

MINUTES

BOARD OF ADJUSTMENT

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

June 22, 2023

The Regular Meeting of the Board of Adjustment was called to order at 7:30 PM.

It was confirmed that the meeting was being held in conformance with all regulations of the Open Public Meetings Act. Adequate notice of this meeting has been posted on the Township website and sent to the newspaper of record. The Agenda has been posted on the Township website and bulletin board at the Municipal Building at least forty-eight hours prior to the meeting. The Agenda items will not necessarily be heard in the order listed and the meeting will not continue substantially past 10:30 PM.

Roll Call:

Members present were Mr. Sullivan, Mr. Coviello, Mr. Delia, Mr. Ringwood, Mr. Sylvester, Mr. Pereda and Ms. West-Augustin. Ms. Amanda Wolfe, Board Attorney, Mr. Thomas Solfaro, Township Engineer, and Mr. Keenan Hughes, Township Planner, were also present.

Adoption of Minutes:

May 25, 2023 Regular Meeting

A motion was made by Mr. Sylvester, seconded by Mr. Pereda, and carried 7-0 to adopt the minutes of the May 25, 2023 Regular Meeting as presented.

Adoption of Resolutions:

App#23-0003: Matt & Caitlin Anderson, 40 Greenbrook Rd., Bl. 2901, L. 1.85

Proposed renovation project to consist of a dormer addition to the front, removal of the existing, nonconforming detached garage, construction of a new attached garage, and two-story addition to the rear with new covered porch. Relief is needed from Section 6.1.1B for insufficient side and rear-yard setbacks and for exceeding the 15% maximum permitted building coverage, 10% other coverage, and 25% total lot coverage percentages. (R-20 Zone)

Ms. Wolfe reviewed the Resolution.

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. Delia, Mr. Ringwood, Mr. Sylvester, and Mr. Pereda voting in favor.

Application for Review:

**CARRIED FROM MARCH 23, 2023 WITH NO FURTHER NOTICE REQUIRED
EXCEPT FOR CERTAIN NOTICES NOT PREVIOUSLY MAILED:**

**App.#15-21: Oz Custom Builders, LLC, 725 Mountain Ave., Bl. 2006, L. 32
(current location of Westminster Presbyterian Church)**

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)

Ms. Wolfe confirmed that the notice provided is sufficient.

August Santore, attorney for the applicant, reviewed the history of the application and stated that the applicant has submitted the application to Union County and received approval of the plans.

William Hollows, engineer, previously sworn, reviewed the changes made to the application as a result of the County's comments. He advised that the County has determined that the project will have no significant negative impact.

In response to questions from the Board, Mr. Hollows indicated the location of the trees in the right of way of Lot 33 that will be removed and the vegetation that will be trimmed.

Mr. Hollows further stated that he has reviewed the report of the Township Engineer and there is no issue with complying with all of his comments and conditions. Mr. Solfaro and Mr. Hughes stated that they are satisfied with the applicant's engineer's response. Mr. Hughes noted that he would reserve the right to comment further if there is any additional planning testimony.

In response to further questions regarding traffic, Mr. Santore stated that they do not have testimony from a traffic expert and the County did not require anything with regard to limiting turns onto Plainfield Avenue. He also noted that there have not been any accidents at that intersection in the past five years.

Open to Public

The hearing was opened to the public for questions and comments.

Members of the public including Jerry Barter, Kristen Castillo, John Hoffler, Tina Barter, Ken Francis, Bill Harrison, Ed Maciejewski, Lisa Poris, Angus Chen, Julie Lloyd, Natalie Chen and Beverly Sonnenberg, asked questions regarding compliance with the Township Engineer's report, traffic safety, whether the traffic study includes information regarding pedestrian accidents, effect of this project on neighboring property values, environmental studies, tree removal permits, water run-off, variances required for the church lot, safety issue caused by the two lanes merging into one, accountability of the developer in the event of water problems on the neighboring lots, protection of root systems of trees, how storm water run off will be handled for the church parking lot, and potential liability of residents for injuries to workers.

Mr. Hollows stated that he will work with Mr. Solfaro to make sure that the applicant complies with his report. Mr. Santore stated that traffic safety testimony was previously provided, and no additional testimony is contemplated. The applicant has complied with all the County requirements regarding traffic.

Discussion took place regarding further questions and concerns by the public with regard to traffic, and it was suggested that the members of the public provide their questions to the Board Secretary who will forward them to the applicant so that they can be responded to at a future meeting.

Mr. Santore stated that there is no available data with regard to property values. As to an environmental report, Mr. Santore stated that the applicant will respond to the environmental presentation to be made by the residents. Mr. Hughes advised that an environmental impact statement is required for a site plan application, but it is not included in the checklist for a subdivision application. Mr. Santore stated that all storm water management requirements will be complied with.

Mr. Sullivan advised that a variance will be required for the church property for expansion of a non-conforming condition and County has jurisdiction with regard to the lane merge.

Mr. Santore stated that any flood issues during construction will be addressed by the developer and after construction there will be a continuing maintenance agreement with the homeowners' association. Mr. Hollows described the measures to be taken with respect to protection of the trees.

Cathy Mueller, engineer, previously sworn, stated that there is no mitigation required for the existing improvements on the church property, that has been taken into consideration in the drainage calculation and all existing drainage improvements will remain. Significant storm water testing was done and that was presented in the drainage report.

Mr. Sullivan advised that questions regarding speeding should be directed to the Berkeley Heights Police Department and to Union County. The applicant has stated that they will comply with all the conditions of the Township Engineer's report and a certificate of occupancy will not be issued without Mr. Solfaro's approval.

Mr. Santore stated that workmen's compensation insurance will be provided, and residents can be listed as named insureds.

Lisa Poris, 546 Plainfield Avenue, was sworn and provided a presentation with regard to the environmental impact of the development, including the impact beyond the immediate area of the development. Ms. Porio stated that she attended an Environmental Commission meeting where this information was presented.

David Krueger, Environmental Technology, Inc., was sworn, provided his educational and professional background and was accepted as an expert witness. Mr. Krueger stated that he has reviewed the report and visited the property. In his opinion, the property is surrounded by development and is not a significant habitat for wildlife.

Ms. Poris stated that she has spent a considerable amount of time in the area and seen trails and quite a lot of wildlife.

Kristen Castillo, 560 Plainfield Avenue, was sworn and presented Exhibit P-1 – photographs depicting a visualization of what the property looks like, what will happen to the property if trees are removed and highlighting the questions and concerns she has with regard to the development and its impact on her property. Ms. Castillo discussed the concerns of the residents with regard to traffic safety and accidents that have occurred in the past.

Mr. Hollows stated that the trees and vegetation to be removed are not on the residents' property but in the right of way.

The hearing of the application was carried to September 28, 2023 at which time there will be further testimony with regard to traffic safety in response to questions from the public. No further notice will be required, and the applicant granted the necessary extension.

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. Ringwood, to adjourn the meeting. The voice vote was unanimous, and the meeting was adjourned at 10:05 PM.

Regina Giardina, Secretary Pro Tem