

MANALAPAN ZONING BOARD OF ADJUSTMENT

MINUTES OF THE REGULAR MEETING

Thursday, May 3, 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 7:40 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, Mary Anne Byan, David Schertz, Adam Weiss, Stephen Leviton

Absent from the meeting: Eliot Lilien

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

Chair Leviton announced application number ZBE108, David's Lawn & Landscaping Design will not be heard this evening and will be carried to the July 19, 2018 agenda with no further notice to the public. Application number ZBE1719, Fontana will not be heard this evening. This application is scheduled to be heard on the June 21, 2018 agenda and will re-notice the public.

MINUTES:

A Motion was made by Mr. Rosenthal, Seconded by Mr. Cooper by to approve the Minutes of **April 19, 2018** as written.

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

RESOLUTIONS:

Application No: ZBE1804
Applicant: Lawrence Matarese
Memorialization of Approval
Location: 202 Route 33 West – 66/11.05/23.01

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

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

Application No: ZBE1753

Applicant: Joseph Resciniti

Memorialization of Approval

Location: 8 Derek Court – 18/14.17

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

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

Application No: ZBE1812

Applicant: Ethan and Robyn Waller

Memorialization of Approval

Location: 42A Daum Rd – 70/17.04

A Motion was made by Ms. Kamen, Seconded by Ms. Strauss to approve the Resolution of memorialization.

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

Application No: ZBE1640

New York SMSA Limited Partnership d/b/a Verizon Wireless

Memorialization of Approval

Location: 83 Millhurst Road - 67/35.01

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

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

PUBLIC HEARINGS:

• **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

Ms. Celia Alvarado Beltre of 68 Deer Way was present and sworn in by Mr. Miller.

Ms. Beltre explained to the Board members she purchased the property on December 21, 2017 from a company that buys tax liens. Ms. Beltre explained she inherited all of the violations inside and out of the home. She has a

conditional CCO which is pending the outcome of the variance hearing. Ms. Beltre purchased the property in this condition. One of the sheds measuring 10 Ft by 10 Ft is attached to the home. The shed looks to have been there a long time being the siding was built around the shed.

Chair Leviton asked Ms. DeFalco if the applicant is permitted to have a temporary CCO for more than a one year. Ms. DeFalco explained the applicant can take residence as long as there are no safety issues. Ms. Beltre explained she closed on the property on December 21, 2018, however they issued the conditional CCO on February 14, 2018 that allowed her to occupy the home. Chair Leviton asked Ms. DeFalco why the seller wasn't responsible for the outstanding items. Ms. DeFalco explained the property was a foreclosure and sold "as is".

Ms. DeFalco asked Ms. Beltre to explain to the Board what took place with the building department regarding the structure attached to the rear of the home. Ms. Beltre explained that there was access to the structure from inside the home that she sealed off on the recommendation of the building inspector. In order for Ms. Beltre to keep the structure as an addition and keep access from inside, she would have had to replace subflooring and other construction that would have been costly to her. The building department recommended that Ms. Beltre close off the access from inside the home and have the structure remain as a storage area/shed and apply for a variance.

Ms. Strauss asked what the sheds are used for. Ms. Beltre explained that she has other properties located in other towns and she stores all of her tools, paint, toilets, sinks, etc in the larger shed.

Chair Leviton asked what kind of business the applicant has. Ms. Beltre explained there is no business the tools are used to fix her property and the property of her children.

Ms. Strauss asked if the applicant would be living in the home on Deer Way. Ms. Beltre explained she will be living in the home with her Sister and Brother-in-Law. Ms. Strauss asked the applicant why the Board should allow three sheds when one is permitted. Ms. Beltre explained how she used each shed and they remain full.

Mr. Weiss asked the applicant if she planned on maintaining this home as a primary residence going forward. Ms. Beltre answered she plans on living in this home full time with her Sister and Brother-in-Law.

Chair Leviton confirmed the first shed was closed off and the shed next to it both abut against the house. There is also a shed behind the gazebo depicted in photo number one that was submitted with the variance application. Chair Leviton asked for clarification of the property in picture number one. Ms. DeFalco explained the property to Chair Leviton in further detail.

Ms. Strauss asked if the gazebo is considered another structure. Ms. DeFalco explained the gazebo meets building coverage and setback requirements therefore it is not part of this application. The applicant was just showing the gazebo in the picture for the Board to get a perspective of how far the last shed is in the rear.

Chair Leviton asked what the small shed is constructed of. Ms. Beltre said the shed is aluminum on concrete base. Ms. DeFalco explained she believes the smaller shed came with the homes when they were constructed.

Mr. Schertz asked Ms. DeFalco if the applicant received permits for the sheds. Ms. DeFalco explained to Mr. Schertz there were no permits issued. She further explained the applicant is before the Board to try and ratify the sheds and obtain

a permit. Ms. DeFalco said she believes the small 3 Ft by 3 Ft came with the house when the Buckshead Development was originally built.

Mr. Rosenthal asked when the house was built. Ms. DeFalco said the home was built in 1984.

Mr. Cooper asked the applicant if she were to remove two of the sheds which one would she would prefer to keep. Ms. Beltre said she needs them all.

Ms. Strauss and Ms. DeFalco discuss the sheds on the property and Ms. DeFalco explained one shed is permitted however they all meet the setback requirements.

Chair Leviton states the two sheds that abut against the home should be 5 Ft from the home as per the ordinance.

Ms. Strauss states one shed is permitted and she hasn't received a valid reason for the applicant to have all three sheds remain on the property.

Mr. Weiss asked where Ms. Beltre stored all of the tools for her properties prior to buying this home. Ms. Beltre explained she sold a home in East Brunswick that stored everything.

Mr. Rosenthal asked if the tools were large or small. Ms. Beltre said she has all different size ladders, paint, wood, toilets, sinks, faucets, etc.

Mr. Miller reminded the Board this is a C variance. The Board doesn't punish the applicant for not having the approvals but at the same time the applicant must meet the positive and negative proofs for the variance relief.

Chair Leviton explained the variance process to Ms Beltre and how the hardship established must relate to the land. He further explained how the Board is bound by the Municipal Land Use Law

Ms. Beltre explained she has a ride on mower for the property and stores it in the shed.

The Board and Ms. DeFalco have discussion regarding the variance relief requested.

Mr. Miller asked the applicant if the shed that was closed off is accessible from inside the home. Ms. Beltre confirmed you can not access the shed from the inside of the home. Mr. Miller expressed concern if the use is only residential. He asked if the tools stored at the home are being used to maintain the subject property. Ms Beltre confirmed they were.

Mr. Weiss asked how many truck trips were made to move from the prior residence to this one. Ms. Beltre explained she has a van and it took two trips. Mr. Weiss asked Ms. Beltre if all of the contents in all three sheds were made in two trips. Ms. Beltre yes because she has a ride on mower that takes up a large amount of space. She also has gardening tools and fertilizer. She further explained when she purchased the property it was in terrible condition so she stored the tools and different things to finish restoring the home in the sheds. Mr. Weiss asked Ms. Beltre if she plans on keeping the sheds once they are emptied. Ms. Beltre said that depends on the Board. She further states if she is able to keep the sheds she will use them. Mr. Weiss references photo number two, submitted with the variance package and asked what the items are under the gazebo in the yard. Ms. Beltre explained her and her family built her backyard furniture out of pallets. The prior owners left behind a piece if granite, she built a base so she can use it as a table.

Ms. Kamen explained the Board is governed by the land use law. She reminded the applicant one shed is permitted and asked her to recap the sizes of the sheds in total. Ms. Beltre said one shed is 8 Ft by 10 Ft, which is 80 square feet; 3 ft by 6 ft, which is 18 square feet, and the last one is 10 ft by 10 ft, which is 100 square feet. Ms. Kamen explained to the applicant a shed in the amount of 100 square feet is what is permitted in the zone, so two sheds totaling 100 square feet would work better.

Mr. Cooper asked if the van goes out everyday. Ms. Beltre said the van only goes out when it is necessary.

Ms. Schertz asked what furniture the applicant built with the wood pallets. Ms. Beltre explained she built the three pieces of outdoor furniture. She stated she does nothing commercial from the home.

Ms. Strauss asked if the sinks and toilets stored in the shed were for the subject property. Ms. Beltre said yes she is redoing the bathroom. Ms. Strauss asked once the bathroom is finished and the shed was empty will she be using the shed to store things pertaining to a business. Ms. Beltre said she uses the one shed for tools and things for her home. The larger shed in the rear is used to store the ride on mower to cut the grass. Ms. Strauss confirmed the ride on mower and gardening tools are only used for the subject property.

Mr. Weiss asked Ms. Beltre if her Daughter needed a toilet for her home, would be able to go into your shed and take it for her home. Ms. Beltre said no because there is only one toilet and she has plans to use it for the subject property. Mr. Weiss asked if there was anything in the sheds that Ms. Beltre's children can use at their properties. Ms. Beltre said if I have a tool that they need they are welcome to borrow it.

Ms. Kamen asked Mr. Miller if a hardship could be established being there is no basement for storage. Mr. Miller explained it would be factor that could support a variance proof. Mr. Miller asked if there was an attic in the home. Ms. Beltre states there was no attic, basement or garage located in the home. Mr. Miller explained that could work in favor of the applicant for the positive criteria but the applicant would have to meet the negative criteria. It needs to be determined whether there is a substantial detriment to the neighborhood or zoning ordinance.

Ms. DeFalco explained the applicant has a nice size lot but homes are very small.

Mr. Miller advised the Board there is an issue as far as proofs for the bulk variances. Ms. Beltre is present with no attorney, planner or engineer. Mr. Miller suggested the applicant may want to come back to the Board with an engineer to explain the variance proofs. The decision would be up to the applicant.

Chair Leviton explained to Ms. Beltre that he was going to give each Board member an opportunity to state where they stand on this application. This can give the applicant an opportunity to decide if they would like the Board to vote tonight or come back to the Board with representation.

- Mr. Nelson would vote no on the application as presented
- Ms. Kamen would vote no on the application as presented. If there were a compromise for a total of 100 square feet with two sheds she would permit it.
- Ms. Rosenthal agreed with Ms. Kamen
- Mr. Weiss would vote no on the application as presented
- Mr. Cooper would vote no on the application as presented
- Ms. Strauss would vote no on the application as presented
- Ms. Byan would vote no on the application as presented
- Mr. Schertz would vote no on the application as presented

Chair Leviton explained to the applicant if the vote was called at the meeting the relief would not be granted.

Ms DeFalco asked how the Board would feel if the one shed that is attached to the home were to be removed and allow the two sheds to equal 100 square feet to remain.

Chair Leviton explained it is not up to the Board to design the variance however, the way the case was presented will not be supported. Chair Leviton asked the applicant how she wanted to proceed. The applicant expressed her disappointed and that she felt she was being punished for being truthful.

Ms. DeFalco explained the options the Board had presented to the applicant. So the applicant had a better understanding. Ms. Beltre explained she would want to keep the shed attached to the home. If she were to remove that shed she would then incur the cost of residing the home.

Mr. Miller explained if the applicant should choose to keep the shed that is attached to the home, variance relief would still be required being 5 ft is required.

Ms. Beltre decided to come back to the Board. Ms. Moench and Ms. Beltre discuss and agree on the June 21, 2018 for Ms. Beltre to come before the Board with no further noticing required to the public.

- **Application No. ZBE1811**

Applicant: James and Marisa Sulsenti
Proposal: Construct front porch with roof
Request: Bulk variance – Front setback relief
Location: 13 Thomas Drive
Block/Lot: 1909/14
Zone: R20

James Sulsenti and Marisa Sulsenti of 13 Thomas Drive were both sworn in by Mr. Miller.

Chairman reviewed the proposed application with Mr. and Mrs. Sulsenti. The applicants would like to add a front covered porch to the front of their home. The minimum front yard setback requirement is 60 Ft and the applicant is proposing 56 Ft.

Mr. Sulsenti explained when he purchased the home he had intentions on extending the front porch. The front of the home by the garage is 61 Ft from the property line, however where the proposed porch would be the road bends so there is 56 Ft.

Mr. Cooper asked if there will be lighting or a fan on the front porch. Mr. Sulsenti said there is existing lighting and there will be no fan.

Chair Leviton opened the meeting to the public for comment or questions on the application. Seeing there were no comments Chair Leviton closed public.

A Motion of Approval for application ZBE1811 was made by Ms. Strauss and Seconded by Ms. Kamen.

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

Chair Leviton opens the meeting to the public for any non agenda items, seeing there were no public comments, he closed public.

Ms. Moench confirmed with Ms. Byan she will not be present for the next meeting of May 17, 2018. All other Board members confirmed they would be present

ADJOURNMENT:

A Motion was offered by Mr. Strauss and agreed by all to adjourn the meeting at 8:50 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.