

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

February 25, 2021

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. Siburn, Mr. Delia, Mr. Coviello, Mr. Sylvester, Mr. Ringwood and Mr. Pereda. Mr. Steven Warner, Board Attorney, was also present.

Adoption of Minutes:

January 28, 2021

A motion was made by Mr. Ringwood, seconded by Mr. Delia, and carried 7-0 to adopt the minutes of the January 28, 2021 Regular Meeting as presented.

Adoption of Resolutions:

App.#17-20: 391 Springfield Avenue, LLC, 389-391 Springfield Ave, Block 208, Lot 20

By resolution memorialized on February 19, 2020, the Planning Board approved the conversion of the 2nd and 3rd floor commercial office space in this existing building into a total of 8 residential apartments, a permitted use. The applicant is now seeking approval to convert the 1st floor space into 3 residential apartments – all affordable housing units – which would require a use variance, as residential units are not permitted on the first floor in the DD-Zone. The applicant is also requesting approval to construct an addition over the existing parking deck for an additional 8 residential units. The increase in units (to a total of 19 units) exceeds the density limits for the zone and triggers a D-5 Density variance. (DD-Zone)

A motion was made by Mr. Siburn, seconded by Mr. Sylvester, to adopt the above Resolution. The roll call vote was 5-0 with Mr. Sullivan, Mr. Siburn, Mr. Delia, Mr. Sylvester and Mr. Ringwood voting in favor.

App 28-20: Jason Liu, 182 Briarwood Dr. E., Block 1401, Lot 20 (R-15 Zone)

Proposed installation of a back-up generator. A variance is needed because 1) accessory structures must be at least 10 ft. from a side property line, whereas the proposed generator would be 4.9 ft. from the side property line, and 2) the existing other and total lot coverage numbers are nonconforming, and the proposed generator would result in a slight increase in the percentages.

A motion was made by Mr. Siburn, seconded by Mr. Delia, to adopt the above Resolution. The roll call vote was 6-0 with Mr. Sullivan, Mr. Siburn, Mr. Delia, Mr. Coviello, Mr. Ringwood and Mr. Sylvester voting in favor.

Mr. Ringwood left the meeting (7:37 pm).

App.#29-20: Paul Genua, 36 Hampton Drive, Block 3204, Lot 13 (R-20 Zone)

Proposed 3-season room (12' x 24') over an existing deck. Relief is needed from Section 6.1.1B "Schedule of General Regulations" for exceeding the 15% maximum building and the 25% maximum total lot coverage percentages allowed

A motion was made by Mr. Coviello, seconded by Mr. Sylvester, to adopt the above Resolution. The roll call vote was 5-0 with Mr. Sullivan, Mr. Siburn, Mr. Delia, Mr. Coviello and Mr. Sylvester voting in favor.

App.#30-20: Cory Rotkel, 174 Maple Avenue, Block 1501, Lot 13 (R-15 Zone)

Proposed installation of an above-ground pool (15' x 26' x 52" high). Relief is needed from Section 6.1.1B "Schedule of General Regulations" for exceeding the 10% maximum other and 25% maximum total lot coverage percentages allowed. A variance is also needed as the 52" height of the proposed pool would exceed the 48" limit (as per Section 3.7.7D "Swimming and Wading Pools").

A motion was made by Mr. Delia, seconded by Mr. Sylvester, to adopt the above Resolution. The roll call vote was 5-0 with Mr. Sullivan, Mr. Siburn, Mr. Delia, Mr. Coviello and Mr. Sylvester voting in favor.

App.#31-20: Roger Walker, 47 Summit Road, Block 4901, Lot 3 (R-20 Zone)

Proposed installation of gas backup house generator to be located in the northeastern side yard. Relief is needed from Section 6.1.1B. "Schedule of General Regulations" because the location of the generator would not meet the minimum setback requirements.

A motion was made by Mr. Sylvester, seconded by Mr. Delia, to adopt the above Resolution. The roll call vote was 5-0 with Mr. Sullivan, Mr. Siburn, Mr. Delia, Mr. Coviello and Mr. Sylvester voting in favor.

Applications for Review:

Mr. Warner reviewed the regulations and procedures with regard to proper notice and providing of plans and documents.

Mr. Ringwood rejoined the meeting (7:43 pm).

CARRIED FROM JANUARY 28, 2021 WITH NO FURTHER NOTICE REQUIRED:

App.#27-20: Jon Fehleison & Christal McElroy, 20 Rosegate Ct., Bl. 3201, L. 47.02

Proposed deck expansion, roof structure over a portion of existing deck, pergolas over deck areas, outdoor kitchen and exterior fireplace on raised deck. Relief is needed from Section 6.1.1B “Schedule of General Regulations” for insufficient rear yard setback and exceeding the maximum permitted building and total lot coverage percentages. Existing nonconforming issues are deck rear yard setback, other coverage and total coverage. (R-15 Zone)

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

James Ramentol, architect, previously sworn and accepted as an expert witness, presented Exhibit A-3 – amended site plan including revised zoning data and revised coverage calculations. Mr. Ramentol reviewed the variances being requested and the applicant’s efforts to reduce the impervious coverage. He stated that the proposed total coverage has been brought down to 33.59%.

Open to Public

The hearing was opened to the public for comments or questions with regard to the application. There were no members of the public with comments or questions

Mr. Warner reviewed the application and the conditions of approval.

A motion was made by Mr. Ringwood, seconded by Mr. Pereda, with respect to App.#27-29: Jon Fehleison & Christal McElroy, 20 Rosegate Ct., Bl. 3201, L. 47.02, 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. Siburn, Mr. Delia, Mr. Sylvester, Mr. Ringwood and Mr. Pereda voting in favor and Mr. Sullivan and Mr. Coviello opposed.

App. #1-21: Cyr & Alejandra Ryan, 65 Sycamore Ave., Bl. 2303, L.11 (R-15 Zone)

Proposed addition consisting of a new second story over a portion of the first story, new foyer and covered front porch, new addition in rear with covered patio, walkways and patios. Relief is needed from Section 6.1.1B “Schedule of General Regulations” for insufficient front-yard, side-yard, and combined side-yard setbacks. A variance is also needed for exceeding the permitted maximum other and total lot coverage percentages of 10% and 25%, respectively. Existing nonconforming issues are lot width, principal front, side- and combined side-yard setbacks, other coverage, existing residential storage shed size and location, detached garage location, and a portion of driveway too close to side property line.

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

Cyr Ryan and Alejandra Ryan were sworn. Mr. Ryan reviewed the proposed addition needed for their growing family and the variances being requested. He presented Exhibit A-1 – photos of their home and property, and Exhibit A-2 – photos of neighboring properties.

In response to questions from the Board, Mr. Ryan stated that the home will remain a single-family dwelling and the purpose of the addition is to provide more space for their growing family.

Open to Public

The hearing was opened to the public for comments or questions with regard to the application. There were no members of the public with comments or questions.

In response to further questions from the Board, Mr. Ryan agreed to move the existing shed to conform to the setback requirements and that there will be no expansion of the garage or use of the garage as living space.

Mr. Warner reviewed the application and the conditions of approval.

A motion was made by Mr. Ringwood, seconded by Mr. Siburn, with respect to App. #1-21: Cyr & Alejandra Ryan, 65 Sycamore Ave., Bl. 2303, L.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. Siburn, Mr. Delia, Mr. Coviello, Mr. Sylvester, Mr. Ringwood and Mr. Pereda voting in favor and none opposed.

**App.#33-20: Miguel Ortega, Jr. & Osdaymi Rodriguez, 669 Mountain Ave.,
Block 2006, Lot 28 (R-15 Zone)**

Proposed inground pool with pool surround, patio, and walkway leading from existing patio to the pool. A temporary storage container (6' x 4') is also proposed. Relief is needed from Section 6.1.1B "Schedule of General Regulations" for exceeding the 10% other coverage permitted. (Existing other coverage is 11.06% and exceeds the maximum percentage permitted.)

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

Miguel Ortega, applicant, was sworn and reviewed the proposed project and existing conditions of the property. He presented Exhibits A-1 thru A-5 – photos of the property.

In response to questions from the Board, Mr. Ortega stated that they formerly had an above-ground pool that was removed, no trees will be removed, they will comply with storm water management as required by the Township Engineer and will comply with the requirements for lighting. Mr. Ortega also agreed to provide whatever fencing is required by the regulations regardless of the existing fence that belongs to his neighbor.

Open to Public

The hearing was opened to the public for comments or questions with regard to the application. There were no members of the public with comments or questions.

Mr. Warner reviewed the application and the conditions of approval.

A motion was made by Mr. Ringwood, seconded by Mr. Delia, with respect to App.#33-20: Miguel Ortega, Jr. & Osdaymi Rodriguez, 669 Mountain Ave., Block 2006, Lot 28 (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. Siburn, Mr. Delia, Mr. Coviello, Mr. Sylvester, Mr. Ringwood and Mr. Pereda voting in favor and none opposed.

App.#34-20: Michael Doherty, 298 Emerson Lane, Bl. 2901, L. 1.27 (R-20 Zone)

Proposed new deck to be added to existing deck with stairs to grade. Variances are needed for insufficient rear yard setback and for the height of the deck. Existing nonconforming issues are lot area, lot depth, principal front and rear yard setbacks, and existing deck platform height.

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

Michael Doherty and Christina Doherty were sworn. Mr. Doherty stated that they want to expand their deck from the current 191 square feet to 322 square feet.

In response to questions from the Board, Mr. Doherty stated that the deck will face the woods. He presented Exhibit A-1 – letter from the Free Acres Association authorizing the application and the proposed deck.

Open to Public

The hearing was opened to the public for comments or questions with regard to the application. There were no members of the public with comments or questions.

Mr. Warner reviewed the application and the conditions of approval.

A motion was made by Mr. Ringwood, seconded by Mr. Siburn, with respect to App.#34-20: Michael_Doherty, 298 Emerson_Lane, Bl. 2901, L. 1.27 (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 7-0 with Mr. Sullivan, Mr. Siburn, Mr. Delia, Mr. Coviello, Mr. Sylvester, Mr. Ringwood and Mr. Pereda voting in favor and none opposed.

App.#2-21: Daniel Brown, 156 Briarwood Dr. E., Block 1401, Lot 24 (R-15 Zone)

Proposed principal addition over existing garage and new two-story addition behind the garage. A variance is needed for insufficient rear-yard setback. Existing nonconforming issues are lot area, lot depth, principal front and rear yard setbacks.

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

Daniel Brown and Sherien Brown were sworn. Mr. Brown reviewed the proposed addition and the variances required.

Discussion took place regarding the wetlands and letter of interpretation needed from the DEP to demonstrate that there is no encroachment of the flood hazard area or wetlands area. It was suggested that the applicant contact the Environmental Commission for contact information and procedures for the DEP.

In response to questions from the Board, Mr. Brown stated that the addition over the existing garage will be used as a study, there will be no trees removed, and the exterior materials for the addition will match the existing house.

Open to Public

The hearing was opened to the public for comments or questions with regard to the application. There were no members of the public with comments or questions.

Mr. Warner reviewed the application and the conditions of approval.

A motion was made by Mr. Ringwood, seconded by Mr. Delia, with respect to App.#2-21: Daniel Brown, 156 Briarwood Dr. E., Block 1401, Lot 24 (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. Siburn, Mr. Delia, Mr. Coviello, Mr. Sylvester, Mr. Ringwood and Mr. Pereda voting in favor and none opposed.

App.#32-20: Rominnella Associates, LLC, 33 Liberty Ave., Bl. 2004, L. 1

The applicant is proposing to demolish the existing single family dwelling and construct a new single family home on this corner lot with frontages on Liberty Avenue and along unimproved Burgmiller Avenue. Relief is needed from Section 6.1.1B “Schedule of General Regulations” because the proposed front-yard setback from Liberty Avenue will be less than the 50 ft. required. In addition, the proposed rear yard setback will not meet the 40 ft. requirement. A variance will also be needed for exceeding the 15% maximum building coverage allowed. The lot area and lot depth are both nonconforming. (R-15 Zone)

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

August Santore, attorney for the applicant, stated that the proposed single family home project is similar to what was done by the applicant across the street.

William Hollows, engineer, was sworn and accepted as an expert witness. Mr. Hollows reviewed the existing conditions, the requested variances and presented Exhibit A-1 – colorized version of the survey, and Exhibit A-2 – colorized version of the site plan. Mr. Hollows stated that the plan is to remove the existing house and build a new house similar to what was built across the street. Mr. Hollows presented Exhibit A-3 – colorized version of the plan indicating the riparian zone, flood plan and brook, and the

driveway area that will be removed. He stated that there will be no new riparian zone disturbance.

In response to questions from the Board, Mr. Hollows stated that the impervious coverage is being reduced so no storm water management was designed but if the Township Engineer requires storm management, it will be done.

Dominick Romeo, part owner of the applicant, was sworn and stated that they have built several homes in the area. Mr. Romeo reviewed the architectural plan for the proposed single family house.

Open to Public

The hearing was opened to the public for comments or questions with regard to the application.

Jason Gorla, 32 Liberty Avenue, was sworn and stated that he is the owner of the house across the street and the proposed house looks good to him.

Mr. Santore summarized the application which will be a great improvement to the area and asked for Board approval.

Mr. Warner reviewed the application and the conditions of approval.

A motion was made by Mr. Ringwood, seconded by Mr. Delia, with respect to App.#32-20: Rominnella Associates, LLC, 33 Liberty Ave., Bl. 2004, L. 1 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. Siburn, Mr. Delia, Mr. Coviello, Mr. Sylvester, Mr. Ringwood and Mr. Pereda voting in favor and none opposed.

Board Discussion

Mr. Sullivan advised that the Annual Report has been submitted to the Mayor and Township Council for their review and consideration. He is hopeful that the report will be accepted and will result in some changes to the land use ordinance. Mr. Sullivan thanked Mr. Warner and Ms. Wolfe for their efforts and the Board members for their contributions to the report.

Open to Public

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

Adjournment:

A motion was made by Mr. Siburn, seconded by Mr. Delia, to adjourn the meeting. The voice vote was unanimous, and the meeting was adjourned at 10:10 PM.

Regina Giardina, Secretary Pro Tem