

**MANALAPAN ZONING BOARD OF ADJUSTMENT  
MINUTES OF THE REGULAR MEETING  
Thursday, December 6, 2018  
TOWNSHIP OF MANALAPAN – Courtroom  
Manalapan, NJ 07726**

The meeting was called to order with the reading of the Open Public Meetings by Chairman Stephen Leviton at 7:35 PM followed by the salute to the flag.

Roll Call: Janice Moench

In attendance at the meeting: Terry Rosenthal, Larry Cooper, Eve Strauss, Eric Nelson, Mary Anne Byan, David Schertz, Adam Weiss, Stephen Leviton

Absent from the meeting: Mollie Kamen, Eliot Lilien

Also present: John Miller, Esq., Zoning Board Attorney  
Nancy DeFalco, Zoning Board Officer  
Janice Moench, Recording Secretary  
James Winckowski, Board Engineer  
Matthew Shafai, Board Planner

*Chair Leviton acknowledged Ms. Strauss will be resigning and has served on the Zoning Board of Adjustment for 14 years. Chair Leviton explained Ms. Strauss' generous wisdom will be conspicuous in her absence. The Board wished her well.*

Chair Leviton noted on the record Application ZBE1735 was carried to the January 3, 2019 Zoning Board meeting without any further notice to the public.

Mr. Miller swore in Mr. Shafai, Board Planner sitting in for Ms. Beahm and Mr. Winckowski, Board Engineer sitting in for Mr. Boccanfuso

**MINUTES:**

A Motion was made by Mr. Cooper, seconded by Mr. Schertz to approve the Minutes of **November 1, 2018** as written.

Yes: Rosenthal, Cooper, Nelson, Strauss, Byan, Schertz, Weiss, Leviton  
No: None  
Abstain: None  
Absent: Kamen, Lilien  
Not Eligible: None

**RESOLUTIONS:**

**Application No. ZBE1828**

Applicant: Tracy Station Holdings, LLC  
Location: 85 Tracy Station Road South; 50/10

A Motion was made by Mr. Rosenthal, seconded by Mr. Cooper to approve the Resolution of memorialization for Application **ZBE1828**

Yes: Rosenthal, Cooper, Nelson, Strauss, Leviton, Byan  
No: None  
Abstain: None

Absent: Kamen, Lilien  
Not Eligible: Schertz, Weiss

## **PUBLIC HEARINGS:**

### **Application No. ZBE1829**

Applicant: Battleground Country Club  
Proposal: 16 New Townhomes Proposed  
Request: Preliminary & Final Major Subdivision  
Location: Hedgerow Lane  
Block/Lot: 6503/1  
Zone: GCRC

Mr. Rosenthal and Ms. Byan recused themselves from the Battleground Country Club application. Mr. Rosenthal exited the meeting at 7:40 PM. Ms. Byan remained in the audience for the remainder of the Battleground application and joined the Board on the dais once the application was completed.

Attorney John Rentschler, of Sonnenblick, Parker and Selvers was present on behalf of the applicant. Mr. Rentschler explained the applicant is before the Board for the second part of the bifurcated application. The applicant was granted a use density variance by the Board in February. The applicant will present the plan of what will be built. The applicant's professionals took the recommendations of the Board and incorporated them into the plans. The testimony order will be the Project Engineer, Architect, Traffic Engineer and Professional Planner.

Mr. William T. Wentzien, Professional Engineer with Abbington Engineering was sworn in by Mr. Miller. Mr. Wentzien's credentials were accepted by the Board. Mr. Rentschler asked Mr. Wentzien to give a brief summary of the project to the Board.

The following exhibits were marked for testimony:

- A1: Color aerial overview of the entire site showing color rendering of the proposed townhouse location
- A2: Color rendering of the Preliminary & Final Major Subdivision
- A3: Color rendering by Michael Testa of the proposed townhomes showing exterior architectural design
- A4: Picture of the proposed identification sign

Mr. Wentzien provided reduced size renderings of the exhibits to the Board members and professionals for review.

Mr. Wentzien explained the site to be Block 6503 Lot 1 is currently a parking lot that is 38.7 acres located GCRC zone (Golf Course Residential Zone). The area of development is comprised of 2.6 acres out of the 38.7 acres. The current parking lot contains 178 parking spaces. The parking lot is deteriorating and not currently in use. The proposal is for 16 residential townhome units each with three bedrooms. The homes are contained in four separate buildings consisting of four units to each building. It will be created as a subdivision with 16 lots. The remaining area will be a common lot consisting of a stormwater basin, sanitary pump station, and a common private driveway 24 feet wide, all of which will be controlled by an association created by the development. The Board previously provided input to reduce the number of driveways that fed onto Hedgerow Lane. The current application utilizes a private common driveway and reduces the driveway access points on Hedgerow to two points. Mr. Wentzien discussed some minor changes to the cart way path to the practice green. The detention basin will take the place of the current practice sand trap. The end units will have a garage door that is two-car wide. The interior units will have individual garage doors with a façade post in between them. Each unit has a two car garage that can accommodate two cars. Mr. Wentzien referred to Exhibit A2 and explained

in the rear between each of the units there will be a privacy fence that is six feet high and ten feet long.

Mr. Weiss asked for clarification on the fence and patio. Mr. Wentzien indicated the fence will be solid and the patio will be poured concrete. The lots range in size depending on an end unit or interior unit. The smallest lot is 2927.3 square feet and the largest lot is 5,124.6 square feet.

The common driveway is proposed such that the stormwater will be collected in inlets proposed within the driveway and then directed to the rear. The inlet and pipe system will run parallel to the rear and discharge into the storm basin. The basin is designed to meet the New Jersey Department of Environmental Protection ("NJDEP") Best Management practices. Mr. Wentzien explained how the proposed development will reduce impervious coverage by 13,300 square feet. Mr. Wentzien explained the proposed landscaping to be extensive around the units. The applicant would like the street trees (Sycamore trees) between the area of the common driveway and Hedgerow (along the road) to remain. This will promote the feel of a residential street. Chair Leviton mentioned Ms. Beahm's report she felt it would be beneficial screening between the units and the traffic on Hedgerow Lane. Mr. Shafai and Mr. Winckowski discussed the landscaping and sight triangles in more detail. Mr. Winckowski explained to save the Sycamore trees may not be feasible if they need to be cleared for adequate sight distance for the new driveways. It is agreed that the applicant will work with the Board Professionals for the vegetation.

Mr. Wentzien explained the existing street lights along Hedgerow will remain as depicted on the plans. No other lighting in terms of the common area would be needed. Other lighting will be on the building and discussed in the architectural testimony. Mr. Wentzien mentioned a point by point light grid was requested by the professionals, he does not feel it is needed. Mr. Winckowski explained it is the Township of Manalapan's code that all residential street meet IES Design Standard. Manalapan will require the photometric for the existing lights. If this lighting covers the private drive sufficiently that will be all that is required. Mr. Weiss and Mr. Wentzien discussed the landscaping and fencing along the substation. Mr. Weiss asked for clarification on the retaining wall depicted on Exhibit A2. Mr. Wentzien explained the retaining wall is six feet high and along the top of the wall is four feet high fencing. The easements are depicted on the plans. Mr. Wentzien explained the drainage and easements in further detail.

Mr. Wentzien discussed the proposed sign. Mr. Weiss asked if the sign would be lit. Mr. Wentzien explained the sign is not indicated to be lit. Architecturally it will fit in.

Mr. Winckowski asked if there will be a generator. Mr. Wentzien explained there will be a generator and it will comply with all the requirements, landscaped and fenced it. Mr. Winckowski confirmed with Mr. Wentzien the generator will be privately owned and the responsibility of the HOA. Mr. Winckowski asked for adequate signage for no parking along the private drive. Mr. Winckowski stated currently parking is permitted along Hedgerow. Mr. Winckowski confirmed the request for roof leaders in the rear, with Mr. Wentzien. Mr. Winckowski and Mr. Wentzien agreed on group/common mailboxes.

Chair Leviton discussed the Health review regarding the noise. The applicant explained the issue would be resolved.

Mr. Weiss asked for clarification regarding garbage. Mr. Wentzien explained there will be curbside pick-up at each unit.

Mr. Cooper asked if the units were age restricted. Mr. Wentzien confirmed same. Mr. Cooper asked if the retaining wall located behind each lot would be at the end of the property. Mr. Wentzien explained the retaining wall will be in the common lot and maintained by the association. Mr. Cooper asked the distance

from the back of the homes to the retaining wall. Mr. Wentzien explained that distance to be 23 feet. Mr. Cooper explained his concern in the future to have residence coming back before the Zoning Board for a deck. Mr. Wentzien explained there will be ten foot patios at each unit.

Michael Testa, Architect was sworn in by Mr. Miller and his credentials were accepted by the Board. Mr. Rentschler asked Mr. Testa to explain the revisions and the aesthetics that were changed to the outside of the buildings. Mr. Testa refers to Exhibit A3, a color rendering of the front of buildings showing finishes, materials and textures of the buildings. Mr. Testa also referred to the floor plans and elevations that were previously submitted to the Board. Mr. Testa explained there are two end units and two interior buildings. The building entries are recessed in. The recessed entry creates a private entry space and breaks up the front façade. If the door were to be moved forward it would create dead space inside. There is a two-car garage that is concealed with a step up into the living area. There is a powder room, a main living area with a large open kitchen that opens up to a two-story living space at the rear. Adjacent is a ground floor master bedroom suite. The bedroom offers a large walk-in closet and bathroom. The second floor plan offers two large size bedroom with an open loft space. There is a hallway powder room and an area for hot water and utilities. The home allows for an overlook to the lower level. Mr. Testa addressed regarding Ms. Beahm's concern on the garage doors. The end units will have one oversized large garage door and the interior units will have two-car garages with individual doors per unit. There will be a cultured stone base on the building with two toned shaker style siding. The front façade has accent lighting at the entrance doors and garages. There are windows on the side elevation of the building and dormers in the upper roof. The cultured stone will carry around to the side of the building. The siding and stone carries around the rear of the building with a light fixture at the rear door. Mr. Testa explained the way the grade is designed there would be a one or two step out the back of the building onto a concrete patio. This doesn't leave much room to construct a wood deck.

Mr. Winckowski explained if a homeowner wants a deck, elevated two feet to match the rear door, the deck would have to comply with the rear yard setback to the principal building which is twenty feet. A variance would be required. Mr. Testa explained the applicant proposed a concrete patio. Mr. Miller and Mr. Rentschler confirmed a condition of an approval would restrict decks to the rear of the building.

Mr. Winckowski asked for more information regarding the fence proposed on top of the retaining wall. Mr. Wentzien explained the fence is a four feet high aluminum ornamental fence. Mr. Winckowski and Mr. Rentschler confirmed there will be no additional fencing other than the privacy fence.

Mr. Miller confirmed being the development is age restricted there are specific restrictions, under the statute regarding the length of time a resident may have someone under the age of 55 residing in in their home.

Mr. Frank Miskovich, Traffic Engineer was sworn in by Mr. Miller and the Board accepted his credentials. Mr. Miskovich reviewed the CME letter dated September 21, 2018 and referred to the items in comment number seven. Testimony was given regarding this matter at the use variance meeting. Mr. Miskovich reviewed the trip information for the Board. Mr. Miskovich also reviewed the proposed roadway width and parking requirements serving the proposed 16 homes. The Board and professionals had no questions or comment for Mr. Miskovich.

Mr. Michael Geller, Professional Engineer and Planner and Certified Municipal Engineer in New Jersey was sworn in by Mr. Miller. Mr. Geller credentials were accepted by the Board. Mr. Geller made mention that Ms. Caffone was the Planner that provided testimony for the use variance meeting. Mr. Geller gave testimony regarding the variance relief sought for the front setback. The

proposed setback from the garage to the curb line of a residential access driveway is 25 feet where 30 feet is required. The residential driveway is a private drive serving the 16 units. The actual residential access street is Hedgerow Lane. The actual distance from the garages to Hedgerow Lane is a 70 feet. The intent of the ordinance is met. Mr. Gellar explained the adequate parking and addressed the purposes of zoning. The benefits outweigh the detriment to the zone plan. Mr. Shafai agreed with the testimony. Mr. Miller explained Ms. Caffone provided the proofs for the "D" variance. Under the Municipal Land Use Law ("MLUL") for the site plan portion of the bifurcated application, the applicant is required to put on proofs for the negative criteria as pertaining to the testimony heard this evening. Mr. Geller reviewed the negative criteria for the entire application.

Mr. Cooper asked about having sidewalks leading from home to home. Mr. Winckowski explained there is a sidewalk along Hedgerow Lane.

Mr. Rentschler advised he has no further witnesses. The Board Professionals advised they addressed the issues in the reports as the testimony proceeded.

Chair Leviton opened the meeting to the public to ask questions of the expert witnesses that provided testimony.

Mr. Brad Berger of 45 Hedgerow Lane was sworn in by Mr. Miller. Mr. Berger asked why the proposed development is age restricted when the remainder of the neighborhood is single family homes. Mr. Berger explained, in his opinion, there are age restricted developments being set up that will carry votes against education. Mr. Rentschler explained there is an age restricted portion of Battleground and this is adding 16 units to that. Mr. Berger disputed the answer. Mr. Berger asked for clarification for the MLUL as it pertained to the application. Mr. Miller explained in further detail.

Mr. Haim of 60 Hedgerow Lane was sworn in by Mr. Miller. Mr. Haim asked if the access road can be made a one-way road. Mr. Winckowski explained based on the volume, the width of the road and site distance the one way wouldn't be appropriate. The volume of traffic is extremely low. The roadway is more than adequate for two-way traffic. Mr. Haim asked if there was a way to prevent guest parking on Hedgerow Lane for the townhomes. Mr. Winckowski explained the Hedgerow Lane is designed to allow for parking on the Road. Mr. Haim explained he feels his home will be negatively impacted by the value of his home. Mr. Miller explained the Board is not permitted to take into consideration any testimony that may have any effect in regard to market value of any property. Mr. Haim asked for clarification on the age restricted portion of the application. Mr. Miller explained the applicant was granted density variance relief for 16 age restricted units.

Seeing there were no further questions from the public regarding the testimony given, Chair Leviton closed that public portion of the meeting. Chair Leviton then invited members of the public to address the Board for comment.

Mr. Brad Berger of 45 Hedgerow Lane addressed the Board. Mr. Brad explained to the Board why he is not in favor of the application.

Seeing there were no other comments for the Board from the public, Chair Leviton closed public.

Mr. Miller reviewed the conditions as follows:

1. The applicant will work with the and Professionals as to the to the vegetation
2. Photometric for the lighting
3. The Homeowners Association to be formed would own the pump station along with a generator for the pump station

4. The roof leaders installed in the rear of the building
5. Group mailbox to be added to the plans and installed
6. The units will be installed with a concrete slab patio. There will be a POS/deed restriction to prevent the construction of decks in the rear of the unit
7. Parking will be prohibited on the access road

A Motion of Approval for Application ZBE1829 was made by Ms. Strauss and seconded by Mr. Schertz

Yes: Cooper, Nelson, Strauss, Schertz, Weiss, Leviton  
No: None  
Abstain: None  
Absent: Kamen, Lilien  
Not Eligible: Byan, Rosenthal,

The Board took a ten-minute recess at 9:35 PM and resumed at 9:49 PM. Ms. Byan joined the Board members on the dais and Mr. Winckowski and Shafai left for the evening at this time.

**Application No: ZBE1806**

Applicant: Cenia Alvarado Beltre  
Proposal: Ratify sheds  
Request: Bulk variance  
Location: 68 Deer Way  
Block/Lot: 29.014/1.12  
Zone: R4

Thomas Roselli, Esq. of the firm Roselli and Roselli was present to represent Ms. Beltre. Mr. Roselli explained Ms. Beltre was before the Zoning Board back in May of this year. At that time Ms. Beltre gave testimony that she purchased the home through a foreclosure and she now the owner of the property. There are currently three sheds on the property. Ms. Beltre is seeking relief to ratify the three sheds allowing the sheds to remain on the property. One of the sheds is attached to the home and has become part of the home. There is a second Rubbermaid shed and there is a third shed in the rear of the yard.

Ms. Beltre remains under oath and gave testimony by way of answering questions from her attorney Mr. Roselli. Ms. Beltre confirmed the shed attached to the home is 9.7x10.8 feet in size. The shed in the rear of the yard is 8x10 feet in size. The third shed (Rubbermaid) shed, is 6x4x60 in size. The sheds were there when Ms. Beltre purchased the property. The home has no basement or garage so Ms. Beltre stores all items in the three sheds i.e.:

- Season items
- Carpet
- Ladder
- Remaining pieces of laminate flooring
- Paint
- Filing cabinets

All items stored in the shed are for the residence. Ms. Beltre testified she would be willing to accept a condition stating all the items stored in the shed would be for the subject property only. Ms. Beltre agreed. Mr. Roselli explained the ordinance allows one shed 12x18x10 in size with a floor area ratio 216 square feet and a gross area of 2,160 square feet. Adding up all three sheds add up to the total floor area of 201 square feet. The gross space would be 216 square feet. Where a large one large shed would be 2160 square feet. The applicant's home has no basement, little closet space and no attic. The sheds are not in the position to be viewed from the road.

Mr. Weiss expressed some concerns regarding the testimony given at the last hearing. Ms. Beltre gave testimony that her and her family own, operate and rent out homes. The items stored in the sheds were related to the upkeep of the rental properties. Tonight the testimony is different. Mr. Roselli confirmed his client is storing materials relevant to the subject property only due to storage issues. Mr. Roselli offered pictures of the sheds interior as exhibits. Mr. Weiss explained the exhibits aren't necessary and his concern is the applicant is renting out residential properties outside of Manalapan. Mr. Roselli and Mr. Weiss discuss what is stored in the sheds in more detail. Mr. Weiss asked if the applicant was involved in rental properties currently. Ms. Beltre explained she has a rental property in Elizabeth however, she doesn't store any tools at Deer Way for the rental property.

Mr. Schertz asked who currently resides in the home. Ms. Beltre's Sister and Brother-in-Law live in the home. Ms. Beltre plans to move into the home as well after she sells her current home in Monroe.

Chair Leviton explained to Mr. Roselli when Ms. Beltre was before the Board in May the Board asked her to reduce the sheds to two. Mr. Roselli spoke with his client and Ms. Beltre was willing to dismantle the Rubbermaid shed.

Mr. Miller explained he recalled past testimony where Ms. Beltre stated family members would be move items from the sheds that would be used for other properties. Mr. Roselli offered to allow for conditional approval to have the sheds being used for items, tools, equipment for the Deer Way property only and no commercial purposes.

Ms. Strauss asked if the gazebo was still housing outside items. Ms. Beltre explained most of those summer items are now stored in the sheds.

Chair Leviton opened the meeting to the public for comment or questions on the application. Seeing there were none, Chair Leviton closed public.

A Motion of Denial for Application ZBE1806 was made by Mr. Cooper and Seconded by Mr. Weiss.

Yes: Cooper, Strauss, Schertz, Weiss  
No: Nelson, Byan, Leviton  
Abstain: None  
Absent: Kamen, Rosenthal  
Not Eligible: Lilien

Mr. Miller advised the motion for denial was approved. The resolution will be memorialized on January 3, 2019. Chair Leviton explained to Ms. Beltre the sheds will have to be removed. Ms. Beltre said "this is not over" before exiting the court room.

**Application No. ZBE1841**

Applicant: Paul Heidt  
Proposal: Single Story Addition  
Request: Setback relief  
Location: 9 McCaffery Rd  
Block/Lot: 70/1.06  
Zone: RAG4

Mr. Paul Heidt of 9 McCaffery Road, was sworn in by Mr. Miller and present to give testimony regarding his application. Mr. Heidt explained he purchased the home in late 2001. At that time the front setback requirement was 75 feet. The current front setback requirement is 100 feet. The applicant applied for permits to put an addition on the east side of the home and was directed to the Zoning Board.

Ms. DeFalco explained this was a pre-existing non-conforming condition and Mr. Heidt proposed to add on. The ordinance allows to build up on a pre-existing non-conforming. The addition would encroach into the front setback, where 100 feet is required and the addition would be at 92.3 feet.

Mr. Heidt explained he is unable to move the addition to the required setback because it would put the entrance into the bathroom.

Ms. DeFalco asked Mr. Heidt to give testimony regarding the shed. Mr. Heidt explained the shed was there when he purchased the home. The shed is substantial with a foundation, electricity and stucco to match the home. It is located in the rear of the home up to the property line.

Mr. Schertz asked if he had a neighbor behind him. Mr. Heidt explained he has a good relationship with all of the neighbors on all sides. They were noticed for the variance meeting as well.

Chair Leviton opened the meeting to the public for comment or questions on the application. Seeing there were none, Chair Leviton closed public.

A Motion of Approval for Application ZBE1841 was made by Mr. Weiss and Seconded by Mr. Schertz

Yes: Cooper, Nelson, Strauss, Byan, Schertz, Weiss, Leviton

No: None

Abstain: None

Absent: Kamen, Lilien, Rosenthal

Not Eligible: None

**Application No. ZBE1842**

Applicant: Faiz Ahmed

Proposal: New single family residential home

Request: Bulk variance- Maximum Floor Area Ratio

Location: 12 Conover Lane

Block/Lot: 82/22

Zone: R20

The applicant Mr. Faiz Ahmed of 176 Bathgate Street, Staten Island, NY was sworn in by Mr. Miller. Mr. Joseph Primiano, Architect was sworn in by Mr. Miller and the Board accepted his credentials.

Mr. Primiano explained the applicant purchased a property on Conover Lane. There is a small dwelling on the property that will be demolished. The applicant proposed to construct a two story dwelling with a basement. The current home on the property is at 24 feet for the front yard setback where 60 feet is required. The side yard setback is 7.9 feet where 15 feet is required. The proposed home is a two story dwelling with a finished basement. There are four bedrooms on the second floor. The first floor consists of a living room, dining room, bathroom, kitchen with a forward facing garage

Mr. Primiano explained the intent was to design a new home that was conforming. The zone requires 20,000 square feet the proposed home will have 18,809 square feet. The new home will comply with all setbacks. The area of the proposed new dwelling exceeds the maximum habitual Floor Area Ratio ("FAR"). Mr. Primiano asked for clarification on the requirements for the FAR. The engineer included the first and second floor in the FAR calculation however, the basement should be included as well. The engineer has a 0.17 as the FAR where a maximum of .15 is required and adding the basement in would bring the FAR to 0.246. Ms. DeFalco confirmed the FAR is defined as all building floors, so the basement would be included.



Chair Leviton confirmed with Mr. Primiano that the proposed structure would be consistent with the homes in the area.

Mr. Cooper asked where the septic tank will be located. Mr. Primiano explained the septic tank will be moved to the back corner of the property. It is designed to comply with all the setbacks needed for the system. The well will be off to the front corner of the property.

Chair Leviton opened the meeting to the public for comment or questions on the application. Seeing there were none, Chair Leviton closed public.

A Motion of Approval for Application ZBE1842 was made by Mr. Schertz and seconded by Ms. Strauss

Yes: Cooper, Nelson, Strauss, Byan, Schertz, Weiss, Leviton  
No: None  
Abstain: None  
Absent: Kamen, Lilien, Rosenthal  
Not Eligible: None

Mr. Miller explained feedback to the Board regarding the Boundless Adventures litigation matter. The court denied the applicant's complaint. The court agreed with the Zoning Boards findings as to the denial for the application.

Chair Leviton asked to let the record reflect Mayor McNaboe entered the proceedings and is present at the meeting. Mayor McNaboe was present to thank the Board members for their service this year and wish Ms. Strauss well.

Chair Leviton opened the meeting to the public for comment or questions. Seeing there were none, Chair Leviton closed public.

**ADJOURNMENT:**

A Motion was offered by Ms. Strauss and agreed by all to adjourn the meeting at 10:35 PM

Respectfully Submitted,

Janice Moench  
Recording Secretary

RECORDED COMPACT DISCS OF THE ZONING BOARD OF ADJUSTMENT ARE AVAILABLE FOR REVIEW, IN THE PLANNING/ZONING BOARD OFFICE BY APPOINTMENT.