Member Raia stated that he feels the applicant could conform on both Stony Ridge and Wildwood while still maintaining an acceptable size dwelling. He further stated that these requirements are in place to avoid having enormous homes built on undersized lots.

Attorney Rutherford stated that there is a motion on the floor to approve this application with the resolution to state that front yard variance on Wildwood Road would be approved as presented and if there is a consensus that it could be moved forward by two feet, as previously discussed, it would be. In addition, the lot coverage would not exceed 16.3% of lot area and the landscape plans must comply.

MINUTES OF THE SADDLE RIVER ZONING BOARD OF ADJUSTMENT
HELD: WEDNESDAY FEBRUARY 17, 2010 at 7:30P.M., MUNICIPAL BUILDING

A motion to approve the Barbieri application was offered by Chairman Petrocine.

Seconded by Board Member Montana

Roll Call Vote: AYES: Chairman Petrocine, Board Members Montana, Gatto

NAYES: Board Members Kakaty, Dowden, Raia & Perrin

THE APPLICATION IS DENIED BY A VOTE OF 4-3.

Attorney Whitaker stated that he does not have the reasoning for why this application was denied. Attorney Rutherford stated that he understands that the applicant is looking for direction moving forward. The consensus is that the overage of 7% was not acceptable given the size of the property and the fact that the home could have been reduced in size, especially since they were starting with a new plan.

WORK SESSION:

COMMUNICATIONS: At this time Chairman Petrocine stated that Mayor Raia is in receipt of a letter of resignation from newly appointed Zoning Board of Adjustment member Robert Hughes, due to business commitments.

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