

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

February 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. Sullivan, Mr. Coviello, Mr. Nappi, Mr. Delia, Mr. Ringwood, Mr. Sylvester, Mr. Pereda and Mr. Sincaglia. Ms. Amanda Wolfe, Board Attorney, was also present.

Adoption of Minutes:

A motion was made by Mr. Delia, seconded by Mr. Nappi, and carried 7-0 to adopt the minutes of the January 27, 2022 Regular Meeting as presented.

Adoption of Resolution

Interim Resolution – Temporary Durational Variance Relief

App.#14-21: First Student, Inc., 40 Russo Place, Block 1901, Lot 40

(previously 40 Russo Place, LLC)

The applicant proposes to use the property as a school bus depot for parking of the school bus fleet, administrative offices, light maintenance of the fleet, and employee parking. The proposed use of the property is a conditional use as outlined in Section 7.1.5 of the ordinance, and the applicant is seeking a d(3) conditional use variance in addition to bulk variances including for minimum lot area. (LI-Zone)

Ms. Wolfe reviewed the Resolution.

A motion was made by Mr. Ringwood, seconded by Mr. Sylvester, to adopt the above Resolution. The roll call vote was 7-0 with Mr. Sullivan, Mr. Coviello, Mr. Nappi, Mr. Delia, Mr. Ringwood, Mr. Sylvester and Mr. Pereda voting in favor.

Applications for Review:

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.

Ms. Wolfe confirmed that the notice provided is sufficient and the Board has jurisdiction to hear the application.

Matthew Lemons and Jacqueline Lemons were sworn and stated that they want to improve their existing two-bedroom home to provide more space for their family. The project includes the addition of a front porch and the return of the backyard to grass. The existing coverage is 35.4% and 38% is proposed.

Discussion took place regarding the impervious coverage and the applicant agreed to removal of the existing pond and stone to reduce the coverage.

In response to questions from the Board, Mr. Lemons stated that the second-floor addition will include three bedrooms over the main house with a bathroom and a master bedroom over the garage with a bathroom. The laundry room will also be moved to the second floor. The existing shed will remain, and the block wall will be removed when the pond is taken out. All sides of the exterior of the home will match and new windows will be installed. The applicant agreed to discuss with the architect how to make the existing oversized garage door look like a regular door.

Open to Public

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

Ms. Wolfe reviewed the conditions of approval.

A motion was made by Mr. Sylvester, seconded by Mr. Pereda, with respect to App.#22-21: Matthew K. Lemons, 45 Maple Avenue, Block 901, Lot 11 (R-15 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 7-0 with Mr. Sullivan, Mr. Coviello, Mr. Delia, Mr. Nappi, Mr. Ringwood, Mr. Sylvester and Mr. Pereda voting in favor and none opposed.

**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.

Ms. Wolfe confirmed that the notice provided is sufficient and the Board has jurisdiction to hear the application.

Rosemary Stone-Dougherty, attorney for the applicant, stated that the application involves a franchise location in a large shopping center.

Lillian Rodriguez and Mark Besser, applicants, were sworn. Ms. Rodriguez stated that they are seeking approval to operate a dog daycare facility at the proposed location, and they think it will be a great addition to the shopping center. Ms. Rodriguez presented Exhibit A-1 – slide show explaining the services to be offered at the facility and renderings showing the interior of the facility.

Tracy Cross, Dogtopia Director of New Franchisee Support, was sworn and provided information regarding the company including the training and support provided to franchisees. She reviewed the topics of safety, after-hours monitoring, waste management, odor and noise control, location of other facilities in New Jersey, separation of dogs by size, number of dogs anticipated to be on site each day and drop off and pick up procedures.

In response to questions from the Board, Ms. Cross stated that 85% of the business is daycare with only 10% overnight. There are no employees on site overnight and the dogs are virtually monitored. The applicants will be discussing with the landlord the subjects of providing a separate dumpster and designated parking. A kennel license will be applied for from the Department of Health. Ms. Cross further stated that dogs will not leave the facility, it will be open seven days a week and construction will take approximately 12 weeks.

Alexander Dougherty, Planner, was sworn, provided his educational and professional background and was accepted as an expert witness. Mr. Dougherty presented Exhibit A-2 – photographs of the proposed location, other stores in the shopping center, parking lot and rear of the site, and the residential area behind the shopping center. Mr. Dougherty reviewed the variances requested and the reasons why they should be granted. He stated that the facility will have a positive impact on the area with no substantial detriment to the public.

Keenan Hughes, Township Planner, was sworn and stated that the applicant has addressed all the questions raised and he has no concern about any impairment to the zoning plan.

In response to questions, Ms. Dougherty stated that the signage will comply with the ordinance, only the office and lobby of the facility will be visible from the outside, and a plan and training is provided for evacuation of the facility.

Open to Public

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

Ms. Wolfe reviewed the conditions of approval.

A motion was made by Mr. Ringwood, seconded by Mr. Pereda, with respect to App.#22-0001: Freedom Doggie Daycare LLC (d/b/a Dogtopia), 410 (rear) Springfield Avenue, Unit #410D, Block 701, Lot 3 (DD-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 5-2 with, Mr. Delia, Mr. Nappi, Mr. Ringwood, Mr. Sylvester and Mr. Pereda voting in favor and Mr. Sullivan and Mr. Coviello opposed.

CARRIED FROM JANUARY 27, 2022 WITH NO FURTHER NOTICE REQUIRED: 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.

Jared Kest, landscape architect, previously sworn, stated that the plan has been revised to reduce the amount of lot coverage and to incorporate comments made by the Board and the neighbor at the last hearing. Mr. Kest presented Exhibit A-2 – revised plan, and explained the changes made to decrease the amount of impervious coverage. He stated that they are proposing a solid fence around the HVAC equipment, generator and pool equipment and additional landscaping to address the concerns of the neighbor. The existing retaining wall will be moved away from the property line.

In response to a question, Mr. Cozic, previously sworn, stated that the trampoline in the backyard will be moved away from the property line.

Open to Public

The hearing was opened to the public.

Ria Wolff, 21 Oak Ridge Road, thanked the applicant for making changes to address the noise. She said she and her husband are okay with the project as changed.

Ms. Wolfe reviewed the conditions of approval.

A motion was made by Mr. Nappi, seconded by Mr. Pereda, with respect to App.# 20-21: Kim Cozic, 15 Oak Ridge Road, Block 2105, Lot 13 (R-15 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 7-0 with Mr. Sullivan, Mr. Coviello, Mr. Delia, Mr. Nappi, Mr. Ringwood, Mr. Sylvester and Mr. Pereda voting in favor and none opposed.

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.

Ms. Wolfe confirmed that the notice provided is sufficient and the Board has jurisdiction to hear the application.

Harry Hunter, applicant, was sworn and explained the circumstances that lead to the replacement of an existing shed in his yard following its destruction from a fallen tree. The shed was replaced with a larger shed, and he was unaware of the ordinance regarding shed size. The new shed was placed in the same location, but a variance is needed for setbacks and size. The new shed is 10' x 18' and it sits on a solid platform. Mr. Hunter presented Exhibit A-1 – photographs showing the damage to the old shed.

Mr. Hunter stated that the shed was rebuilt in September 2020 by professionals and none of them advised him that a permit was required. Due to health problems and delays due to town hall construction he has been unable to come before the Board until now.

In response to questions, Mr. Hunter stated that the front door of the shed is not used, and the side door is used to bring things in and out. There is no electricity in the shed. Construction of the shed began in September 2020, and it was completed except for the side door before he received the violation notice.

Open to Public

The hearing was opened to the public.

Diana Sachs, 15 Wentworth Drive, was sworn and stated that she is the neighbor in the rear. She expressed concern about the size of the shed and stated that it is too close to the property line and very tall. She can see it from every room in her home and from her deck and it looks like a garage not a shed.

Carolyn Boland and Michael Boland, 25 Wentworth Drive, were sworn and stated that they live behind the property. They object to this structure since it was built without a permit and because it is within 6' of their property line. The new shed is significantly higher than the previous shed and the old shed did not need to be raised on a platform. The shed obstructs their view and is closer to their home than it is to the applicant's. Mr. Boland stated that they are concerned about what this does to the value of their property and also that a precedent will be set if it is approved.

Jeannie Clark, 35 Wentworth Drive, was sworn and stated that she lives next door to the Bolands and is concerned that if this is approved other similar structures will be built on neighboring properties. Ms. Clark stated that the view from her deck is not appealing and she presented Exhibit O-1 – photographs showing the shed in process of being built and as completed.

In response to further questions from the Board, Mr. Hunter stated that the construction of the shed was completed following the stop work order because there was an animal infestation while they were waiting for a hearing. The hearing was delayed because he had surgery and also because of the town hall construction.

Board members expressed their opinions regarding the shed and the consensus was in favor of denying the application. Ms. Wolfe advised that if denied the shed would have to be removed and the applicant would have to apply for a permit for a conforming shed. The applicant was instructed to have the new shed located further into his yard to comply with the setback requirements and to make it lower.

A motion was made by Mr. Coviello, seconded by Mr. Ringwood, with respect to App.#18-21: Harry & Gail Hunter, 162 Hillside Ave., Block 2402, Lot 41(R-15 Zone) to deny the application. The denial of the application shall be set forth in a Resolution of Memorialization to be adopted by the Board. The roll call vote was 7-0 with Mr. Sullivan, Mr. Coviello, Mr. Delia, Mr. Nappi, Mr. Ringwood, Mr. Sylvester and Mr. Pereda voting in favor and none opposed.

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. Ringwood, seconded by Mr. Sincaglia, to adjourn the meeting. The voice vote was unanimous, and the meeting was adjourned at 11:30 PM.

Regina Giardina, Secretary Pro Tem