

****These minutes have not been approved and are subject to change by the public at its next meeting****

The regular meeting of the Park Ridge Zoning Board of Adjustment has been called for Tuesday, October 19, 2010, at 8:00 pm in the Council Chambers of the Municipal Building.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL: Mr. Martin, Mr. Capilli, Mr. Sandler, Mr. Walker,
Dr. von der Lieth, Mr. Hoskins, Mr. Raman, Mr. Flaherty,
Mr. Brennan (8:20 pm)

Absent: None

Also Present: John Ten Hoeve, Jr., Board Attorney
Brigette Bogart, Professional Planner
Lyn Beer, Secretary to the Zoning Board

COMPLIANCE STATEMENT:

The Notice for this meeting required by Section 3(d) of the Open Public Meetings Act has been provided by the adoption of a resolution by the Park Ridge Zoning Board of Adjustment of January 19, 2010, setting forth a schedule of regular meetings by mailing of said schedule to The Ridgewood News and The Record on January 22, 2010, and by the posting of said schedule on the Municipal Bulletin Board and the continuous maintenance thereof and by filing the said schedule in the office of the Borough Clerk.

PENDING CASES:

<u>CASE:</u> 10-10 Block: 2009 Lot: 9	Application of <u>Maria and Bryan Nunberg</u> , 1 Hall Court for front and rear yard variances to construct additions to front and rear of existing house in an R-20 residential zone. Hearing held September 21, 2010. Determination forthcoming this evening.
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FLAHERTY: We have a resolution in the affirmative.

WHEREAS, BRYAN AND MARIA NUNBERG, (hereinafter referred to as "Applicant", being the owners of premises known as 1 Hall court, in the Borough of Park Ridge, Count of Bergen and State of New Jersey, said premises also being known as Lot 9 of Block 2009 on the Tax Assessment Map for the Borough of Park Ridge, has applied to the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE (hereinafter referred to as "BOARD"), seeking front yard and rear yard variances to permit the construction of an addition to the existing home; and

WHEREAS, the premises are located in an R-20 Residential Zoning District as same is defined by the Zoning Ordinance of the Borough of Park Ridge; and

WHEREAS, Applicant has submitted various plans and renderings to the BOARD including a document entitled "Site Plan of Lot 9 in Block 209" prepared by Steven L. Koestner, P. E. and L. S. dated August 25, 2010, and last revised on September 3, 2010; and

WHEREAS, a hearing was held before the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE duly convened on September 21, 2010, upon due notice as required by law; and

WHEREAS, the BOARD has carefully considered the application and all evidence and testimony submitted in connection therewith, there being no person appearing in opposition to the Application;

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE that the BOARD hereby makes the following findings of fact:

1. Applicant is the owner of a single-family home located at 1 Hall Court in the Borough of Park Ridge. The property is located on the northwest corner of the intersection of Hall Court and Sibbald Drive. While the property is located in the R-20 residential zoning district as defined by the Park Ridge Zoning Ordinance, the lot is somewhat nonconforming, having a lot area of 18,486 square feet and, more significantly, a lot depth of 123 feet rather than the required 160 feet.
2. Applicant's existing home is also nonconforming in some respects. The home is situated 35.44 feet from Hall Court front lot line rather than the required 40 feet. The home is also but 37.56 feet from the Sibbald Court front lot line at its closest point.
3. Applicant seeks to construct an addition attached to the rear portion of the home and to construct a small improvement to the front foyer and entrance of the home. As shown on the submitted plans, the front entrance will be constructed so that same is 33.88 feet from the Hall Court front lot line, slightly closer to the front lot line than the current dwelling. The rear addition will be situated 33.74 feet from the rear lot line rather than the required 50 foot setback.
4. Applicant provided professional testimony to establish that it would be impossible to construct the proposed addition in any other locations, specifically in the existing side yard. The new addition will expand currently undersized kitchen and dining areas. The interior design of the existing home precludes the expansion of the dining and kitchen areas in any other location of the dwelling.
5. Applicant will also be constructing a deck attached to the rear addition, a deck that extends into the required Sibbald Drive front yard. The deck, however, will be set back from the existing home and will not extend any nearer to Sibbald Drive than the current home.
6. Applicant's architect further testified as to the unique, undersized lot depth condition faced by the Applicant. In essence, the required rear yard encroachment makes it difficult to expand the rear portion of the lot without encroaching into the rear yard setback. Finally, the BOARD notes that recent changes to the Zoning Ordinance expanded the required rear yard in the R-20 zoning district thereby increasing the degree of hardship on the premises.
7. Applicant also stated that a unique condition existed with regard to the property located directly to the rear of the Applicant's lot. The parcel directly behind the subject property is owned by the Borough of Park Ridge and is not developed in any way. In fact, the Applicant currently landscapes and maintains a large portion of the property making it appear that the Applicant's rear yard extends thirty or forty feet farther to the west.
8. The BOARD finds that the Applicant faces unique hardships and difficulties by virtue of the size and shape of the existing lot, together with the unique location of existing improvements on the lot. The lot depth is substantially undersized. The home is constructed in such a fashion so as to make it impossible to expand the dwelling without encroaching into the rear yard. The deck addition to the rear of the home will not extend any nearer to the Sibbald Drive lot line. The addition to the front portion of the home will constitute a substantial aesthetic improvement thus satisfying the positive criteria for a C(2) variance. The BOARD finds, therefore that the Applicant has satisfied the positive criteria required by the Municipal Land Use Law for both the front and rear yard variances.

9. Moreover, the BOARD finds that the proposed improvements will have no negative impact whatsoever. While the proposed addition will encroach into the rear yard, said encroachment will substantially reduced by virtue of the fact that the property directly to the rear of Applicant's property is undeveloped and owned by the Borough of Park Ridge. The Applicant's addition will thus have no impact upon surrounding residents.
10. The BOARD thus finds and concludes that the proposal satisfies both the positive and negative criteria of the Municipal Land Use Law. The BOARD finds and concludes that the proposed improvements will not result in any substantial detriment to the public good nor will same impair the intent and purpose of the zone plan or Zoning Ordinance of the Borough of Park Ridge in any way.
11. The plans submitted by the Applicant also show that the Applicant has erected a shed on the property to the rear of the Applicant's property owned by the Borough of Park Ridge. Applicant confirmed that no approval had ever been obtained from the Borough of Park Ridge for the placement of the shed on Borough property. The BOARD requires the Applicant to relocate the shed onto the Applicant's property.
12. Applicant's plans further illustrate the construction of a seepage pit to accommodate drainage from the roof of the new structure. Applicant shall be required to construct the seepage pit as described with any modifications as may be required by the Borough Engineer at the time of site review.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE, by virtue of the foregoing, and pursuant to the authority of N.J.S.A. 40:55D-70, the BOARD does hereby grant the Applicant's requested front yard variance and rear yard variance subject to the following conditions:

- A. That Applicant construct the proposed improvements as set forth on the final plans submitted to the BOARD, and that the improvement not be constructed in such a fashion so as to exceed the scope and extent of the improvement as set forth on all documents and testimony submitted to the BOARD. The building to be constructed shall not exceed the dimensions, distances and percentages set forth on the plans. All improvements shall comply with the provisions of said plans.
- B. Applicant shall comply with all Borough Ordinances and State Statutes with regard to the application for building permits and that the construction of the proposed improvements be in compliance with all applicable codes with all required approvals to be rendered by appropriate officials. Nothing contained herein shall be construed to represent an approval of the specific building plans submitted by the Applicant, said approval to be granted by appropriate Borough Officials.
- C. The Applicant shall relocate the shed currently on Borough property to Applicant's property at a location permitted by the Zoning Ordinance. No building permit shall be issued to the Applicant prior to the Borough's inspection of the property to confirm that the shed has been relocated.
- D. Applicant shall construct the seepage pit as shown on the aforementioned plans with any modifications that may be required by the Borough Engineer at the time of site review.

The resolution was offered by Mr. Hoskins and seconded by Mr. Walker.

ROLL CALL:

Ayes: Mr. Martin, Mr. Capilli, Mr. Walker, Mr. Hoskins,

Abstain: Mr. Flaherty, Mr. Raman, Mr. Sandler, Dr. von der Lieth

CASE: 10-09 Block: 1909 Lot: 14	Application of <u>Robert Meister and Jacqueline Devlin</u> , 135 Morningside Avenue for variance to construct fence in required front yard (Chestnut Avenue) exceed height of fence n front yard. Hearing scheduled for August 17, 2010, at applicants request was postponed and continued on September 21, 2010
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FLAHERTY: Does anyone have any comments on this?

HOSKINS: I have a comment. The last line before the signatures, I went by there today and the shrub was not removed or trimmed.

FLAHERTY: What shrub is that?

HOSKINS: On the corner of Chestnut and Morningside, there is a shrub there. He agreed to trim it and whatever, and it was not done as far as I am concerned.

TEN HOEVE: This is the case where the applicant had built the fence before securing the approval from the Board. So he already has the fence up. As a condition, one of the conditions, was that the Board had decided that he would have to remove a shrub that one of the Board members pointed out, blocked the vision of the people at the intersection. He agreed that he would do that.

The problem is since he has already built it, and not building permit is required for it, it would be difficult to enforce that. My suggestion would be that we hold off voting on the resolution and have Mrs. Beer send him a letter saying that he either better comply or return to the next Board meeting. If everyone is willing to do that?

WALKER: What is our recourse if he fails to appear?

TEN HOEVE: Well then he doesn't have approval for his fence. He has no variance. We can deny the application and the Zoning Officer would be permitted to site him for violation of the Zoning Ordinance. He could summons him and bring him to court.

Or, you can deny the application, which is.....

WALKER: I don't know if that is right at this point. He may think that he should get the approval and then do it. We should give him the benefit of the doubt, even though he came before the Board and was not truthful his first go-around. I would like to see it gone.

FLAHERTY: I have to abstain from it. Do other members of the Board who were here last month, think that the Counselor has a good suggestion? We should ask Mrs. Beer to contact the applicant.

MARTIN: I agree with Mr. Walker's comment on the situation. I think we have to give him the opportunity to take it down before we totally deny the application.

FLAHERTY: Okay, that is enough information for that.

NEW CASES:

CASE: 10-11 Block: 707	Application of <u>Gerard Glauda</u> , 158 North Avenue for rear yard coverage variance to construct an in-ground swimming pool in an
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CASE: 10-11 Block: 707 Lot: 24	Application of <u>Gerard Glauda</u> , 158 North Avenue for rear yard coverage variance to construct an in-ground swimming pool in an R-20 residential zone.
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WALKER: Mr. Chairman, I have the following items to be marked into evidence in regard to this application.

- Item 1 is the application dated 9/28/10.
- Item 2 is certification of service dated 9/15 and 10/04, 2010.
- Item 3 is legal notification dated 10/08/10.
- Item 4 is proof of payment of taxes dated 10/14/10.
- Item 5 is the deed dated 6/28/02.
- Item 6 is the site plan dated 09/27/10.
- Item 7 is undated hand drawn layout.
- Item 8 is 2 pages of undated photographs.
- Item 9 is Board secretary letter dated 9/30/10.
- Item 10 is proof of service dated 10/05/10.

That is all that I have at this time, Mr. Chairman.

FLAHERTY: Before we go into this, I just want to see if anyone from the public has a question or comment.

TEN HOEVE: Would you please raise your right hands? Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

SIGNARUS: I do.

J. GLAUDA: I do

G. GLAUDA: I do

TEN HOEVE: Please state your names and addresses.

SIGNARUS: Armando Signarus, 50 Flaming Arrow Road, Mahwah, NJ.

G. GLAUDA: Gerard Glauda, 158 North Avenue, Park Ridge.

J. GLAUDA: JoAnn Glauda, 158 North Avenue, Park Ridge.

FLAHERTY: Sir, are you the architect or

SIGNARUS: No, I will be constructing the pool.

FLAHERTY: Who would like to take us through the application?

SIGNARUS: We are proposing to build a swimming pool in this backyard. Unfortunately, we exceed the lot coverage as we understand it. The rear lot yard coverage. It is a vinyl liner pool. We had our engineer develop this plan. We are ready to go.

FLAHERTY: Okay, so just to confirm, you don't require a variance for the rear or the side yard?

SIGNARUS: We here for the setbacks, we are just here for the lot coverage.

FLAHERTY: We are only talking about the coverage?

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TEN HOEVE: The only variance that is required, is, the maximum rear yard coverage. The Zoning Ordinance currently provides that accessory structures can't exceed more than 10% of the total rear yard.

FLAHERTY: Okay. So, in your business have you had a chance to design other pools, the reason that this one need as much space or as much coverage as you are asking?

SIGNARUS: This actually is a very small pool. It is not a very large pool at all. There is just no other place on the property that we can place this pool, or any other pool, frankly.

FLAHERTY: So, this isn't what you would consider an excessive amount of patio coverage or anything?

SIGNARUS: No. I think it is basically what we need to have enough chairs and a table, perhaps, around the pool.

FLAHERTY: Where there any other designs that you may have considered?

SIGNARUS: Generally what we do, we consider what the backyard is and what we can do to fit a pool in. This is not a very large pool, to begin with. It is as small as I could make it and be comfortable in this backyard.

FLAHERTY: It is, what, a kidney shaped pool?

SIGNARUS: It is a free form shape, approximately 620 to 640 square feet.

FLAHERTY: So how long is that?

SIGNARUS: I think we made it about 38 feet long. It is rather narrow. It is 8 feet deep and it is 3 feet 6 inches at the shallow end.

FLAHERTY: I had a chance to go to the yard, today. I knocked on the door and nobody was home. I looked in to the back. Have any of the other Board members had a chance to look at the property? Are there any comments on the yard, or the application?

VON DER LIETH: It is kind of hard to see. I mean looking at the backyard, yes, I can see how you would have to go smaller. Like you said, is this the smallest size pool that you guys, basically, have put in or ever, or.....

SIGNARUS: Well no, it is not the smallest but it is the smallest and still be comfortable. You want to be able to dive and we want to be able to have some shallow area left.

TEN HOEVE: If I could make a comment? It might be somewhat helpful. While the applicant is bound by the Ordinance as it currently stands, I can tell the Board that the Planning Board and the Borough Planner are currently contemplating an amendment to the Zoning Ordinance to modify, to substantially modify the requirement that accessory structures not occupy more than 10% of the rear yard.

It is an issue that has arisen on a number of occasions, and while I don't know that the Mayor and Council will ultimately adopt such an ordinance, I can tell you that the Planning Board and the Borough Planner are certainly recommending that to be done.

RAMAN: Do you know what percentage?

TEN HOEVE: I am not sure of that, but I suspect that, I am very certain, that this would not violate whatever ordinance is ultimately approved by the Planning Board or the Planner. I can't speak again for the Mayor and Council. But, I know that there is a perception that the limitation is somewhat excessive, particularly in cases where a structure will comply with all other required setbacks.

FLAHERTY: It is unique in that it wouldn't need any side or rear yard setbacks. I think that the way that the yard is setup has a pretty substantial side yard, but the backyard itself doesn't give a lot. It is not very deep.

What is behind you? Is that a woods behind you?

G. GLAUDA: Yes, that is somebody else's property. It is my neighbor's property.

FLAHERTY: Really, it is undeveloped.

G. GLAUDA: There is no access from the street. It is just his back yard. Actually, he is the builder of my home, Lou Chiellini.

FLAHERTY: So, John, it would be appropriate, then, for this Board to consider what you just said about the potential change to the ordinance.

TEN HOEVE: Well, I am just pointing out that is the current thinking of the Planning Board and the Borough Planner.

FLAHERTY: Alright, any other questions or comments from the members of the Board? Is there anyone in the public here to speak to this application? The fact that no neighbors are, in a sense, complaining about the proposed pool, I think that the Board will take that into consideration as well. We will discuss it at the end of the meeting tonight and you can call Mrs. Beer in the morning.

NEW BUSINESS:

**Lollipop Day Nursery School – 67 Spring Valley Road
Bond Release request.**

TEN HOEVE: I am assuming that everyone is in receipt of the Planner's report, and the response from the Attorney for the applicant. The situation is explained in somewhat, insignificant detail, particularly in Brigitte's report, which identifies the problems that she perceives as existing on the property. The applicant's attorney has responded by claiming that with regard to the fence, that the fence is on the adjacent property but that there are no plans to see it and it still provides a required protection or buffer between the two parcels. He reiterates that the shed issue is not going to be used for school purposes and that is something that this Board had considerable discussion with regard to the prior amendment resolution that it adopted. Then there is an issue concerning the amount of the Bond that he contends should be released.

I obviously would defer to whatever the Board decides to do. The only observation that I would make is that it is really difficult to tell, without having anyone here, what conditions actually exist. For example, Brigitte comments that there is an Oak Tree that has been removed and needs to be replaced. He says that 2 trees replaced it, but we don't have any comment from Brigitte that says that is the case.

There is a statement as to what the estimate is for the plantings but we don't have any comment from Brigitte that it is correct or that it is accurate. I guess my suggestion would be that it would be most appropriate to address this when you had at least Brigitte here, to comment on...we never received any response from her to Elliott's letter, is that right?

BEER: Right.

TEN HOEVE: To at least have her respond to those comments and indicate what her position is and perhaps have the applicant here, or his Attorney here, to deal with that issue, as well.

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BEER: The other thing that holds us back from releasing the Bond, is generally you need an “as built”. And, an “as built” has not been submitted, so I was not able to have Eve go out and check. Brigitte did it primarily because of the landscaping. It is the Engineer, generally, that says that the work was done appropriately. Eve proposed an “as built”. I can write him and ask for an “as built”.

TEN HOEVE: Those are three items that I did not know about, but that is another reason why I would suggest that, have all of those things addressed one way or the other before you make a determination.

FLAHERTY: We would have to wait until next month to have Brigitte here to address it, right?

TEN HOEVE: Yes.

CAPILLI: Do we think that the Attorney for Mr. Angelillo will be here?

TEN HOEVE: If he wants his money, I suspect that he will. Let the record show that Mr. Brennan has arrived. (8:20 pm) Again, I defer it to the Board, with regard to what they want to do.

WALKER: What should we do with item “B”, the fence is not on the subject property. If at some point in time, Lot 7 were to be sold, then the subject property would technically not be in compliance.

TEN HOEVE: Yes, that is correct. It wouldn't be an encroachment if it, since.....

WALKER: I am sure that it currently serves the purpose that we intended it to serve, but going forward, what do we do to insure that it remains so.

TEN HOEVE: You can ask him to create an easement so that it is guaranteed to remain there by anyone who purchases that property.

RAMAN: Can it be moved?

TEN HOEVE: It could. Obviously it is supposed to be there because, isn't it part of the approved site plan?

BEER: Not 7 feet into Lot 7.

TEN HOEVE: No, I understand that but I mean the site plan provided that there was going to be a fence there and there was going to be a separation and you want to insure that the fence is going to stay there, because there is nothing that would prohibit him from selling that property next week.

WALKER: So, what are the pluses and minuses.

TEN HOEVE: The plus is that you keep the fence.

WALKER: The minus is that you have now made Lot 8 and 9 now, a larger piece of property.

TEN HOEVE: It is insignificant, I think. Was it 7 feet?

BEER: The think is that a survey for Lot 7, if anyone goes to buy that property, as if it was their fence.

TEN HOEVE: If it is on their property they can remove the fence the day that they buy the property.

WALKER: Mr. Urdang says that the fence is 2 feet into Lot 7.

TEN HOEVE: That is what I read recently, that is why I was asking.

BEER: Brigitte says it more like 7 feet.

VON DER LIETH: The chances are that they wouldn't move it because it is actually a very nice one.

TEN HOEVE: They might not like it. You have no idea how people cut stuff down. Another reason why, it says 2 feet and it says 7 feet, that is another reason why to bring someone to the meeting.

The problems that you face here, the prior application, when he was here, to try to get an amendment to the site plan approval, so that he could complete the project, the Board had some authority to say yes or say no. The only issue that is before the Board at this time is Bond release.

My recommendation is to bring him come back and answer all of these questions, a letter that says "as built", apparent disputes over the location of the fence and what do we do to guarantee that the fence is going to stay if the property is sold, questions concerning the trees and all the other issues that Brigitte raises in her report.

BEER: And, you want the applicant to be in attendance, with or without his attorney?

TEN HOEVE: Well, somebody should be here. That is up to him, but I am sure that someone will come.

SANDLER: John, Elliott words that sentence very carefully. He says contrary to Ms. Bogart's assertion, they do not, the steps, do not indicate that Lot 7 is being used for school purposes. He does not represent that Lot 7 is not being used.

TEN HOEVE: Correct.

SANDLER: Do we have any ability to raise.....

TEN HOEVE: Not now. Not now. It is up to the Zoning Officer. This Board decided that it was going to be an issue that the Zoning Officer would address as an enforcement issue. The whole movement of the shed, garage issue.

SANDLER: If there is a misrepresentation?

TEN HOEVE: This Board has granted the amended site plan approval. I had recommended against that. You remember that there was a kind of.....

VON DER LIETH: It will be interesting to see how they explain the difference between the 2 feet and the 7 feet.

WALKER: How did Brigitte determine that it was 7 feet?

BEER: She found that it was more than 2 feet in. It was several feet in. She was on the property. The first time she went, Mr. Angelillo was a bit in her face, so she gave me a heads up and said I'll have to come back when he is not here. She was a bit defensive.

TEN HOEVE: One of the reasons why you will want an "as built". That will answer the fence question.

RAMAN: Right, because a surveyor is not going to lie for him because it is his license on the line. It is what it is then.

CORRESPONDENCE:

None

APPROVAL OF MINUTES:

The Chairman entertained a motion that the August 17, 2010, minutes be approved as submitted. So moved by Mr. Martin and seconded by Mr. Hoskins.

ROLL CALL:

Ayes: Mr. Brennan, Mr. Capilli, Mr. Flaherty, Mr. Hoskins, Mr. Martin, Mr. Sandler, Dr. von der Lieth, Mr. Walker

Abstain: Mr. Raman

APPROVAL OF VOUCHERS:

None

DISCUSSION OF APPLICATIONS:

The Board discussed the application of Girard Glauda. The members felt that with the current ordinance of a maximum 10% lot coverage for accessories, would prohibit the building of any pools. The members felt that there were no encroachment in to any side or rear lot lines and therefore felt that it would be reasonable to grant the applicants variance. Attorney authorized to draw a resolution of approval for the next months meeting.

ADJOURN:

There being no further business to come before the Board, by motion of Mr. Hoskins and seconded by Mr. Martin, the meeting was adjourned at 8:30 pm.

Respectfully submitted,

Margot Hamlin,
Transcriber