

# MINUTES

## BOARD OF ADJUSTMENT

### TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

October 22, 2020

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, and Mr. Pereda. Mr. Steve Warner, Board Attorney, was also present.

#### **Adoption of Minutes:**

September 24, 2020

A motion was made by Mr. Pereda, seconded by Mr. Siburn, and carried 5-0 to adopt the minutes of the September 24, 2020 Regular Meeting as presented.

#### **Adoption of Resolutions:**

##### **App.#20-20: Edward & Christine Sorge, 5 Wilson Drive, Block 1815, Lot 1**

Proposed one-story addition to a single-family home. The existing home – located on a corner lot with frontage on Wilson Drive and Snyder Avenue – is nonconforming because it is set back less than the required 50 ft. from both Wilson Drive and Snyder Avenue. (The existing setbacks are approximately 40.6 ft. and 41.8 ft., respectively.) A variance is needed because the addition would have a proposed front-yard setback of approximately 39.9 ft. from Snyder Avenue. (R-15 Zone)

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

**Resolution Adopting Emergency Remote Meeting Protocols**

Proposed resolution of the Zoning Board of Adjustment adopting emergency remote meeting protocols, procedures, and requirements for public participation at remote meetings

Mr. Warner reviewed the resolution.

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

**Applications for Review:**

**App.#22-20: Walter T. & Kathleen A. Butler, 163 Gallinson Dr., Block 3902, Lot 18**

Proposed construction of a 488-sq. ft. expansion of an existing 133-sq. ft. deck with stairs to grade and a proposed chairlift located adjacent to the deck stairs. Relief is needed from Section 3.1.8 “Decks” as the deck location, size, and height do not conform to the ordinance. Existing nonconforming issues are lot area, lot depth, principal side and rear-yard setbacks, existing deck height, driveway location, and “other” and “total” lot coverage percentages. (R-20 Zone)

Mr. Warner confirmed that the notice was sufficient and that the Board had jurisdiction to hear this application.

Walter and Kathleen Butler were sworn. Mr. Butler stated that they are proposing a deck that is more than 4’ above the ground and also need a variance for rear yard setback.

Mark Marion, architect, was sworn, gave his educational and professional background and was accepted as an expert witness. Mr. Marion stated that the property is undersized and oddly shaped. The proposal is to expand the deck across the rear of the house. Most of the deck will be over the existing patio and the patio will remain.

In response to questions from the Board, Mr. Butler stated that there is a line of shrubs and trees between his and the neighbor’s houses and he would be willing to add additional taller landscaping, there will be no storage under the deck and no light spillage.

**Open to Public**

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

Guotao Lu, 113 Chestnut Hill Drive, was sworn and stated that he lives in the house behind the applicant's property. Mr. Lu expressed concern regarding the height of the deck and the effect on his privacy.

Discussion took place regarding the size and type of trees to be planted to provide sufficient buffering between the properties. It was recommended that juniper trees 6-7' in height be planted. Mr. Butler noted that presently there are picture windows on the back of his home with a view of Mr. Lu's house and he would agree to provide whatever landscaping is required.

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

A motion was made by Mr. Coviello, seconded by Mr. Siburn, with respect to App. #22-20: Walter T. & Kathleen A. Butler, 163 Gallinson Dr., Block 3902, Lot 18 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 5-0 with Mr. Sullivan, Mr. Siburn, Mr. Delia, Mr. Coviello and Mr. Pereda voting in favor and none opposed.

**App.#21-20: Tracy & Kenneth Curran, 81 Cedar Green Lane, Block 2801, Lot 52**

Proposed expansion of an existing concrete patio and construction of a 42" high masonry wall around a gas fire pit. Relief is needed from Section 6.1.1B. "Schedule of General Regulations" for not conforming to accessory side yard setback requirements and exceeding the 10% maximum permitted "other" coverage percentage. Existing nonconforming issues are "other" lot coverage and the location of the concrete patio.

(R-20 Zone)

Mr. Warner confirmed that the notice was sufficient and that the Board had jurisdiction to hear this application.

Kenneth and Tracy Curran were sworn and stated that work on the proposed project was started without a permit and then stopped when they were made aware that a permit was required. Variances are required for setbacks and coverage.

In response to questions from the Board, Mr. Curran stated that the masonry wall will be 42” high, a gas line will be installed for the fire pit, finishing stone will be put over the cinder blocks, and the finished project will be as shown on the photograph previously submitted. It would have been very expensive to remove the existing patio so the pavers were put over it.

Discussion took place regarding the extension of the patio and the variance needed for side yard setback. Board members expressed preference for removal of the patio beyond the wall. The applicants requested that they be permitted to remove the pavers but retain the original concrete slab. It was noted that a storm water management plan will be required to be submitted to the Township Engineer for approval.

### **Open to Public**

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

Berger Brink-Lund, 105 Cedar Green Lane, was sworn and stated that he is a neighbor and wanted to express his support for the applicant’s project.

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

A motion was made by Mr. Coviello, seconded by Mr. Siburn, with respect to App. #21-20: Tracy & Kenneth Curran, 81 Cedar Green Lane, Block 2801, Lot 52 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 5-0 with Mr. Sullivan, Mr. Siburn, Mr. Delia, Mr. Coviello and Mr. Pereda voting in favor and none opposed.

### **App.#19-20: Matthew & Tammy Sanders, 51 Holly Glen Lane N., Block 3502, Lot 6**

Proposed in-ground pool with pool surround. Variances are needed for exceeding the 10% maximum permitted “other” lot coverage as well as the 25% maximum permitted “total” lot coverage. Nonconforming issues are lot area and principal front-yard setback.

(R-20 Zone)

Mr. Warner confirmed that the notice was sufficient and that the Board had jurisdiction to hear this application.

Matthew and Tammy Sanders were sworn and stated that they want to put in a pool and variances are required for coverage. The proposed pool is similar to other pools in the neighborhood and would be 16x32 with a concrete patio surround.

In response to questions from the Board, the applicants stated that the fence and landscaping in the rear are on their property, additional landscaping will be planted for privacy, lighting will be minimal with no spillage onto the neighbor's property and the filter will be relocated as recommended. The ordinance requirements for pools will be complied with. It was noted that a storm water management plan will be required to be submitted to the Township Engineer for approval.

### **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 who had comments or questions.

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

A motion was made by Mr. Pereda, seconded by Mr. Delia, with respect to App. # 19-20: Matthew & Tammy Sanders, 51 Holly Glen Lane N., Block 3502, Lot 6 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 5-0 with Mr. Sullivan, Mr. Siburn, Mr. Delia, Mr. Coviello and Mr. Pereda voting in favor and none opposed.

### **App.#23-20: Bret & Carolyn Sayre, 53 Orion Road, Block 3401, Lot 6 (R-20 Zone)**

Proposed in-ground pool with surrounding concrete patio. Relief is needed from Section 6.1.1B "Schedule of General Regulations" for exceeding the maximum permitted "other" lot coverage and "total" lot coverage percentages. Existing nonconforming issues are shed location and "other" lot coverage.

Mr. Warner confirmed that the notice was sufficient and that the Board had jurisdiction to hear this application.

Bret and Carolyn Sayre were sworn and stated that they want to put in a pool and variances are required for coverage.

In response to questions from the Board, Mr. Sayre stated that the patio and sports court are already existing. The sports court is not concrete and is just a plastic mat that can be removed. The proposed waterfall will be 6' x 3' and does not require a variance.

Discussion took place and it was noted that the sports court is considered pervious, a variance should be granted for the location of the shed, fencing and lighting will comply with the ordinance, storm water management plan will be submitted for approval of the Township Engineer and the applicant will maintain the landscaping.

### **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 who had comments or questions.

A motion was made by Mr. Siburn, seconded by Mr. Delia, with respect to App. #23-20: Bret & Carolyn Sayre, 53 Orion Road, Block 3401, Lot 6 (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 5-0 with Mr. Sullivan, Mr. Siburn, Mr. Delia, Mr. Coviello and Mr. Pereda voting in favor and none opposed.

### **App.#18-20: Ciraco Construction, 243 Lincoln Street, Block 205, Lot 9 (R-10 Zone)**

Proposed construction of a new, single-family dwelling on this vacant property. Relief is needed from Section 6.1.1B. "Schedule of General Regulations" for insufficient rear-yard setback and combined side-yard setbacks. (The ordinance requires a 30 ft. rear-yard setback and combined side-yard setbacks totaling 30 ft.) Variances are also needed for exceeding the maximum 30% building coverage allowed, the maximum 10% "other" lot coverage allowed and the maximum 30% total lot coverage allowed.

Mr. Siburn recused himself from the hearing of this application.

Mr. Warner confirmed that the notice was sufficient and that the Board had jurisdiction to hear this application.

Paul Weeks, attorney representing the applicant, was present.

Nicholas Ciraco, applicant, was sworn and stated that he purchased the property in September and wants to build a house similar to one he built on a nearby lot and variances are required for rear and side yard setbacks and for coverage.

In response to questions from the Board, Mr. Ciraco stated that the bump-out in the rear is for the dining area and the proposed height of the house is 30’.

Board members advised the applicant that they would like to see architectural plans for the proposed house. Mr. Ciraco stated that he has not been required to provide plans for any other houses he has built.

Mr. Weeks consulted with the applicant during a brief recess and stated that the architectural plans are the same as for the other house built by the applicant and they will be provided. It was acknowledged that the two properties are different.

The hearing of the application was carried to the December 10, 2020 meeting of the Board with no further notice required. Mr. Sullivan advised that the agenda for that meeting is currently full but if an opening occurs the application can be heard. If not, the hearing will be further carried to January 2021. Mr. Weeks advised that the applicant agreed to an extension of the time for the Board to act on the application until the end of January 2021.

### **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 who had comments or questions.

### **Board Discussion – 2019 Annual Report**

Mr. Warner advised that the 2019 Annual Report draft will be presented at the November meeting of the Board and he requested input from the Board members regarding items to be included in the report. It was noted that the Board had no information with respect to any actions or discussions by the governing body or the Planning Board regarding the suggestions made by the Board in its 2018 Annual Report. It was suggested that the Planning Board Attorney be contacted for any input he might provide.

### **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. Coviello, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 11:06 PM.

Regina Giardina, Secretary Pro Tem