

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

March 24, 2022

The Regular Meeting of the Board of Adjustment was called to order at 7:30 PM via Zoom virtual meeting service.

It was confirmed that the meeting was being held in conformance with all regulations of the SUNSHINE LAW and proper notice had been given to the Courier News; also, the Agenda had been posted on the Township website. The Agenda for the meeting, as well as instructions for public participation in the meeting, have also been posted on the Township website and sent to the newspaper of record. The Agenda items will not necessarily be heard in the order listed and the meeting will not continue significantly past 10:30 PM.

Roll Call:

Members present were Mr. Nappi, Mr. Sylvester, Mr. Pereda and Mr. Sincaglia. Mr. Steve Warner and Ms. Amanda Wolfe, Board Attorneys, were also present.

Election of Chairman Pro Tem

A motion was made by Mr. Sylvester, seconded by Mr. Pereda to nominate Jerry Nappi to act as Chairman Pro Tem. There were no other nominations and Mr. Nappi was elected Chairman Pro Tem by roll call vote 4-0.

Adoption of Resolutions

App.#22-0001: Freedom Doggie Daycare LLC (d/b/a Dogtopia), 410 (rear) Springfield Avenue, Unit #410D, Block 701, Lot 3 (DD-Zone)

Proposed dog daycare, overnight boarding, and spa services to be located at Berkeley Shopping Center. A d(1) use variance is required because the proposed dog daycare is not permitted in the DD-Zone.

A motion was made by Mr. Pereda, seconded by Mr. Sylvester, to adopt the above Resolution. The roll call vote was 3-0 with Mr. Nappi, Mr. Sylvester and Mr. Pereda voting in favor.

App.#22-21: Matthew K. Lemons, 45 Maple Avenue, Block 901, Lot 11 (R-15 Zone)

Proposed second story addition, construction of a covered front porch, and removal of stairs from existing second story deck. Variances are needed because existing lot coverage percentages are nonconforming, and the new front porch will result in a further increase in Building Coverage and Total Lot Coverage and result in further encroachment into the required front-yard setback. The second story addition will also require a variance for insufficient combined side yard setbacks. Existing nonconformities are lot area, lot width, lot depth, principal front-yard setback, combined side-yard setbacks, deck height, deck setback, shed setback (side yard), building, other, and total lot coverage percentages.

A motion was made by Mr. Sylvester, seconded by Mr. Pereda, to adopt the above Resolution. The roll call vote was 3-0 with Mr. Nappi, Mr. Sylvester and Mr. Pereda voting in favor.

App.#20-21: Kim Cozic, 15 Oak Ridge Road, Block 2105, Lot 13 (R-15 Zone)

Proposed installation of an in-ground pool and spa. The project also includes walls, a covered patio, walkways, relocated shed, fence, and deck extension. Relief is needed from Section 6.1.1B “Schedule of General Regulations” for exceeding the 10% permitted “other” and 25% permitted “total” lot coverage percentages.

A motion was made by Mr. Pereda, seconded by Mr. Sylvester, to adopt the above Resolution. The roll call vote was 3-0 with Mr. Nappi, Mr. Sylvester and Mr. Pereda voting in favor.

App.#18-21: Harry & Gail Hunter, 162 Hillside Ave., Block 2402, Lot 41(R-15 Zone)

Construction of a 180-sq.-ft. residential storage shed which is larger than the 100 square ft. maximum shed size permitted by ordinance. Variances are needed for shed size, location (setbacks), and exceeding the maximum permitted total lot coverage of 25%. Existing, nonconforming issues are lot area, lot width, principal front and side-yard setbacks, other and total lot coverage.

A motion was made by Mr. Sylvester, seconded by Mr. Pereda, to adopt the above Resolution. The roll call vote was 3-0 with Mr. Nappi, Mr. Sylvester and Mr. Pereda voting in favor.

Adoption of Minutes:

A motion was made by Mr. Pereda, seconded by Mr. Sylvester, and carried 4-0 to adopt the minutes of the February 24, 2022 Regular Meeting as presented.

Applications for Review:

**CARRIED TO A SPECIAL MEETING ON WEDNESDAY, APRIL 13, 2022
WITH NO FURTHER NOTICE REQUIRED:**

App.#15-21: Oz Custom Builders, LLC, 725 Mountain Ave., Bl. 2006, L. 32

The applicant is seeking final major subdivision approval with variances to subdivide the approx. 5.96-acre property. The proposal is to demolish the existing residential dwelling and garage and subdivide the property into five lots with the existing church and parking lot to remain on proposed Lot 32.01 and single family residential dwellings to be constructed on proposed lots 32.02, 32.03, 32.04 and 32.05. Preliminary major subdivision approval was previously granted by the Berkeley Heights Planning Board. (R-15 Zone)

The hearing of the application was carried to April 13, 2022 with no further notice required.

App.#23-21: Lilly & David Bussin, 53 Watchung Blvd., Bl. 4806, L.17 (R-20 Zone)

Proposed installation of 600-sq. ft. paver patio. Relief is needed from Section 6.1.1B "Schedule of General Regulations" for exceeding the permitted 10% "other" and 25% "total" lot coverage percentages. Existing nonconforming issues are lot area, other coverage, and driveway location.

Mr. Warner confirmed that the notice provided is sufficient and the Board has jurisdiction to hear the application.

Lilly Bussin and David Bussin, applicants, were sworn and stated that they want to install a patio and variances are required for coverage. Mr. Bussin presented Exhibits A-1, A-2, A-3 and A-5 – photographs of the property showing the existing conditions, and Exhibit A-4 – drawing of the proposed patio.

In response to questions, Mr. Bussin indicated the location of the retaining wall to be removed to allow room for a fire pit, stated that no retaining wall will be greater than 4' in height, the fence has been removed, they will stipulate that the storm water management plan will be subject to approval of the Township Engineer, the lighting will be low to the ground and will not impact the adjacent neighbors and the patio will be used only during reasonable hours.

Open to Public

The hearing was opened to the public. There were no members of the public who had questions or comments.

Mr. Warner reviewed the conditions of approval.

A motion was made by Mr. Sylvester, seconded by Mr. Sincaglia, with respect to App.#23-21: Lilly & David Bussin, 53 Watchung Blvd., Bl. 4806, L.17 (R-20 Zone) to approve the application with requested variances, subject to the conditions discussed and subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board. The roll call vote was 4-0 with Mr. Nappi, Mr. Sylvester, Mr. Pereda and Mr. Sincaglia voting in favor and none opposed.

App.#22-0002: Andrew Park, 45 Rogers Avenue, Block 2704, Lot 6 (R-20 Zone)

Proposed installation of an inground pool with patio surround. Variances are needed for exceeding the 10% “other” and 25% “total” lot coverage limits. The lot area is nonconforming.

Mr. Warner confirmed that the notice provided is sufficient and the Board has jurisdiction to hear the application.

Andrew Park, applicant, was sworn and stated that he wants to install an inground pool in his backyard and variances are required for coverage.

Jason Werner, representative of the pool company, was sworn and stated that his company will be installing the pool.

Dennis Donatelli, representative of the applicant’s engineering firm, was sworn, provided his professional and educational background. Mr. Warner noted that notwithstanding that Mr. Donatelli is not a licensed engineer the Board has the option to accept him if the Board considers his expertise to be sufficient. Mr. Donatelli was accepted as an expert witness.

Mr. Donatelli presented the plans for the pool, patio surround and drainage.

In response to questions, Mr. Donatelli stated that the proposed pool is 850 square feet and the patio surround is 1357 square feet. Mr. Park stated that he would be willing to consider using other types of patio materials to reduce the impervious coverage, the pool equipment will be screened by existing shrubbery and will not

impact the neighbor, no trees will be removed and new landscaping will be added, and the lighting will be low voltage with no spillage onto adjoining properties.

Discussion took place regarding the proposed size of the pool and patio and the need to reduce the amount of impervious coverage to a number that would be acceptable. Mr. Warner explained how the right of way on the property would affect the calculation of the impervious coverage.

In response to further questions, Mr. Park stated that he will stipulate to the installation of a pool compliant fence and gate, that the storm water management plan will be subject to the approval of the Township Engineer, the lighting will not affect the adjacent properties, a landscaping plan will be submitted, and he will consider other types of patio materials to reduce the amount of impervious coverage.

Open to Public

The hearing was opened to the public. There were no members of the public who had questions or comments.

The hearing of the application was carried to April 28, 2022 with no further notice required. The applicant will present revised plans and additional information regarding existing pools in the neighborhood. The applicant provided an extension of time for the Board to act on the application through the end of April.

Open to Public

The hearing was opened to the public for questions and comments. There were no members of the public who had questions or comments.

Adjournment:

A motion was made by Mr. Pereda, seconded by Mr. Sincaglia, to adjourn the meeting. The voice vote was unanimous, and the meeting was adjourned at 8:51 PM.

Regina Giardina, Secretary Pro Tem