

MINUTES OF THE SADDLE RIVER ZONING BOARD OF ADJUSTMENT
HELD: WEDNESDAY OCTOBER 20, 2010 at 7:30P.M., MUNICIPAL BUILDING

PRESENT: Vice Chairman Montana, Board Members Perrin, Kakaty, Raia, Nazzaro.
Alt. #2, Attorney David Rutherford

ABSENT: Board Chairman Petrocine, Board Members Dowden & Gatto

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 26, 2009 and posting a notice in the Office of the Borough Clerk."

PLEDGE OF ALLEGIANCE

OATH OF OFFICE At this time, Alternate Board Member # 2, Patty Nazzaro was sworn in.

APPROVAL OF MINUTES

A motion was made to approve the minutes of the Regular Meeting of the Zoning Board of Adjustment of September 15, 2010 by Board Member Perrin. Seconded by Board Member Kakaty.
Roll Call Vote: AYES: Unanimous

MEMORIALIZING RESOLUTION (S):

ZBA 16A-10

**Blk. 1807 Lot 25
6 Stonewall Road
Adam Grossman
Requesting for variance relief to expand
Residential dwelling
APPROVED**

At this time, Attorney Rutherford gave an overview of this supplemental resolution to the Board. He explained that changes were made, and it was necessary for revisions to be made to the resolution which was adopted on September, 15, 2010.

A motion to **approve** the revised Grossman resolution was offered by Board Member Raia
Seconded by Board Member Kakaty
Roll Call Vote: AYES, Unanimous

At this time, Vice Chairman Montana stated that there may be a need to change the order of the meeting's agenda.

The Murphy application, as it appears on the agenda was discussed and Attorney Rutherford stated that Mr. Murphy's engineer was not able to attend and asked the Board if they wanted to hear this application or have it carried.

At this time, Michael Murphy, 63 Chestnut Ridge Road, Saddle River, NJ identified himself as the homeowner and stated that he was comfortable proceeding without his engineer. It was decided that the Board would hear this application in the order as it appears on the agenda.

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APPLICATIONS:

**Blk. 1802 Lot 17.02
29 Lower Cross Rd.
Daniel Turano
Requesting variance relief for
gazebo and ponds constructed
without prior approvals or permits
APPROVED**

At this time, Daniel Turano, 29 Lower Cross Road, Saddle River, NJ was sworn in. At this time Martin Spence, Borough Engineer, 96 East Allendale Road, Saddle River, NJ, Borough Engineer was sworn in.

Mr. Turano explained that he had work done on his property approximately 10 years ago and was not aware that it was necessary to obtain permits. At this time, he explained the application and relevant paperwork distributed to the Board.

A rock wall, pond and gazebo were constructed and encroach on the setback requirements. At this time, photographs of the rear of the property were marked Exhibit A-1.

Vice Chairman Montana asked Mr. Turano if he felt that the benefits outweigh the detriments to the neighboring properties and he stated that he feels they do.

Mr. Turano stated that Natureview Landscaping was the contractor and he was under the impression that permits were sought and granted.

Borough Engineer Spence reviewed his report dated October 19, 2010 regarding this application, highlighting the variances. The first variance is for the gazebo, which encroaches into the front yard setback by 2.4 feet. The statue located on the property encroaches into the front yard setback by 21 feet, requiring a variance and the stanchions constructed are slightly oversized, requiring a variance for 2.3 feet.

At this time, Scott Levy, Scott Alan Design, Hamburg, NJ, Borough Landscape Architect was sworn in. He stated that Natureview Landscaping is no longer in business and obviously could not testify. He further stated that the items requiring variances blend in well on the property and he has no problem with them.

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

Board Member Kakaty stated that he feels the home owner acted in good faith. Board Member Raia stated that he has no problem with the items being reviewed. Board Member Cohen stated that she feels that the perhaps some of the items could be moved in order to conform.

Vice Chairman Montana stated that the property is heavily landscaped, the home owner acted in good faith and he had no problem with the application. Attorney Rutherford

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stated that Board could consider both C-1 and C-2 variances in this case, due to the shape of the property.

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

**Blk 1902 Lot 16
63 Chestnut Ridge Road
Michael Murphy
Construct a rear addition
front porch, in ground pool, patio and wall,
proposed additions to principal structure
would violate the required setbacks.
APPROVED**

At this time Michael Murphy and Linda Ott, 63 Chestnut Ridge Road, Saddle River, NJ, home owners were sworn in.

Ms. Ott explained the application to the Board, stating that they would like to construct an addition to the existing structure, add a pool and play area which would violate required setbacks.

Mr. Murphy stated that the engineer plan, prepared by David Hals, Hals Engineering and revised on September 14, 2010 was marked Exhibit A-1. He explained this plan in detail, stressing that this property is 600 feet long. He further stated that there is a 24 foot drop in elevation from the front of the property to the rear, making the property difficult to deal with. He further stated that he feels that this variance qualifies as a C-1 due to the narrowness of the lot.

Borough Engineer Spence stated that he prepared a report regarding this application, dated 10/19/2010 and he explained his report in detail to the Board.

The location of the pool was discussed and Mr. Murphy stated that he feels it is the best location given the necessity of the retaining walls and the need to maintain as many trees as possible on the property.

Board Member Perrin stated that they bought the property, aware of the limitations, and now they are attempting to maximize the use.

Board Member Cohen stated that she has problem with the pool and felt that its placement could be modified. Ms. Ott stated that it is not visible as proposed but they would be willing to scale it down. Vice Chairman Montana reiterated that the property had these limitations when purchased and the home owners should have taken that into consideration.

OPEN TO THE PUBLIC: At this time, Attorney Rutherford stated that he needed to recuse himself, as people from the public were his clients.

At this time, Mr. Khosla, 69 Old Woods Road, Saddle River, NJ was sworn in. He stated that his

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property would be directly impacted by Mr. Murphy's application and he and his family are in opposition. He stated that his family spends a significant amount of time in their gazebo, which is extremely close to the Murphy's proposed pool location. He further stated that there is a sandbox which is currently in the non-disturb zone, but acting as good neighbors, they never made it an issue. Mr. Khosla further stated that his father gave Mr. Murphy alternative suggestions for pool locations, all of which were unacceptable. He had further concerns about the pool patio, the shed and the pool equipment. The Khosla family has no issue with the addition to the existing structure.

AJ Khubani, 55 Chestnut Ridge Road, Saddle River, NJ stated that he has lived in the Borough of Saddle River for the last 10 years and commended the Board for their hard work over the years. He further stated that he is opposed to this application.

Jim FitzPatrick, 60 Chestnut Ridge Road was sworn in and stated that he was a member of the Zoning Board of Adjustment for many years. He stated that he is in support of this application and further stated that one of the residents that is opposed to this application lives directly across from him and he lives on 3 ½ acres and was not concerned about the integrity of the town when he built his home. He further stated that this resident has created tremendous water damage on his property and destroyed the natural beauty of the landscape.

Mr. FitzPatrick stated that the Murphy's are a young family with an existing home that is only going to be improved by this work. He further stated that the proposed location of the pool is the most practical and will not be visible by neighbors.

Mr. Khubani stated that he wished to respond to Mr. FitzPatrick's accusations, which he feels are baseless. He stated that he did not remove trees to the extent stated and he also attempted to fix the drainage issue and spent \$40,000 to do so. He feels that he is a good citizen and has abided by the Borough's rules.

At this time, Borough Landscape Architect Scott Levy stated that there is some concern on the non-disturbance buffer zone. He suggested moving an existing fence to the east and increase the buffer zone with plantings. Additionally, he outlined the trees that would need to be removed in order to carry out the proposed work on this property. He further stated that the property is narrow, creating a hardship, and he feels that moving the pool could create further damage to existing trees; additional landscaping should be installed between the pool and the driveway. He feels that the plan minimizes the impact on the topography.

Vice Chairman Montana stated that this application would be discussed in the Work Session.

**Blk. 1303 Lot 56
44 West Wildwood Road
Dr. Kalmon Post
Construct deck additions which would
increase the building coverage, further
exceeding maximum allowable coverage.
APPROVED**

At this time, Board Member Raia recused himself from this application

Attorney Bruce Whitaker, McDonnell & Whitaker, Ramsey, NJ represented the applicant.

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He gave the Board an overview of the application at this time. He stated that the applicant is looking to increase the size of the deck, which currently includes a pool within it. The existing building coverage is 8.09% due to the decking being included in the calculation. The lot coverage will not exceed the 20% allowable.

Linda Farber Post, 44 West Wildwood Road, home owner, was sworn in. Attorney Whitaker asked Mrs. Post if there was going to be any expansion to the existing dwelling and she stated there was not. She further stated that the pool sits on a deck that is very close to the house and they would like to add another level to the deck that can be used for leisure time and completely separate from the pool. Only one tree would have to be removed in order to complete this deck addition.

Robert Weissman, P.E., Weissman Engineering, Midland Park, NJ was sworn in and qualified as an expert witness. Mr. Weissman stated that he prepared the engineering plan for this application with a final revision date of August 2, 2010 and this plan was marked Exhibit A-1. Mr. Weissman explained this plan to the Board in detail at this time. He also explained the existing conditions on the property to the Board in detail including the topography and the grade of the land, which slopes down. Mr. Weissman distributed revised lot coverage calculations after removing overhangs and eaves, and this was marked Exhibit A-2. On the basis of this reduction, the existing building coverage is decreased from 8.09% to 7.6% and the lot coverage is decreased from 18.4% to 17.96%. The proposed plan calculations would reduce the building coverage without the inclusion of the overhangs from 8.91% to 8.43% and the lot coverage from 19.99% to 19.51%.

Borough Engineer Spence stated that he prepared a report on this application dated October 19, 2010 and he discussed this in detail. He stated that, when this application was prepared, overhangs were included in the coverage calculations.

Scott Levy, Landscape Architect stated that there would be minimal tree removal, if any, and it would not impact the property negatively.

OPEN TO THE PUBLIC:

Elaine Chernick, 46 West Wildwood Road, Saddle River was sworn in and stated that she had not objections with this application.

Board Member Kakaty stated that he feels that this application qualifies as a C-1 variance and it would not have a negative impact on the property. All of the Board members were in agreement.

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

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**Blk. 2002 Lot 4.02
57 East Saddle River Road
Veronica Porreca
Requesting variance to permit the lot coverage
to remain at 23.52% for improvements
previously installed.
APPROVED**

At this time, Board Member Raia re-joined the meeting.

Attorney Bruce Whitaker represented this applicant.

At this time, he gave an overview of the application to the Board in detail. A landscape contractor was hired to install significant plantings, patios and a pool with a water feature. The work was done in 1998 and 1999 and no permits were sought. Consequently, there is a lot coverage issue. In addition, a car port was converted to a garage without a permit, but has been removed in order to reduce lot coverage.

He stated that the property is well screened, with 40 – 50 foot white pines around the entire property line, making the side and rear yard completely hidden. The large rocks that are part of this rear yard were brought in by a crane and would be impossible to remove without significant damage done to existing vegetation.

At this time, Douglas Doolittle, P.E. and Planner, McNally Engineering was sworn in and qualified as an expert witness. He stated that he prepared the engineering plan with a final revision date of July 12, 2010 and was marked as Exhibit A-1. Photographs of the property were taken on October 12, 2010 and were marked Exhibit A-2.

Mr. Doolittle outlined the As-Built survey to the Board at this time. He also explained the patios and water features in the rear of the property. The lot coverage was originally 25.02% and is now 23.52% due to the removal of part of the garage area.

Mr. Whitaker asked Mr. Doolittle to describe the pond, pool, waterfalls and patios in detail to the Board which he did at this time. He stressed the natural look of these features.

He discussed each photo in Exhibit A-2 in detail at this time. He reiterated that the property is very densely screened and none of the features discussed are visible from any neighboring properties. The boulders and rock out plantings were significant.

The photo legend was marked Exhibit A-3 at this time. A lot coverage sheet was marked Exhibit A-4 and the revised lot coverage sheet was marked Exhibit A-5 and Mr. Doolittle explained the reductions on Exhibit A-5 in detail.

Attorney Whitaker asked Mr. Doolittle about reducing the coverage any further and he stated that it would be a detriment to bring in the heavy equipment necessary to remove the existing man-made coverage.

Board Member Nazzaro asked about the fence and why it was an issue. It was determined that the

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fence is on the adjacent property and also violates the height restriction.

Mr. Spence outlined the necessary variances for this application and discussed them in detail at this time.

Mr. Levy discussed the site conditions and the growth that has taken place, it is a very natural setting and to remove any of this would be detrimental to the property and those around it.

Board Member Kakaty suggested exploring the reduction of the driveway in order to get the lot coverage calculations reduced. Board Member Raia was in agreement with this.

Board Member Perrin stated that perhaps some of the items in the 25 foot non-disturbance zone should be moved. Board Member Cohen asked about the driveway with the entrance on Lower Cross Road and Mr. Whitaker explained this to the Board. The merits of removing this driveway were discussed and Vice Chairman Montana did not feel it was necessary based on the testimony and the existing situation.

A motion to **approve** the Porreca application was offered by Vice Chairman Montana. Seconded by Board Member Cohen.

Roll Call Vote: AYES: Board Members Montana, Kakaty, Raia, Nazzaro

NAYS: Board Member Perrin

WORK SESSION:

At this time, Attorney Rutherford recused himself as the Board was resuming discussion regarding the Murphy application.

Vice Chairman Montana suggested that this application be discussed in segments to include the front porch, rear porch, pool and driveway.

Board Member Kakaty stressed that it is a very difficult piece of property but the owner, being in the construction business, should have been aware of its limitations. He further stated that he has a specific problem with the pool and Vice Chairman Montana agreed.

Board Member Raia stated that he feels that the pool should be relocated, especially in light of the neighbor's concerns. Board Members Cohen and Perrin were in agreement. Board Member Nazzaro also had a problem with the pool but stated that all of the other issues were workable.

It was also decided that the sandbox on the property must be removed.

Vice Chairman Montana stated that the Board will vote on approving the additions to both the front and rear of the existing structure as well as the patio. The sandbox must be removed and the pool will be denied in its current location.

Mr. Murphy stated that he would like the opportunity to modify the plan for the pool and Vice Chairman Montana stated that the Board must vote on the plan as presented at this meeting. If modifications are made, Mr. Murphy would have to come back to the Board with another application for the pool.

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A motion to **approve** the Murphy application (to include the front and rear yard additions and the patio and deny the pool and sandbox) was offered by Board Member Raia
Seconded by Board Member Perrin.
Roll Call Vote: AYES Unanimous

RESOLUTION FOR CLOSED SESSION

At this time a resolution was read to go into Closed Session

Resolution #**ZBA-17-10** was offered by Board Member Nazzaro
Seconded by Vice Chairman Montana
Roll Call Vote: AYES, Unanimous

ADJOURNMENT:

As there was no further business to discuss, a motion was made to adjourn the Closed Session and return to the regular meeting of the Zoning Board of Adjustment.

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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