

MANALAPAN ZONING BOARD OF ADJUSTMENT

MINUTES OF THE REGULAR MEETING

Thursday, March 1, 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 7:30 PM. followed by the salute to the flag.

Roll Call: Janice Moench

In attendance at the meeting: Mollie Kamen, Terry Rosenthal, Larry Cooper, Eric Nelson, Eve Strauss, Eliot Lilien, Mary Anne Byan, David Schertz, Adam Weiss, Steven Leviton

Absent from the meeting: None

Also present: John Miller, Esq., Zoning Board Attorney
Nancy DeFalco, Zoning Board Officer
Janice Moench, Recording Secretary

MINUTES:

A Motion was made by Mr. Rosenthal, Seconded by Mr. Nelson to approve the Minutes of **February 1, 2018** as written.

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

A Motion was made by Mr. Cooper, Seconded by Mr. Schertz to approve the Minutes of **February 15, 2018** as written.

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

RESOLUTIONS:

Application No: ZBE1626EX

Applicant: PRC Development Co. Inc. /QuickChek

Memorialization of Approval

Location: 270 Monmouth Rd. & 45 Smithburg Rd.~Block/Lot:84.02 L: 2, 3.01 and 3.03

A Motion was made by Mr. Cooper, Seconded by Mr. Lilien to approve the Resolution of memorialization.

Yes: Rosenthal, Cooper, Nelson, Lilien, Schertz, Leviton
No: None

Abstain: None
Absent: None
Not Eligible: Kamen, Strauss, Byan, Weiss

Application No: ZBE1750

Applicant: Robert & Gina Volkert

Memorialization of Approval

Location: 17 Gordons Corner Rd ~ Block/Lot: 20/25

A Motion was made by Mr. Rosenthal, Seconded by Mr. Lilien to approve the Resolution of memorialization.

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

PUBLIC HEARINGS:

Application No: ZBE1751

Applicant: John Ptasienski

Proposal: Construct addition in rear

Request: Bulk variance - side yard setback relief

Location: 5 Pension Hill Road

Block/Lot: 14.06/52.01

Zone: RTFTH

The applicants John and Monica Ptasienski were sworn in by Mr. Miller. Mr. Ptasienski explains he would like to add an addition to the rear of their home approximately 16 Ft wide and 16 Ft in depth. The addition to the home will be a family room. The applicants have resided in the home for approximately ten years. Mr. Ptasienski explained he came before the Board when he built his home. He built a single family home in a two family/townhouse zone. The applicants have met with Architect, Michael Testa regarding the proposed addition to the home. Mr. Ptasienski explains 16 ft by 16 ft proposal would be the most economical size regarding the construction. The addition will encroach into the side setback by approximately one and a half feet. The applicant provided a picture of the current rear property. This photo was marked as Exhibit A1. The Board members viewed the photo. Currently there is a deck where the proposed addition will be.

Mr. Rosenthal asked if the addition will be replacing the deck and the applicant confirmed same. Mr. Ptasienski explained the deck is 15 ft wide and 10 ft deep. The applicant intends on keeping the current patio door entrance in tact to avoid more construction and keep construction costs to a minimum.

Mr. Cooper asked the applicants if they intend to replace the deck after the addition. Mr. Ptasienski stated he and his wife have not made a decision on a deck or a flat patio.

Chair Leviton advised for the record Ms. Kamen arrived at the meeting at 7:40pm.

Mr. Cooper asked if the floodlight that currently exists would be on the new addition. The applicant confirmed the floodlight would be on the addition.

Mr. Miller asked if there were any plans to add plumbing or a sink. Mr. Ptasienski stated there would be electrical in the addition.

A Motion of Approval for application ZBE1751 was made by Mr. Rosenthal, and Seconded by Mr. Lilien.

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

Application No: ZBE1802

Applicant: 66 Taylors Mills Road, LLC
Proposal: New single family home
Request: Stream corridor relief
Location: 66 Taylors Mills Road
Block/Lot: 20/11.01
Zone: R40/20

Mr. Robert F. Munoz of Davison, Eastman and Munoz was present on behalf of the applicant. Mr. Munoz called his only witness Matthew Wilder, Department Manager of Morgan Engineering located at 130 Central Avenue, Island Heights, New Jersey. Mr. Wilder was sworn in by Mr. Miller and the Board accepted his credentials to testify as a Planner/ Engineer.

Mr. Munoz asked Mr. Wilder to explain the property to the Board. Mr. Wilder explained to the Board the property located at 66 Taylors Mills Road is irregularly shaped and just over two acres. The property is bound by Conservations Easements.

Mr. Wilder explained the applicant is requesting one variance for the construction of a single family home from section 95-8.12, as it relates to the minimum setback of a Stream Corridor Buffer. No encroachment is permitted within 75 Feet immediately abutting a stream floodway and a minimum average must be maintained of 100 Feet along the floodway. The applicant is proposing encroachments 0 Feet from the floodway due to the site constraints associated with the property.

Mr. Munoz asked Mr. Wilder to provide testimony on the history of the property with respect to the Department of Environmental Protection ("DEP"). Mr. Wilder explained the DEP issued a Letter of Interpretation ("LOI") also known as a Wetlands Line Verification. The wetlands on the property were identified as an intermediate resource value with a 50 Foot wetlands buffer associated with it. Mr. Munoz asked Mr. Wilder if he prepared plans for the proposal. Mr. Wilder marked the following exhibits:

- A1: Stream Corridor Buffer
- A2: Survey of the Property dated 4.4.17
- A3: Building Plot Plan dated 12.10.17
- A4: Prior Plot Plan dated 3.1.18

Mr. Wilder reviewed the exhibits explaining them in further detail, specifically showing the location to the Stream Corridor Buffer and explaining the required setbacks. Mr. Wilder explained no part of the property would be buildable respecting both front and the Manalapan Township Stream Corridor Buffer.

Mr. Munoz asked Mr. Wilder if there was a structure on the property in the past. Mr. Wilder confirmed there was a home on the lot prior. Mr. Wilder refers to

Exhibit A2, a survey of the property dated April 4, 2017. This exhibit depicts the survey of the property while the prior home existed with a detached garage. Mr. Wilder explained the dwelling was within the wetlands and floodway.

Mr. Wilder refers to Exhibit A3; the Building Plot Plan dated December 10, 2017. Ms. Kamen stated the tax map reflects the property to be 1.75 acres and Mr. Wilder's survey shows 2 acres. Mr. Wilder explained the original survey issued for the closing of the property was incorrect. The boundary was incorrect. The survey issued presently, is correct at 2.1 acres. Ms. DeFalco asked if Mr. Wilder if he contacted the Tax Assessor with this issue. Mr. Munoz explained the Township Engineer usually corrects the Tax Maps. Mr. Wilder explains the exhibit in further detail.

Mr. Wilder refers to Exhibit A4, Prior Plot Plan. Mr. Wilder explained when he was originally retained by the applicant, his firm did not perform due diligence by the applicant with respect to the environmental site constraints. Exhibit A4 was developed without understanding the impacts that the Milford Brook had on the property. Mr. Wilder explained originally they proposed a home with a footprint of 4,300 Square Feet. Currently the applicant proposed a home footprint of 2,800 Square Feet with a habitable area excluding the garage of 2,600 Square Feet.

Mr. Cooper asked for clarification on the line stating floodway on Exhibit A4. Mr. Wilder provides clarification on the floodways, streams, the 100 year storm, etc.

Mr. Munoz confirmed with Mr. Wilder with the exception of the floodway and setback to the brook, there are no other variances proposed for this application. Mr. Wilder explained the hardship to the property regarding the 100 Foot Stream Corridor Buffer and resulting in the property being unbuildable.

Chair Leviton asked if the prior home was in compliance. Mr. Wilder stated the property was both in the floodway and wetland areas. The home was approximately 70 or 80 years old. Chair Leviton asked Mr. Wilder to review the 100 Year Storm. Mr. Wilder explains further to the Board members and stated the proposed home would be built above the flood line.

Mr. Cooper asked if the home could be turned to avoid any variances. Mr. Wilder explained, due to the environmental constraints there is no way to develop the property without a variance.

Ms. Kamen asked Mr. Wilder the application was going to require any tree removal. Mr. Wilder explained the property was granted a tree clearing permit previously. There were too many trees removed. The State required the applicant to have a tree mitigation plan to cover the trees that were removed in error. The trees are required to be planted by April 15, 2018 as per the State approval.

Mr. Nelson stated as per the exhibits, the flood designation line looks to follow a retaining wall. Is the retaining wall built due to the floodway line? Or is the floodway line adjusted because there is a plan to build a retaining wall? Mr. Wilder explained the application proposed to build the retaining wall along the limit of the flood hazard area line.

Mr. Weiss asked for the amount of impervious coverage once the home is built. Mr. Wilder stated the coverage will be 8.6%.

Ms. DeFalco asked Mr. Wilder to review the report prepared by Mr. Boccanfuso. Mr. Wilder reviewed and addressed all areas of the report dated February 28, 2018. Mr. Wilder specifically discussed the waiver for the drywells. The current plan does not depict any drywells. The original plan was created with a basement and drywells however, the groundwater was found to be very shallow. So the current plan does not include a basement or drywell. The applicant has requested a waiver for the installation of drywells due to high ground water. Mr.

Wilder also stated the applicant will produce updated plans to show concrete block curbing up to the property line at which there will be a concrete curb transition. There will be no curbing along Taylors Mills Road being there is no curbing currently existing. Mr. Wilder explained the applicant will provide fences where the retaining wall exceeds 30 inches in height. A separate pool permit will be obtained from the Township. Lastly, there was a Road Opening permit issued for the gas connection, the applicant is requesting an extension of time for that permit.

Ms. DeFalco explained the applicant would have to appeal to the Township Committee being there is a moratorium on the road.

Mr. Munoz stated the applicant will comply with all of the requirements set forth with the exception of the drywell waiver.

Mr. Wilder explained the property is zoned Single Family Residential in the R40/20 Zone. The Township identifies the property should be built with a residential dwelling. The variances the applicant is requesting would be promoting a home to be built consistent and enhance the area. Mr. Wilder further explained the application would protect environmentally sensitive areas.

Mr. Munoz asked Mr. Wilder if the application would have any negative impact on the zone plan in the manner in which it will be designed. Mr. Wilder stated he does not see any negative impact to the area.

Chair Leviton explained the applicant needed to establish a hardship or prove the granting of the variance advances one of the purposes of the ("MLUL") Municipal Land Use Law. Chair Leviton explained Mr. Wilder went beyond this.

Mr. Nelson asked if the home would have a basement. Mr. Wilder explained there will be a crawl space. Mr. Nelson asked if the elevation will be changed. Mr. Wilder stated there will be fill installed to increase the elevation. Mr. Nelson explained Manalapan Township is supposed to have a large storm the day following the after the meeting. His presented concerns on how wet the property will get. Mr. Wilder explained they are raising the elevation approximately two feet. Mr. Nelson asked if the abandoned home that was on the property was abandoned from flood. Mr. Wilder stated he didn't have that answer. Mr. Nelson asked if the home was ever flooded. Mr. Wilder stated he couldn't answer the question but he would imagine the detached garage may have seen water.

Mr. Miller listed the following conditions should the Board grant an approval:

- Applicant must comply with any approvals needed from State agencies
- Applicant must satisfy all conditions and requirements specified in Mr. Boccannuso's February 28, 2018 report

Mr. Miller asked Mr. Wilder to explain why the neighboring properties would be available. Mr. Wilder explained in order to find a portion of property that was 100 Feet from the Stream Corridor and 75 Feet back from Taylors Mills Road would be encroaching to the neighboring home to the west. Mr. Wilder confirmed there were no inquiries made to the neighboring properties.

Mr. Miller asked for confirmation on how long the retaining wall would be. Mr. Wilder explained he specifically positioned the wall to be outside all State regulated areas. Therefore the State does not require a permit for the installation of the retaining wall. The State requires a building permit for a retaining wall in excess of four Feet in height. The wall is less than four Feet in all locations. Mr. Wilder confirmed the applicant intends to add the fencing along the top of the wall for safety. Mr. Wilder stated the wall will be approximately 190 Feet in length.

Mr. Cooper asked Ms. DeFalco to confirm the maximum height of the fence on the wall. Ms. DeFalco explained the maximum height would be six feet for a combination of wall and fence.

Ms. Byan asked if the pool needed approval. Mr. Wilder stated the pool does not require variance relief. The applicant does not intend to build the pool immediately.

Mr. Nelson asked what would happen if the application was to be approved and then the property is affected negatively by the storm with water tomorrow. Chair Leviton explained the approval would stand. Mr. Nelson explained his concerns for the property. The creek overflows and encompasses the soil. Mr. Nelson explained he would like to observe the property in the peak of the storm. Chair Leviton explained the options to Mr. Nelson on voting as a Board member.

Mr. Weiss asked Mr. Miller if the Board can table the application. Mr. Miller advised against tabling the application. He explained it appears Manalapan will get some heavy rains however, we don't know how much. There is too much of an uncertainty. This wouldn't be a basis to table the application according to Land Use Law.

Chair Leviton opened the floor to the public on this application, seeing there were no comments, public was closed.

A Motion of Approval for application ZBE1802 was made by Mr. Rosenthal, and Seconded by Ms. Kamen.

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

At 8:33 PM the Board took a short break and resumed the meeting at 8:40 PM for the next application.

Application No: ZBE1752

Applicant: Roman Abramov and Bianna Braverman
Proposal: Construct 6 ft. fence, deck and block patio
Request: Bulk Variance – setback relief
Location: 13 Gordons Corner Rd.
Block/Lot: 20/27.011
Zone: R20

Mr. Roman Abramov, 13 Gordons Corner Road, Manalapan, is sworn in by Mr. Miller. Mr. Abramov explained he moved into the newly developed home in October. Mr. Abramov explained the property is large with no fence. He has two small children with one on the way so safety is a concern. There is a small deck in the rear of the property. Mr. Abramov would like to remove the small deck and build a larger deck that is 15 ft wider for family purposes.

Chair Leviton confirmed with Mr. Abramov the variance relief would be for front and side setback.

Mr. Bhaskar Halari, Professional Engineer of Concept Engineering is sworn in by Mr. Miller. Mr. Halari explained the property is located on Gordons Corner Road. The home was completely renovated. Mr. Halari marked Exhibit A1, a packet consisting of five pictures of the home. He referred to the first picture that showed a small existing deck in the rear of the home. The deck is 3 ft deep and 15 ft wide. Mr. Halari explained the applicant would like to extend the depth of the deck to be 15 ft. Beyond the deck the applicant proposed a 20 Ft by 24 ft patio on the ground level. Currently the deck serves as access to two rear doors at the

rear of the property. The existing home encroaches into the front setback. In order to enclose the backyard the fence would also encroach into the front setback. The ordinance allows 3 ft high fence in the front setback. The applicant proposed a 6 ft high fence for the safety of his children.

Chair Leviton asked why a 3 ft fence wouldn't be adequate for the safety of the children. Mr. Halari explained the young kids can jump the fence and go out to the road.

Mr. Weiss asked for clarification on the type of fence. Mr. Abramov explained the fence would provide privacy and safety.

Mr. Halari described the pictures in further detail. Mr. Miller reminds the Board the packet of photos is marked as Exhibit A1.

Mr. Weiss asked for further clarification the driveway location from Gordons Corner Road. Mr. Halari explained when you pull into the driveway of the subject property from Gordons Corner Road you will be pulling up to the right hand side of the home.

Ms. Strauss asked for the applicant to explain why the fence would need to come to the front of the home on one side and sit flush with the house on the other side. Mr. Abramov explained he has an air conditioning unit on the side of the house and the garbage cans are housed there as well. Mr. Abramov explained it is for protection. Ms. Strauss asked for clarification on how the protection would be different if the fence were even with the other side of the home. Mr. Halari explained the area between the front and the rear of the home will be enclosed with the fence to protect the garbage cans and air conditioning unit. Ms. Strauss voiced her concern for placing a fence 22 ft from Gordons Corner Road. The home is already encroaching into the setback, the fence will be adding to the encroachment. Ms. Strauss stated the applicant is fencing in the entire rear yard which is a good size area.

Chair Leviton stated he is in agreement with Ms. Strauss. Chair Leviton clarified the need for the rear fencing being the home to the right of the applicant's sits back further and the neighbor would be looking into the backyard. Chair Leviton adds there are no other properties with fences in the front yard in the immediate area.

Ms. Kamen confirms with the other Board members the applicant is permitted to put up a 3 ft fence in the front of the home. The applicant is asking for a 6 ft fence.

Mr. Rosenthal explained his concern for the proposed patio that is 2.6 ft from the side yard and 15 ft is the requirement. Mr. Abramov explained he wanted the patio in line with the deck.

It is determined by the Board and the applicant the patio can be moved closer to the setback requirements.

Ms. DeFalco explained when she wrote the denial of the application she didn't realize the fence would be 22 ft from the front property line. There is another section of the ordinance that does not allow for fencing within the first 25 ft. Ms. DeFalco explained the applicant can asked the Board for another variance or you can bring the fence in to the 25 ft. mark. The applicant agreed to move the fence in to the 25 ft mark.

Mr. Miller asked Mr. Halari to clarify the bulk variances being sought.

Mr. Halari explained there is a side yard requirement of 15 ft for the deck and patio. The application proposes a 5.1 side yard setback for the deck and 10 ft

side yard setback relief for the patio. Originally the applicant asked for 2.6 side yard setback relief for the patio.

Ms. DeFalco explained moving the patio will create variance relief on the other side of the yard. Mr. Halari and the applicant review the changes they would like to propose.

Mr. Halari explained the proposed patio will be 10 ft from the side yard setback and will be 20 ft wide.

Mr. Halari and Mr. Miller reviewed the fence variance. The maximum allowed is 3 ft proposed is 6 ft (at the 25 ft requirement). Chair Leviton explains the MLUL doesn't allow the child safety as a consideration. The MLUL is specific to allow bulk variances due to a hardship. The applicant has established the narrow property and the wetlands in the rear to be a hardship.

Ms. Strauss explained if the applicant were to move the fence back to the home at 74.1 ft, she would be comfortable at the fence being 6 ft in height. She explained she doesn't see the hardship to establish the 6 ft fence in the front.

Mr. Miller explained the applicant has agreed to the fence height of 3 ft and the remaining portion at 6 ft in height. The side setback of 5.1 ft proposed and 15 ft is required for the deck. The Patio was revised from the initial plan. The patio will now be located 10 ft from the side yard where 15 ft is required.

Chair Leviton opened the floor to the public on this application, seeing there were no comments, public was closed.

A Motion of Approval for application ZBE1752 was made by Mr. Lilien, and Seconded by Ms. Kamen.

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

ADMINISTRATION:

Chair Leviton asked if there are administrative items to be discussed.

Mr. Schertz asked if the MetaVs Gaming application has been moved on the agenda. Chair Leviton confirms the MetaVs Gaming application has not been moved and will be on the agenda for the March 15, 2018 meeting.

Ms. DeFalco encouraged the Board members to go out and view the properties for prior to the next meeting. This will give the members a better prospective.

Chair Leviton advised the Board that when the application comes before the Board, the Board needs to consider them as if there is nothing built.

Mr. Miller explained to the Board that Mr. Cucchiaro of his firm provides classes and seminars on the Municipal Land Use Law. If the Board wishes to have a seminar, it would be held on the first or third Tuesday of the month at the Manalapan Township Municipal Court. It would have to be noticed accordingly as a special meeting.

Ms. Defalco explained the seminar would be exclusive for the Board and it would be in addition to the required certification.

A Motion of Approval to conduct an Executive Closed Session was made by Mr. Lilien, and Seconded by Ms. Kamen.

Yes:	Kamen, Rosenthal, Cooper, Nelson, Strauss, Lilien, Byan, Schertz, Weiss, Leviton
No:	None
Abstain:	None
Absent:	None

Chair Leviton opened the floor to the public for any non-agenda items. Seeing none, he closed public.

ADJOURNMENT:

A Motion was offered by Mr. Weiss and agreed by all to adjourn the meeting at 9:30PM.

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.