

**TOWNSHIP OF BERKELEY
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
APRIL 10, 2013
6:30 PM PUBLIC HEARING**

- A. SALUTE TO THE FLAG
- B. ROLL CALL, DECLARATION OF QUORUM
- C. SUNSHINE ACT STATEMENT: This meeting was advertised in the Asbury Park Press, posted on the Township's bulletin board as required by the "Open Public Meeting Act".
- D. Please be advised that there is to be **NO SMOKING** in this building in accordance with New Jersey Legislation.
- E. MINUTES
- F. OLD/NEW BUSINESS:

G. AGENDA

1. **Thomas Wright** **BOA# 12-5421**

| | |
|-------------------------------------|--|
| Variance requested | Unimproved Road |
| Project: | Construct a SFD on an Unimproved Road with Waivers |
| Block 987 | Lots: 5-11 |
| Address: Fronting on Radovan Avenue | Zone: R-150 |

Denial reads: **"The applicant proposes construct a SFD on a lot without frontage on a public street that was constructed to Township standards".**

2. **Mark Stanfield** **BOA # 12-5409**

| | |
|-------------------------|----------------------------|
| Variance requested | Side Yard Setback Variance |
| Project: | Detached Shed |
| Block: 1231 | Lot: 4 |
| Address: 104 Bow Street | Zone: R-100 |

Denial reads: **"Applicant requests a variance for a detached structure placed 0 feet from the side yard property line where 10 ft. is required".**

3. **William Somers** **BOA # 13-5423**

| | |
|----------------------------|--|
| Variance requested | Front Yard Setback on a lot with insufficient lot frontage |
| Project: | Construct 3 additions to existing dwelling |
| Block 793 | Lots: 46-48, 50-52 |
| Address: 228 Evernham Ave. | Zone: R-150 |

Denial reads: **"Applicant proposes to construct 3 additions 25 ft. from the front property line where 35 ft. is required".**

4. **John & Melissa D'Addario**

BOA # 10-5316

Variance requested

Undersized Lot, Insufficient Frontage,
with front, rear setbacks & lot coverage variances.

Project

Construct a two-story residential dwelling on an undersized lot

Block 893

Lots 425-429

Address: 90 Lakeview Ct...

Zone: R-100

Denial reads: **"Applicant proposes construct a SFD on a 8,438.4 s.f. lot, 10,000 s.f. required, with 80.24' lot frontage, 100' required and 30' front yard setback, 35' required, combined side yard setback of 27.3', 30' required and 26% lot coverage, 25% max. allowed".**

5. **Idean Bariesteh**

BOA # 13-5425

Variance requested

S.F.D. on lot with insufficient lot frontage with front, rear and side setback variances

Project

Construct a Single Family Dwelling

Block: 1625

Lot: 2

Address: 2 Dune Drive

Zone: R-64

Denial reads: **"Applicant proposes to construct a SFD with 50 ft. frontage where 53.3 ft. on a cul-de-sac is required, and a 21.21' front setback where 25' is required, and an inground pool 10' from the rear and side yard bulkheads where 15' is required from a bulkhead".**

6. **Stephen Gallagher**

BOA# 12-5412

Variance requested

Undersized lot with front, rear side yard setback variances

Project:

Construct a three-story Residential Dwelling unit on an undersized lot with front and rear side setback variances.

Block: 1402

Lots: 1-11, 11.01 & 11.02

Address: 1009 Balsam Drive

Zone: CR

Denial reads: **"Applicant proposes to construct a 3-story SFD on a 0.89 acre lot where 3 acres is required, leaving a 33' front yard setback, 75' required, a 13' rear setback, 50' required, an existing shed 16.2' x 12.1' to remain a pre-existing non-conforming structure".**

- H. RESOLUTIONS –
- I. VOUCHERS
- J. ADJOURNMENT



Ernst, Ernst Lissenden

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Robert J. Romano, P.E., C.M.E., P.P.
John N. Ernst, P.E., C.M.E., P.P.

Carl P. Werner, L.S., P.P.
Harold Mathis, Jr., L.S., P.P.

March 18, 2013

Berkeley Township Zoning Board of Adjustment
Pinewald-Keswick Road
P.O. Box B
Bayville, NJ 08721

Re: **BOA #12-5421**
Applicant: Thomas Wright
Application: To Construct a 2 Story Single Family
Dwelling Unit on an Unimproved Road with Waivers
Block 987, Lots 5-11
Fronting on Radovan Avenue
Zone: R-150
EE & L Project No. 12B4533-7 W01

Dear Ms. Kazmac:

In response to my review letter of January 31, 2013 which deemed this application incomplete, the applicant has submitted additional information and amended the application to include waivers. I have reviewed the submitted information and offer the following comments:

The denial letter issued January 8, 2013 by the Zoning Official stated that "the applicant proposes to construct a SFD on a lot without frontage on a public street that was constructed to Township standards".

A. Completeness

1. The applicant has submitted the following information:
 - A plan entitled "Preliminary Plot Plan, Prepared for Thomas & Dorothy Wright, Block 987, Lots 5 – 11, Berkeley Township, Ocean County, New Jersey", dated January 7, 2013, revised March 14, 2013, prepared by East Coast Engineering, Inc.
 - Architectural layout – 2 sheets – untitled.
 - A 200 ft. radius map and a certified list of property owners.
 - An application and application checklist.
2. Based upon our review, we recommend that this **application be deemed complete** subject to the Applicant complying with all applicable notification requirements as set forth in the Berkeley Township Land Use Ordinance and the Municipal Land Use Law. As such, this application is being placed on the Berkeley Zoning Board of Adjustment's **April 10, 2013** meeting agenda.
3. Notice to property owners and the newspaper (published) must be provided no later than 10 days prior to the meeting date and all proofs of service must be in the Municipal Planning and Zoning office no later than 5 days prior to the meeting. Should you have any questions with regard to noticing requirements, contact the Board office at 732-244-7400.



B. General Comments

The property and street right-of-way at present is vacant and wooded.

The site appears to be in a transition area between Downer and Lakehurst series soils. Downer series soils are deep well drained soils with a seasonal high water table expected to be greater than 6 ft. from the surface of the ground while Lakehurst series soils are deep moderately well drained soils with the seasonal high water table expected to be 1.5 ft. to 3.5 ft. from the surface of the ground. The Flood Rate Insurance Map indicates that the property is situated in Flood Zone "X" (unshaded) which is an area determined to be outside the 0.2% annual chance floodplain. The FEMA Advisory Base Flood Elevation Map (ABFE) indicates that this area remains unchanged. Freshwater wetlands do not appear to be present on the site.

The applicant proposes to construct a two-story frame dwelling unit on a street which has not been improved to Township standards. The applicant proposes to construct a 12 ft. wide R-Blend driveway in the right-of-way of Radovan Avenue from Southern Boulevard to gain access to his properties Lots 5-11, Block 987.

C. Variances/Waivers Requested and Items of Discussion

1. The applicant has requested a variance from Section 40:55D-35 of the Municipal Land Use Law to construct a dwelling unit on an unimproved street.
2. The applicant must provide testimony and proofs supporting the granting of the variance.
3. The applicant is seeking the following waivers from the following checklist items:
 - a. Item B-7, for not fully dimensioning the building.
 - b. Item B-13, for not providing building gross floor area.
 - c. Item B-28, for not providing soil borings.
 - d. For non-compliance with checklist item 34 which requires the maximum grade for lawns and disturbed areas within 5 ft. from a building to be 10%; whereas 20% is provided at the west end of the garage.
 - e. For non-compliance with checklist item 35 which requires drainage swales to be a minimum of 1.5%; whereas 1.1% to 0.71% is provided around the building on its north and west sides. It should be noted that there is a low area to the north and west of the spot elevations of what is suppose to be drainage swales. Some form of drainage relief for this area should be provided.

We would recommend that items c, d and e be waived until the time of submission of Grading Plans.

4. The applicant is also seeking a waiver from providing road improvement plans.
5. A waiver from providing a semi-improved road from Southern Boulevard is being sought.
6. Waivers from providing roadway and drainage fees are also requested.
7. The applicant should provide testimony supporting the granting of the requested waivers.
8. In as much as the driveway is over 150 ft. in length, traffic safety should be discussed.

D. Conditions and Recommendations

Should the Board determine that the relief should be granted, we recommend that the approval be conditioned upon the following:

1. As this is the only dwelling unit on this end of Radovan Avenue to utilize the road, we recommend that the applicant provides a 6 inch thick gravel driveway to the northerly end of the proposed house,

Re: BOA #12-5421
Applicant: Thomas Wright
Application: To Construct a 2 Story Single Family
Dwelling Unit on an Unimproved Road with Walvers
Block 987, Lots 5-11
Fronting on Radovan Avenue
Zone: R-150
EE & L Project No. 12B4533-7 W01



Page 3 of 3

18 feet wide, 14 feet clear height, capable of supporting 30,000 lbs. This allows two (2) vehicles to pass and clearance and access for fire apparatus.

2. A street sign is to be installed at the corner of Radovan Avenue and Southern Boulevard.
3. Garbage is to be picked up at Southern Boulevard.
4. There will be no Township snow plowing of the driveway.
5. Mail pick-up and delivery is to be at Southern Boulevard or as approved by the Post Office.
6. The Applicant shall obtain any and all agency approvals, including but not limited to, CAFRA, NJDEP, Building Department, Fire Department, Health Department, and Engineering Departments, Ocean County Soil Conservation District, Berkeley Township Sewage Authority, Berkeley Township Water Utility, etc., if required.
7. The Applicant certifying that the proposed dwelling unit does not encroach into existing easements (i.e., shade tree, utility, drainage, etc.) without proper consent from the Township, or other party involved, if any.
8. The Applicant shall submit payment of any and all outstanding professional review fees of the Board and the Township.
9. The Applicant shall provide all required plans necessary to show compliance with all required Building Codes and Ordinances, to the Building Department at the time of the permit application.

We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

Should you have any questions or we can be of any further assistance on this matter, please do not hesitate to call our office.

Very truly yours,

John J. Mallon, PE
Zoning Board Engineer

PAG/JJM/jet

Cc: Thomas Wright, Applicant
Anna Wainwright, Board Planner
Alex Pavliv, Board Attorney
Jason Marciano, East Coast Engineering
File



Ernst, Ernst Lissenden

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March 12, 2013

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Carl P. Werner, L.S., P.P.
Harold Mathis, Jr., L.S., P.P.

Berkeley Township Zoning Board of Adjustment
Pinewald-Keswick Road
PO Box B
Bayville, NJ 08721

Re: **BOA # 12-5409**
Applicant: Mark Stanfield
Application: Side Yard Setback Variance
for a Detached Shed
Block 1231, Lot 4
Fronting on: Bow Street
Zone: R-100
EE & L Project No. 12B4533-7S05

Dear Ms. Kazmac:

In accordance with your request, our office has reviewed the following variance application submitted for the above referenced property for completeness. The following comments are offered with regard to same:

The denial letter issued August 14, 2012 by the Zoning Official states that the "applicant requests a variance for a detached structure placed 0 feet from the side yard property line where 10 ft. is required".

A. Completeness

1. The applicant has submitted the following information:
 - A plan entitled "Map of Survey, Lot 4 in Block 1231, T.M. SHT. 104, Berkeley Township, Ocean County, New Jersey, dated October 25, 1999, prepared by D. Niz Associates.
 - A 200 ft. radius map and a certified list of property owners.
 - Application and an application checklist.
2. Based upon our review, we recommend that this application be deemed complete subject to the Applicant complying with all applicable notification requirements as set forth in the Berkeley Township Land Use Ordinance and the Municipal Land Use Law. As such, this application is being placed on the Berkeley Zoning Board of Adjustment's **April 10, 2013** meeting agenda.
3. Notice to property owners and the newspaper (published) must be provided no later than 10 days prior to the meeting date and all proofs of service must be in the Municipal Planning and Zoning office no later than 5 days prior to the meeting. Should you have any questions with regard to noticing requirements, contact the Board office at 732-244-7400.

B. General Comments

The property is located on the southwest corner of Bow Street and Moorage Avenue. The property lies within the R-100 Zone and comprises an area of 10,000 s.f. The property has been developed with a two-story dwelling unit with a concrete walk out onto Bow Street, a driveway onto Moorage Avenue and a swimming pool in the rear yard.

In accordance with the Flood Insurance Rate Maps the site is situated in Flood Zone "X" (black dots) which is an area subject to the 0.2% annual chance floodplain. In accordance with the FEMA Advisory Base Flood Elevation Maps (ABFE) the site is situated in zone unchanged from previous mapping.

The applicant proposes to construct a 200 s.f. detached shed at the front yard setback line with 0 ft. clearance to the side property line.



C. Variances Requested and Items of Discussion

1. The applicant has requested a bulk variance to construct a 200 s.f. detached shed with a 0 ft. side yard setback; whereas 10 ft. minimum is required.
2. The applicant must provide testimony and proofs supporting the granting of the variance.
3. In as much as the survey was conducted in 1999, are all improvements to the site shown?
4. An aerial photograph shows a small shed adjacent to the side steps. Will this shed be removed from the site or relocated? Will there be any additional construction to the existing dwelling unit?
5. Will the proposed shed cause any drainage problems?
6. Where is the pool equipment and where does it backwash to?
7. Photographs of the property should be provided.
8. An architectural plan or catalog cuts of the proposed shed should be provided.
9. How will the south side of the shed be maintained without going onto adjacent Lot 8?
10. Where will the door to the shed be?
11. Will the shed require any steps?
12. What will the shed be used for?

D. Conditions and Recommendations

Should the Board determine that the relief requested should be granted, we recommend that the approval be conditioned upon the following:

1. The Applicant shall obtain any and all agency approvals, including but not limited to, CAFRA, NJDEP, Building Department, Fire Department, Health Department, and Engineering Departments, etc., if required.
2. The Applicant certifying that the shed will not encroach into existing easements (i.e., shade tree, utility, drainage, etc.) without proper consent from the Township, or other party involved, if any.
3. The Applicant shall submit payment of any and all outstanding professional review fees of the Board and the Township.
4. The Applicant shall provide all required plans necessary to show compliance with all required Building Codes and Ordinances, to the Building Department at the time of the permit application.

We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

Should you have any questions or we can be of any further assistance on this matter, please do not hesitate to call our office.

Very truly yours,

John J. Mallon, PE
Zoning Board Engineer

JJM/jet

cc Anna Wainwright, Board Planner
Alex Pavliv, Board Attorney
Mark Stanfield, Applicant
File



Ernst, Ernst Lissenden

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March 12, 2013

Berkeley Township Zoning Board of Adjustment
Pinewald-Keswick Road
PO Box B
Bayville, NJ 08721

Re: **BOA # 13-5423**
Applicant: William E. Somers, Jr.
Application: Front Yard Setback Variance on a Lot
with Insufficient Lot Frontage
Block 793, Lots 46-48, 50-52
Fronting on: Segle Street
Zone: R-150
EE & L Project No. 12B4533-7S06

Dear Ms. Kazmac:

In accordance with your request, our office has reviewed the following variance application submitted for the above referenced property for completeness. The following comments are offered with regard to same:

The denial letter issued January 31, 2013 by the Zoning Official states that the "applicant proposes to construct 3 additions 25 ft. from the front property line where 35 ft. is required".

A. Completeness

1. The applicant has submitted the following information:
 - A plan entitled "Survey Map, Block 793, Lots 46, 47, 48, 49, 50, 51 & 52", dated April 14, 2008, prepared by East Coast Engineering, Inc.

Please note that Lot 49 is not included in the survey and the applicant has hand drawn on the proposed additions.

- Schematic architectural plans, hand drawn by the applicant.
 - A 200 ft. radius map and a certified list of property owners.
 - Application and an application checklist.
2. Based upon our review, we recommend that this application be deemed complete subject to the Applicant complying with all applicable notification requirements as set forth in the Berkeley Township Land Use Ordinance and the Municipal Land Use Law. As such, this application is being placed on the Berkeley Zoning Board of Adjustment's April 10, 2013 meeting agenda.
 3. Notice to property owners and the newspaper (published) must be provided no later than 10 days prior to the meeting date and all proofs of service must be in the Municipal Planning and Zoning office no later than 5 days prior to the meeting. Should you have any questions with regard to noticing requirements, contact the Board office at 732-244-7400.

B. General Comments

The property is located on the northwest corner of Everhan Avenue and Segle Street (paper street). The property lies within the R-150 Zone and comprises an area of 15,225 s.f. ±. The site contains a one story frame dwelling unit with a wood deck, wood shed and a detached garage that is under construction. Segle Street is a paper street with an earth and gravel drive while Everhan Avenue has a 16 ft. ± pavement width.

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John N. Ernst, P.E., C.M.E., P.P.

Carl P. Werner, L.S., P.P.
Harold Mathis, Jr., L.S., P.P.

Re: BOA # 13-5423
Applicant: William E. Somers, Jr.
Application: Front Yard Setback Variance on a Lot
with Insufficient Lot Frontage
Block 793, Lots 46-48, 50-52
Fronting on: Segle Street
Zone: R-150
EE & L Project No. 12B4533-7S06

Page 2 of 2



In accordance with the Flood Insurance Rate Maps the site is situated in Flood Zone "X" (unshaded) which is an area determined to be outside the 0.2% annual chance floodplain. In accordance with the FEMA Advisory Base Flood Elevation Maps (ABFE) the zone is unchanged and remains the same.

The applicant proposes to construct three additions to the front of the house causing a decrease to the front yard setback on Segle Street.

C. Variances Requested and Items of Discussion

1. A variance is required for insufficient front yard setback; whereas 35 ft. minimum is required and 25 ft. is proposed.
2. The applicant must provide testimony and proofs supporting the granting of the variance.
3. The Board should be aware that the property is in violation of the Ordinance with respect to minimum lot frontage; whereas 75.47 ft. is existing and proposed as the lot frontage is measured along a paved street.
4. In as much as the survey was conducted in 2008 has any other improvements been made to the site or in the right-of-way of Segle Street?
5. The survey map includes Lot 49 in its title block which should be removed.

D. Conditions and Recommendations

Should the Board determine that the relief requested should be granted, we recommend that the approval be conditioned upon the following:

1. The Applicant shall obtain any and all agency approvals, including but not limited to, Building Department, Fire Department, Health Department, and Engineering Departments, etc., if required.
2. The Applicant certifying that the building additions will not encroach into existing easements (i.e., shade tree, utility, drainage, etc.) without proper consent from the Township, or other party involved, if any.
3. The Applicant shall submit payment of any and all outstanding professional review fees of the Board and the Township.
4. The Applicant shall provide all required plans necessary to show compliance with all required Building Codes and Ordinances, to the Building Department at the time of the permit application.

We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

Should you have any questions or we can be of any further assistance on this matter, please do not hesitate to call our office.

Very truly yours,


John J. Mallon, PE
Zoning Board Engineer

JJM/jet

cc Anna Wainwright, Board Planner
Alex Pavliv, Board Attorney
William Somers, Jr, Applicant
File



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Carl P. Werner, L.S., P.P.

Harold Mathis, Jr., L.S., P.P.

March 6, 2013

Berkeley Township Zoning Board of Adjustment

Pinewald-Keswick Road

P.O. Box B

Bayville, NJ 08721

Re: BOA #10-5316

Applicant: John & Melinda D'Addario

Application: Construction of a Two-Story Residential

Dwelling Unit on an Undersized Lot &

Insufficient Frontage with Front, Rear Setback

And Lot Coverage Variances

Block 893, Lots 425-429

Fronting on: Lakeview Court

Zone: R-100

EE & L Project No. 12B4533-7D01

Dear Ms. Kazmac:

In accordance with your request, our office has reviewed the above referenced variance application for completeness. The following comments are offered in regards to same.

The denial letter issued April 20, 2010 by the Zoning Official states that the "applicant proposes to construct a SFD on a 8,438.4 s.f. lot, 10,000 s.f. required, with 80.24' lot frontage, 100' required and 30' front yard setback, 35' required, combined side yard setback of 27.3', 30' required and 26% lot coverage, 25% max allowed".

It must be noted that the proposed dwelling unit has been amended since the time that the denial letter was issued and the combined side setback variance is no longer required. However rear setback variances for a principal building and a deck are now required.

A. Completeness

1. The applicant has submitted the following information:

- A plan entitled "Plot Plan Block 893, Lots 425 – 429 Berkeley Township, Ocean County, New Jersey", last revised February 7, 2013, prepared by East Coast Engineering, Inc.
- A plan entitled "Survey Map, Block 893, Lots 425 thru 429, Berkeley Township, Ocean County, New Jersey", dated September 18, 2012, prepared by East Coast Engineering, Inc.
- Architectural plans entitled "New Construction for D'Addario Residence, Block 893, Lots 425 – 429, 90 Lakeview Court, Berkeley Township, New Jersey", dated February 2, 2013, prepared by Dario Architecture/Design.
- A 200 ft. Radius Map and a certified list of property owners.
- An application and application checklist.



2. Based upon our review, we recommend that this application be deemed complete subject to the Applicant complying with all applicable notification requirements as set forth in the Berkeley Township Land Use Ordinance and the Municipal Land Use Law. As such, this application is being placed on the Berkeley Zoning Board of Adjustment's **April 10, 2013** meeting agenda.
3. Notice to property owners and the newspaper (published) must be provided no later than 10 days prior to the meeting date and all proofs of service must be in the Municipal Planning and Zoning office no later than 5 days prior to the meeting. Should you have any questions with regard to noticing requirements, contact the Board office at 732-244-7400.

B. General Comments

The property is located on the south side of Lakeview Court, approximately 70 ft. east of Station Avenue. The property lies within the R-100 zone and comprises an area of 8,438.4 s.f. with an apparent overlap area on the east side of the property of 652.5 s.f. leaving a net lot area of 7,785.9 s.f. The site is vacant and appears to have been cleared at one time.

In accordance with the FEMA Advisory Base Flood Elevation Map the site is situated in zone "A" with a base Flood Elevation of 8 with the Governor's January 24, 2013 declaration, the flood elevation is 9.

The applicant proposes to construct a 2 story four bedroom, two car garage frame dwelling unit with a deck and concrete patio to the rear of the building with a concrete driveway on to Lakeview Court.

C. Variances Requested and Items of Discussion

1. The applicant is seeking the following variances:
 - a. For insufficient front yard setback; whereas 35 ft. minimum is required and 30 ft. is proposed.
 - b. For insufficient rear yard setback for a principal building; whereas 30 ft. is required and 23.16 ft. is proposed.
 - c. For exceeding the maximum lot coverage; whereas 25% maximum is allowed and 25.7% is proposed.
 - d. For insufficient rear yard setback for a deck that abuts a principal structure; whereas 30 ft. minimum is required and 9.16 ft. is proposed.
2. The Board should be aware that the existing lot is in violation of the Ordinance as follows:
 - a. Insufficient lot area; whereas 10,000 s.f. minimum is required and 8,438 s.f. is existing and proposed. This includes an apparent overlap of 652.5 s.f. which leaves a net area of 7,785.9 s.f.
 - b. Insufficient lot frontage; whereas 100 ft. minimum is required and 80.24 ft. is existing and proposed.

These are existing conditions for which the Board generally takes no action.

3. The applicant must provide testimony and proof supporting the granting of the variances.
4. Has the applicant attempted to purchase additional property from adjacent property owners so as to reduce or eliminate the properties existing and proposed violations and or variances, or offered to sell the lot to the adjoining owner?
5. Is the 6.7± ft. strip of property adjacent to Lot 11, Block 9 in Pine Beach an overlap or an easement or both as the area is labeled as both.

Documentation as to what this area is should be provided.

Applicant: John & Melinda D'Addario
 Application: Construction of a Two-Story Residential
 Dwelling Unit on an Undersized Lot &
 Insufficient Frontage with Front, Rear Setback
 And Lot Coverage Variances
 Block 893, Lots 425-429
 Fronting on: Lakeview Court
 Zone: R-100
 EE & L Project No. 12B4533-7D01



6. It appears that waivers from providing curb, sidewalk and pavement widening along the property frontage is required.
7. Dry wells for stormwater runoff from the roof should be provided.
8. Both existing water and sewer lines in Lakeview Court and connection to same is to be shown on the plan.
9. A letter of permission from the owner of adjacent Lot 424 to allow workers constructing the retaining wall on its west property line to enter the property for said construction or the retaining wall is to be moved off the property line at least 1 foot to allow for the construction and maintenance of said wall.
10. When was the property cleared and were permits for said activity acquired at that time?
11. The Board should determine if the properties lots should be consolidated.

D. Conditions and Recommendations

Should the Board determine that the relief requested should be granted, we recommend that the approval be conditioned upon the following:

1. The Applicant shall obtain any and all agency approvals, including but not limited to, CAFRA, NJDEP, Building Department, Fire Department, Health Department, and Engineering Departments, etc., if required.
2. The Applicant certifying that the proposed dwelling construction does not encroach into existing easements (i.e., shade tree, utility, drainage, etc.) without proper consent from the Township, or other party involved, if any.
3. The Applicant shall submit payment of any and all outstanding professional review fees of the Board and the Township.
4. The Applicant shall provide all required plans necessary to show compliance with all required Building Codes and Ordinances, to the Building Department at the time of the permit application.

We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

Should you have any questions or we can be of any further assistance on this matter, please do not hesitate to call our office.

Very truly yours,


 John J. Mallon, PE
 Zoning Board Engineer

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cc Anna Wainwright, Board Planner
 Alex Pavliv, Board Attorney
 East Coast Engineering, Applicant's Engineer
 John & Melinda D'Addario, Applicants
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Telephone: 732-349-2215 • Fax: 732-349-4127
Website: www.eelengr.com

March 27, 2013

Berkeley Township Zoning Board of Adjustment
Pinewald-Keswick Road
P.O. Box B
Bayville, NJ 08721

Re: **BOA #10-5316**
Applicant: John & Melinda D'Addario
Application: Construction of a Two-Story Residential
Dwelling Unit on an Undersized Lot &
Insufficient Frontage with Front, Rear Setback
And Lot Coverage Variances
Block 893, Lots 425-429
Fronting on: Lakeview Court
Zone: R-100
EE & L Project No. 12B4533-7D01

Dear Ms. Kazmac:

This letter is to correct items C – 2a and 2b in our letter of March 6, 2013.

The following is to be added to the list of required variances for the project:

- a. A variance is required for insufficient lot area; whereas 8,438 s.f. is existing and proposed (includes a 652.5 s.f. overlap) and 10,000 s.f. minimum is required.
- b. A variance for insufficient lot frontage is required; whereas 80.24 ft. is existing and proposed and 100 ft. minimum is required.

Should you have any questions or we can be of any further assistance on this matter, please do not hesitate to call our office.

Very truly yours,



John J. Mallon, PE
Zoning Board Engineer

PAG/JJM/jet

cc Anna Wainwright, Board Planner
Alex Pavliv, Board Attorney
East Coast Engineering, Applicant's Engineer
John & Melinda D'Addario, Applicants
File

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MEMO: Berkeley Township Zoning Board of Adjustment

FROM: Anna Wainright, PP, AICP *AW*
Office of the Zoning Board of Adjustment Planner

DATE: March 12, 2013

RE: D'Addario-Review #1
Application: New SFD on Undersized Lot
Block 893, Lot 425-429
Address: 90 Lakeview Court
Zoning District: R-100 Residential Zone
Plan Title: Plot Plan, Prepared by Jason Marciano, PE
dated 12/18/07; Proposed Dwelling, Prepared by Dario
Pasquariello, dated 2/2/13.
BOA #10-5316
Our File: 1506-Z-096

As requested, our office has reviewed the above named variance application and offer the following comments and recommendations:

Zoning Requirements:

R-100 Residential Zone §36-96.2 & 35-95

| Principal Bldg | Required | Proposed | Variance Required |
|-----------------------------|-----------|-------------|----------------------|
| Minimum Lot Area | 10,000 SF | 8,438.4 SF* | Variance Required |
| Minimum Lot Frontage | 100 FT | 80.24 FT* | Variance Required |
| Front Yard Setback | 35 FT | 30 FT* | Variance Required |
| Rear Yard Setback Structure | 30 FT | 9.16 FT* | Variance Required |
| Side Yard Setback | 10 FT | 10 FT | None |
| Side Yard Setback Combined | 30 FT | 30.11 FT | None |
| Accessory Setback | 10 FT | 5 FT* | Variance Required |
| Maximum Lot Coverage | 25% | 25.7%* | Variance Required |
| Maximum Height Permitted | 35 FT | 28 FT | None |

A. PROJECT OVERVIEW:

The denial states: Applicant proposes to construct a SFD on a 8,438 SF Lot, 10,000 SF required, with 80.24 lot frontage, 100' required, and 30' front yard setback, 35' required, combined side yard setback of 27.3", 30' required and 26% lot coverage, 25% max allowed." However, the plans have been revised which has changed the rear yard setback to 9.16 feet where 30 feet is required, the side yard combined setback has been met, and the lot coverage % was lowered to 25.7% (which still requires a variance).

The applicant also requires a waiver for not providing curbs and sidewalks.

The property is a vacant lot located on Lakeview Court, at the boundary between Berkeley and Pine Beach. The property is presently located outside the flood hazard area, however, new FEMA mapping, Advisory Base Flood Elevation (ABFE) mapping indicates that the property will be located in the A Zone requiring a first floor elevation of 8 feet for the 1% storm. A one foot freeboard is required by Township ordinance, making the first floor requirement at 9 feet. The Applicants are proposing a four (4) bedroom two-story home, with a first floor elevation of 11 feet.

B. VARIANCES:

The Applicant must provide to the Board the required proofs necessary for the granting of variances for an "isolated" lot. As in the Dallmeyer v. Lacey Township ZBA case, the Applicant must establish that there is no availability of property which could be purchased to add to the property and eliminate or lessen the variances.

The applicant must have sent certified letters to adjacent property owners asking to purchase additional lands and/or requesting whether or not those owners wished to purchase the subject parcels in the alternative. Proof of same notice and requests should be provided to the Board office, and copied to our office in advance of the meeting date. The applicant should provide enough lead time to adequately satisfy the Board that the neighbors have had sufficient time to respond. The applicant must have made a good faith effort to try to acquire lands which would either eliminate or lessen all variances requested.

Should the applicant satisfy the Board that there is no availability of property, and/or no one wishes to purchase the subject property, then the Board should examine whether or not they believe that the Applicant is proposing a dwelling which will not, and the variances requested will not, cause a substantial detriment to the public good, or be a substantial detriment to the Master Plan and Zoning Ordinance. Reasonable conditions may be imposed and all requested variances should be considered as follows:

Pursuant to the MLUL Section 40:55D-70, the Board of Adjustment may grant a bulk variance request if.

- c(1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application

of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property.

- c(2) where in an application or appeal relating to a specific piece of property the purposes of this act...would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

The Board must determine that either the property in question meets any or all of the conditions established above, and/or that the strict adherence to the standards of the Berkeley Township Land Development Ordinance would cause undue hardship to the property owner, and also be satisfied that the granting of the variances will not cause any detriment to the public good, or the Zoning Plan (Master Plan).

The applicant should also provide testimony regarding any requested or required waivers.

C. DISCUSSION ITEMS:

In addition to the above, the applicant should be prepared to provide testimony regarding the following:

1. The applicant is proposing new construction within CAFRA jurisdiction and is subject to CAFRA regulations, where they apply.
2. The applicant must provide testimony regarding removal of trees and compliance with the tree ordinance.
3. The applicant must provide testimony regarding the proposed grading of the property and the retaining wall. We defer to the Board engineer with regard to drainage issues, if any.
4. The applicant must provide testimony regarding the overall height of the structure. With a first floor elevation of 11, and an average grade of 6.5 an additional 4.5 feet will be added to the height of the structure, not shown on the architectural plan.
5. The applicant must also testify regarding the driveway construction within the public right of way. Any approval must be subject to review and approval of the Township Engineer.

D. GENERAL REVIEW COMMENTS:

1. The applicant should provide professional testimony regarding the proposed architectural plans submitted. Testimony should include, but not be limited to the following:
 - A full description of the plans, including proposed flood plain elevations and regulations compliance.
 - The applicant should provide testimony regarding the overall height of the structure with the added height for the first floor elevation.

The Board should be satisfied that the proposed size of the structure is compatible with the surrounding neighborhood, and the requested variances are appropriate considering the size of the lot.

The applicant's engineer should verify the ability to construct the proposed improvements within regulatory constraints and within the property boundaries without the need for easements from adjacent property owners. The applicant's engineer should provide testimony regarding the "overlap" shown on the plans.

The applicant must comply with Sections 17-5.6(g) and 35-72.7 of the Township's Ordinances regarding the Drainage Trust Fund and any impacts to drainage onto Lakeview Court, if required.

E. CONDITIONS AND RECOMMENDATIONS:

Should the Board determine that the relief requested should be granted, we recommend that the approval be conditioned upon the following:

1. The Applicant certifying that the proposed improvements will not encroach into existing easements (i.e., shade tree, utility, drainage, etc.) without proper consent from the Township and/or appropriate party.
2. The Applicant verifies that there will be no drainage impact to adjacent property owners.
3. The Applicant is to provide any required contributions to the Drainage Trust Fund.
4. The Applicant shall submit payment of any and all outstanding professional review fees of the Board and the Township.
5. Payment of all COAH Development Fees, where required.
6. The Applicant provide all required plans necessary to show compliance with all required Building Codes, to the Building Department at the time of the permit application, such as but not necessarily limited to the following:
 - a. CAFRA approval, if required.
 - b. Compliance with Chapter XXIX Flood Damage Prevention of Berkeley Township General Ordinances, including any plans, permits and/or approvals which may be required.
 - c. The applicant submitting for a grading permit in accordance with Section 11-1.5.
 - d. The applicant submitting signed and sealed architectural plans of the proposed dwelling in accordance with all testimony and plans provided at the public hearing, as well as applicable building codes.
 - e. Proof of approval and/or waivers, if required, from all agencies having jurisdiction including the Ocean County Board of Health, the Berkeley Township Sewerage and Water Authority's and the Ocean County Planning Board.

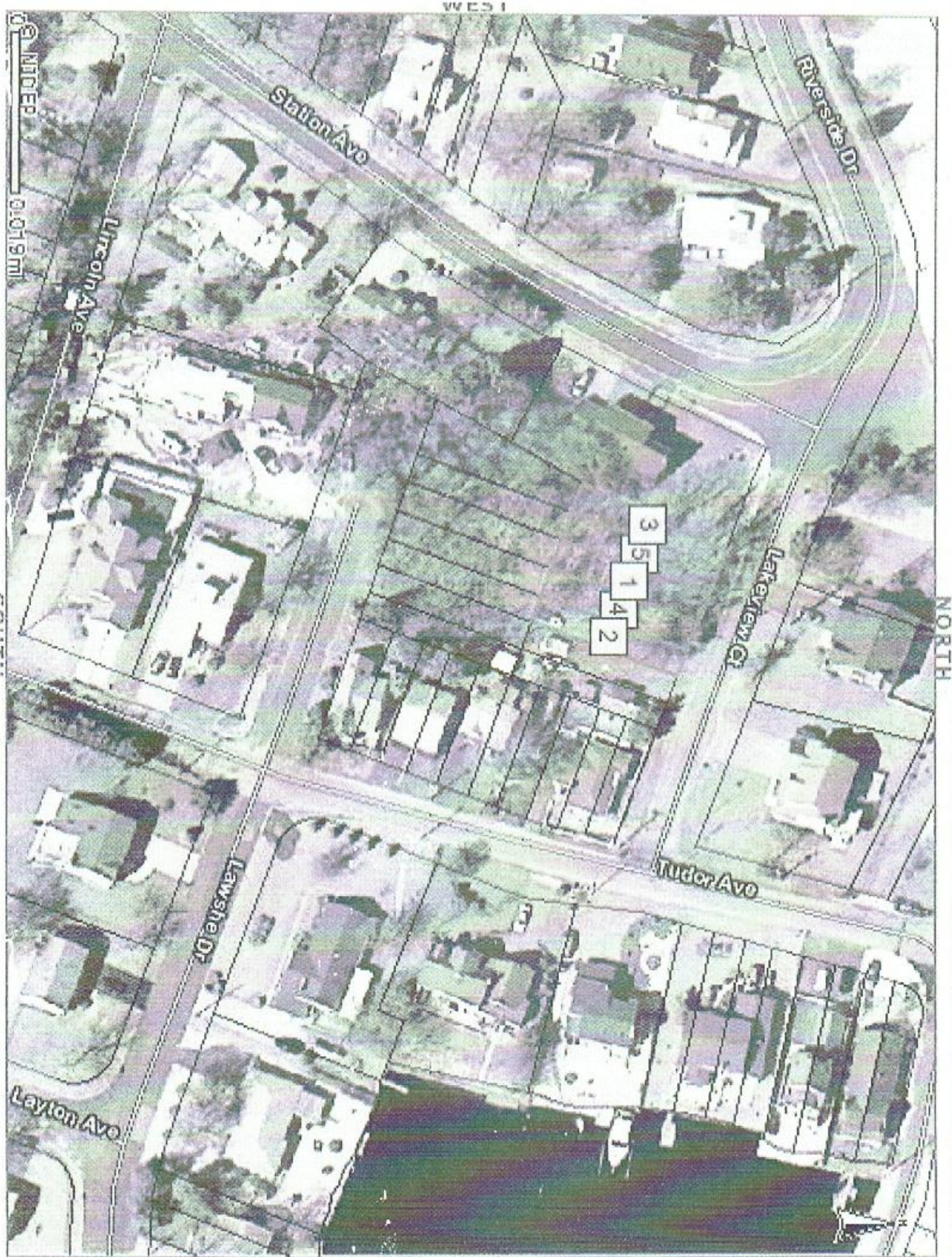
We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

Should you have any questions or we can be of any further assistance on this matter, please don't hesitate to call our office at 732-286-9220.

God Bless America
REMINGTON VERNICK & VENA

ARW/ktr

Cc: Alex Pavliv, Esq., Board Attorney
John Mallon, P.E., Board Engineer
John & Melinda DAddario - Applicant
John Doyle, Esq. - Applicant's Attorney
Jason Marciano, PE – Applicant's Engineer



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EAST

NORTH



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Harold Mathis, Jr., L.S., P.P.

March 26, 2013

Berkeley Township Zoning Board of Adjustment
Pinewald-Keswick Road
PO Box B
Bayville, NJ 08721

Re: **BOA # 13-5425**
Applicant: Idean Barjesteh
Application: Construct a Single Family
Dwelling Unit on a Lot With Insufficient Lot
Frontage with Front, Rear and Side Setback Variances
Block 1625, Lot 2
Fronting on: Dune Drive
Zone: R-64
EE & L Project No. 12B4533-7B04

Dear Ms. Kazmac:

In accordance with your request, our office has reviewed the above referenced variance application for completeness. The following comments are offered in regards to same.

The denial letter issued March 7, 2013 by the Zoning Official states the "Applicant proposes to construct a SFD with a 50 ft. frontage where 53.3 feet on a cul-de-sac is required, and a 21.21' front setback where 25' is required, and an inground pool 10' from the rear and side yard bulkheads where 15' is required from a bulkhead".

A. Completeness

1. The applicant has submitted the following information:
 - A plan entitled "Plot Plan Prepared for Idean Barjesteh Block 1625, Lot 2, Berkeley Township, Ocean County, New Jersey", last revised February 7, 2013, prepared by East Coast Engineering, Inc.
 - A plan entitled "Survey Map, Block 1625, Lot 2, Berkeley Township, Ocean County, New Jersey", dated November 14, 2012, prepared by East Coast Engineering, Inc.
 - Architectural plans entitled "New Construction for Barjesteh Residence, Dune Drive, Lot 2, Block 1625, Berkeley Township, New Jersey", consisting of three (3) sheets, dated March 1, 2013, prepared by Dario Architecture/Design.
 - A copy of the N.J.D.E.P. CAFRA Permit approving the proposed construction.
 - A 200 Ft. Radius Map and Certified Property Owners list.
 - An application and application checklist.
2. Based upon our review, we recommend that this application be deemed complete subject to the Applicant complying with all applicable notification requirements as set forth in the Berkeley

Applicant: Idean Barjesteh

Application: Construct a Single Family

Dwelling Unit on a Lot With Insufficient Lot

Frontage with Front, Rear and Side Setback Variances

Block 1625, Lot 2

Fronting on: Dune Drive

Zone: R-64

EE & L Project No. 12B4533-7B04



Township Land Use Ordinance and the Municipal Land Use Law. As such, this application is being placed on the Berkeley Zoning Board of Adjustment's **April 10, 2013** meeting agenda.

3. Notice to property owners and the newspaper (published) must be provided no later than 10 days prior to the meeting date and all proofs of service must be in the Municipal Planning and Zoning office no later than 5 days prior to the meeting. Should you have any questions with regard to noticing requirements, contact the Board office at 732-244-7400.

B. General Comments

The property is located at the northeast end of Dune Drive and lies within the R-64 Zone and comprises an area of 9,341 s.f. The rear of the property is bulkheaded on a lagoon while its side is bulkheaded on Cedar Creek. The site is vacant and has been cleared. It appears that the property was cleared and graded under a previously approved project.

In accordance with the FEMA Advisory Base Flood Elevation Map the site is situated in zone "V" with a base flood elevation of 9, with the Governor's January 24, 2013 declaration, the flood elevation is 10.

The applicant proposes to construct a 2 story, four bedroom, two car garage dwelling unit with a patio and pool to the rear of the home. A new bulkhead and dock is also proposed. A driveway from Dune Drive will provide access while public sanitary sewer and water supply services are proposed.

C. Variances/Waivers and Items of Discussion

1. A variance for insufficient lot frontage is required; whereas 50 ft. is existing and proposed and 53.3 ft. for a cul-de-sac is required.
2. A variance for insufficient front yard setback is required; whereas 21.21 ft. is proposed and 25 ft. minimum is required.
3. A variance is required for insufficient rear yard setback for an accessory structure to a bulkhead; whereas 10.0 ft. is proposed and 15. ft. minimum is required.
4. A variance is required for insufficient side yard setback for an accessory structure to a bulkhead; whereas 10.0 ft. is proposed and 15 ft. minimum is required.
5. The applicant must provide testimony and proofs supporting the granting of the variances.
6. A waiver from Section 35-54.a which requires residential drives to be paved with 2 inches F.A.B.C. surface course and 6 inches dense graded aggregate base course; whereas Note 15 indicates that a driveway of permeable material is to be provided. Testimony in regard to this is to be provided. Perhaps porous pavement could be used.
7. A waiver from providing sidewalk along the property frontage is required. It appears that this waiver can be granted as no sidewalks are existing within the development.
8. Where is the pool equipment to be located and where will the backwash discharge to?
9. It appears that that the ends of the new bulkhead should meet the existing bulkhead in adjacent Lots 1 and 3 so runoff can exit on this site or at worst the property line.
10. Is there adequate slope along the property line of Lot 3?
11. How will the HVAC and hot water heater meet the requirements of the "V" flood zone as the utility room appears to be at the same finished floor elevation as the garage which is below the flood level.

D. Conditions and Recommendations

Should the Board determine that the relief requested should be granted, we recommend that the approval be conditioned upon the following:

Applicant: Idean Barjesteh

Application: Construct a Single Family

Dwelling Unit on a Lot With Insufficient Lot

Frontage with Front, Rear and Side Setback Variances

Block 1625, Lot 2

Fronting on: Dune Drive

Zone: R-64

EE & L Project No. 12B4533-7B04



1. The Applicant shall obtain any and all agency approvals, including but not limited to, CAFRA, NJDEP, Building Department, Fire Department, Health Department, and Engineering Departments, Ocean County Soil Conservation District, Berkeley Township Sewage Authority, Berkeley Township Water Utility, etc., if required.
2. The Applicant certifying that the proposed pool does not encroach into existing easements (i.e., shade tree, utility, drainage, etc.) without proper consent from the Township, or other party involved, if any.
3. The Applicant shall submit payment of any and all outstanding professional review fees of the Board and the Township.
4. The Applicant shall provide all required plans necessary to show compliance with all required Building Codes and Ordinances, to the Building Department at the time of the permit application.
5. Submission of a Grading Plan got approval.

We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

Should you have any questions or we can be of any further assistance on this matter, please do not hesitate to call our office.

Very truly yours,

John J. Mallon, PE
Zoning Board Engineer

PAG/JJM/jet

cc Anna Wainwright, Board Planner
Alex Pavliv, Board Attorney
East Coast Engineering, Applicant's Engineer
Idean Barjesteh, Applicant
John Doyle, Applicant's Attorney
File

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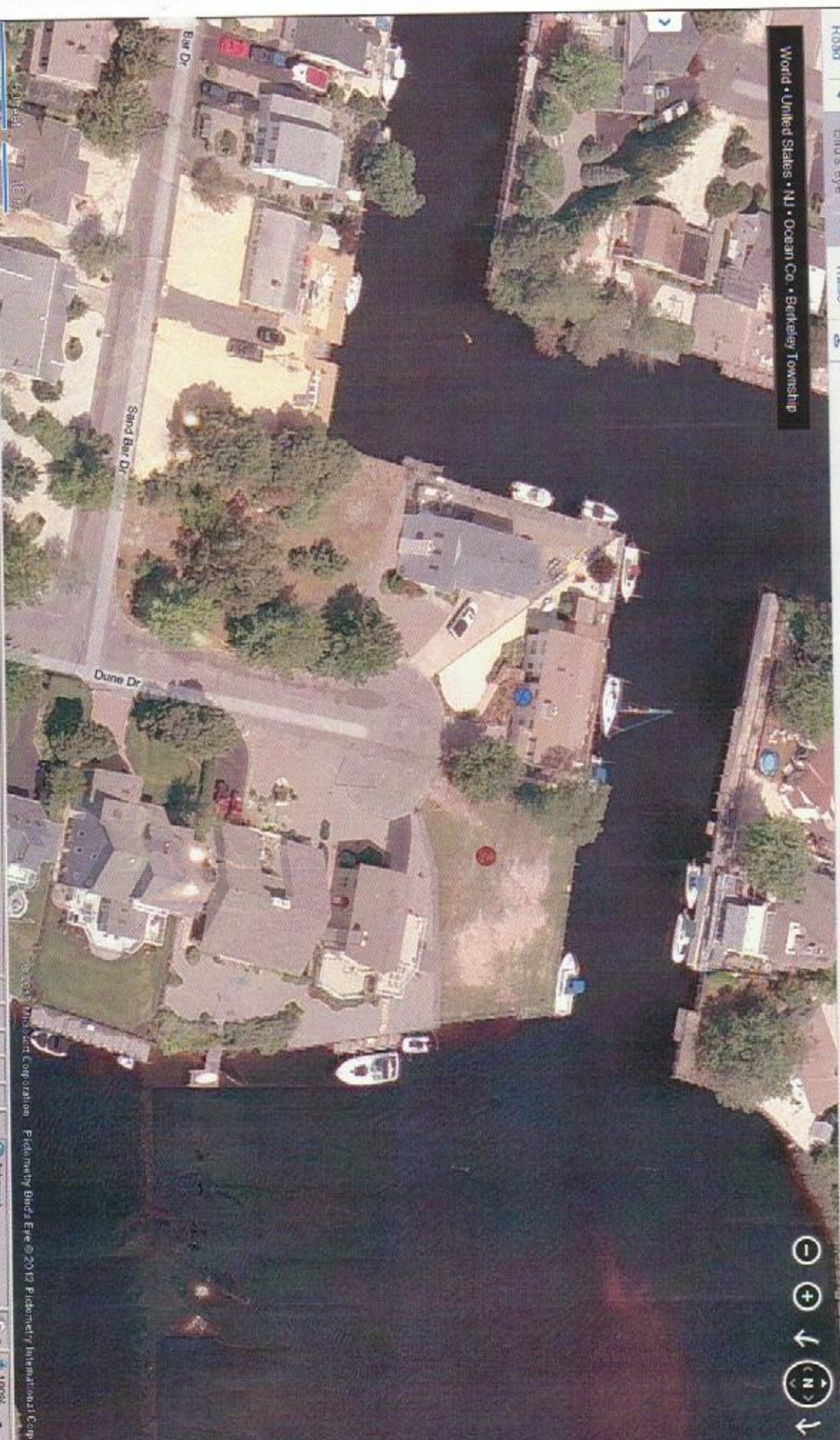
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MEMO: Berkeley Township Zoning Board of Adjustment

FROM: Anna Wainright, PP, AICP
Board Planner

DATE: March 27, 2013

RE: Idean Barjesteh – *AW*
PLANNING REVIEW #1
Application: Single Family Dwelling
Block 1625, Lot 2
1 Dune Drive
Zoning District: R-64- Residential Zone
Plan Title: Plot Plan
Prepared By: Jason M. Marciano, P.E., P.P.
Dated: January 11, 2013, revised through February 7, 2013
Architectural – Dario Pasquariello, R.A., A.I.A
Dated March 1, 2013
BOA# 12-5425
Our File: 1506-Z-157

As requested, our office has reviewed the above named variance application and offer the following comments and recommendations:

Zoning Requirements:

R-64 Residential Zone 35-95 *(existing condition)

| <u>Principal Bldg</u> | <u>Required</u> | <u>Proposed</u> | <u>Variance Requested</u> |
|-----------------------------|-----------------|-----------------|---------------------------|
| Minimum Lot Area | 6,400 SF | 9,341.55 SF | None |
| Minimum Lot Frontage | 80/53.3 FT | 50 FT | Variance Required |
| Front Yard Setback | 25 FT | 21.21 FT | Variance Required |
| Rear Yard Setback | 20 FT | 20 FT | None |
| Side Yard Setback | 7 FT | 7.01 FT | None |
| Combined Side Yard Setbacks | 18FT | 20.59 FT | None |
| Maximum Lot Coverage | 30% | 27.3% | None |
| Maximum Bldg Height | 35 FT | < 35 FT | None |

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A. PROJECT OVERVIEW

The denial states that "Applicant proposes to construct a with 50 foot of frontage where 53 feet on a cul-de-sac is required, and a 21.21' front setback where 25' is required, and an inground pool 10' from the rear and side yard bulkheads where 15' is required from the bulkhead". It appears that the applicant requires three variances, one for an existing condition of lot frontage, the front yard setback, and a variance for the location of the pool.

The subject parcel is located at the southernmost portion of the Township, on a manmade lagoon. The subdivision is known as Sandpiper Beach, and the lot is the last remaining vacant lot at the end of Dune Drive. The property is located at the easterly most lot at the end of the cul-de-sac. The lot is presently completely devoid of vegetation except for a street Maple at the westerly front corner of the lot. The applicant has obtained a CAFRA permit to construct the home, under certain conditions.

B. VARIANCES

The vacant lot is undersized in frontage only, by three (3) feet. The lots on either side are already developed and land could not be obtained from those lots to eliminate or lessen this variance without making those lots more non-conforming, so therefore, this variance request meets the proofs as described in the MLUL for a C(1) variance. However, the applicant must provide proofs for the front yard setback and setback for the pool as described below.

Should the applicant satisfy the Board that there are proofs under the law for the granting of the variances, then the Board should examine whether or not they believe that the Applicant is proposing a dwelling which will not, and the variances requested will not, cause a substantial detriment to the public good, or be a substantial detriment to the Master Plan and Zoning Ordinance. Reasonable conditions may be imposed and all requested variances should be considered as follows:

Pursuant to the MLUL Section 40:55D-70, the Board of Adjustment may grant a bulk variance request if:

- c(1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property.
- c(2) where in an application or appeal relating to a specific piece of property the purposes of this act...would be advanced by a deviation from the zoning

ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

The Board must determine that either the property in question meets any or all of the conditions established above, and/or that the strict adherence to the standards of the Berkeley Township Land Development Ordinance would cause undue hardship to the property owner, and also be satisfied that the granting of the variances will not cause any detriment to the public good, or the Zoning Plan (Master Plan).

The applicant should also provide testimony regarding any requested or required waivers.

C. GENERAL REVIEW COMMENTS

1. The applicant is proposing to construct a two (2) story single family home, on an existing vacant lot. The proposal also contains two levels of decks and balconies on the rear of the structure. The front of the home contains a wrap around front porch. The applicant should provide to the Board testimony with regard to the size of the new home and its appropriateness to the location and neighborhood.
2. The applicant is proposing a first floor elevation of 12 feet whereas the ABFE for that area is 9 feet. Testimony should be provided which discusses the reasons for the first floor elevation as proposed.
3. The permitted building height for the zone is 35 feet, taken from the average finished grade to the mean height between the eaves and ridge. Testimony should be provided as to the finished mean height (maximum) and the proposal.
4. The applicant was required to and received a CAFRA permit for proposed footprint of the home with certain special conditions. Testimony should be provided to address the conditions and compliance with same.
5. The applicant is proposing an inground pool and paver patio, and the pool is within 15 feet of the bulkhead, on two sides. The pool was approved by CAFRA, in its location. The Township ordinance requirement reflects regulations as required by the NJDEP for improvements which may impact the reconstruction of the bulkhead. We defer to the Board engineer on this issue.
6. The applicant should provide testimony regarding provisions to comply with CAFRA regulations prohibiting the drainage of any pool water into the lagoon or streets.
7. The applicant should provide testimony regarding any intentions to landscape the property, and whether any existing trees will be removed.
8. The applicant is also proposing the reconstruction of bulkheads and a new 5' X 65' dock, which was also approved by CAFRA. Testimony regarding these proposals should be provided.

9. Any approval must be subject to compliance with all applicable codes and regulations for construction within a floodplain, and any other codes or regulations which may be applicable.
10. The applicant is proposing to connect to public water and sanitary sewer. The applicant should provide testimony and additional details for proposed connections.
11. With regard to grading, the applicant should provide testimony regarding the proposed grading changes, and their impacts, if any on adjacent properties. We defer to the Board engineer on the issue of grading and drainage.
12. The applicant should indicate the off-street parking spaces provided.

E. CONDITIONS AND RECOMMENDATIONS

Should the Board determine that the relief requested should be granted, we recommend that the approval be conditioned upon the following:

1. The applicant must provide any details and/or cost estimates which may be required for any and all improvements, and the posting of any required performance bonds proposed or required by any approvals given by this Board.
2. The Applicant certifying that the proposed new home will not encroach into existing easements (i.e., shade tree, utility, drainage, etc.) without proper consent from the Township, or other party or agency applicable.
3. The Applicant submitting payment of any and all outstanding professional review fees of the Board and the Township.
4. Payment of all COAH Development Fees, where required.
5. The Applicant providing all required plans necessary to show compliance with all required Building Codes to the Building Department at the time of the permit application, including, but not necessarily limited to the following:
 - a. The applicant submitting the required Floodplain Development Application to the appropriate department for compliance review and approval.
 - b. The applicant submitting for a grading permit in accordance with Section 11-1.5.
 - c. The applicant submitting signed and sealed architectural plans of the proposed dwelling in accordance with all testimony and plans provided at the public hearing, as well as applicable building codes.

Page 5

- d. Proof of approval and/or waivers, if required from all agencies having jurisdiction including, NJDEP, CAFRA, the Ocean County Board of Health, the Berkeley Township Sewerage Authority, and the Ocean County Planning Board.

We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

Should you have any questions or we can be of any further assistance on this matter, please don't hesitate to call our office at 732-286-9220.

God Bless America

ARW/ktr

cc: Alex Pavliv, Esq., Board Attorney
Jack Mallon, P.E., Board Engineer
Jason Marciano, P.E., East Coast Engineering – Applicant's Engineer
Idean Barjesteh, Applicant (9 Devonshire Dr., Randolph, NJ 08721)

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Ernst, Ernst Lissenden

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Telephone: 732-349-2215 • Fax: 732-349-4127
Website: www.eelengr.com
March 27, 2013

Berkeley Township Zoning Board of Adjustment
Pinewald-Keswick Road
PO Box B
Bayville, NJ 08721

Re: **BOA # 12-5412**
Applicant: Stephen Gallagher
Application: Construct a Three-Story Residential
Dwelling Unit on an Undersized Lot With
Front and, Rear Side Yard Setback Variances
Block 1402, Lots 1 – 11, 11.01 & 11.02
Fronting on: Balsam Drive & Finch Street
Zone: CR
EE & L Project No. 12B4533-7G05

Dear Ms. Kazmac:

In accordance with your request, our office has reviewed the above referenced variance application for completeness. The following comments are offered in regards to same.

The denial letter dated August 24, 2012 by the Zoning Official states that "Applicant proposes to construct a 3-story SFD on a 0.89 acre lot where 3 acres is require, leaving a 33' front yard setback, 75' required, a 13' rear setback, 50' required, an existing shed 16.2' x 12.1' to remain a pre-existing non-conforming structure".

A. Completeness

1. The applicant has submitted the following information:
 - A plan entitled "Plot Plan Prepared For Stephen Gallagher, Block 1402, Lots 1 – 11, 11.01 & 11.02, Berkeley Township, Ocean County, New Jersey", last revised March 19, 2013, prepared by East Coast Engineering, Inc.
 - Architectural plans entitled "Proposed Two-Story Gallagher Residence, 1009 Balsam Drive, Bayville, New Jersey", consisting of two sheets, last revised September 4, 2012, prepared by Richard Luthringer, Architect.
 - A copy of a CAFRA Permit (CAFRA G.P. 9, CAFRA GP24, Waterfront Development Permit, Water Quality Certificate & SPGP 19) approving the proposed construction.
 - A 200 Ft. Radius Map and Certified Property Owners list within 200 feet of the property.
 - An application and application checklist.
2. Based upon our review, we recommend that this **application be deemed complete** subject to the Applicant complying with all applicable notification requirements as set forth in the Berkeley Township Land Use Ordinance and the Municipal Land Use Law. As such, this application is being placed on the Berkeley Zoning Board of Adjustment's **April 10, 2013** meeting agenda.
3. Notice to property owners and the newspaper (published) must be provided no later than 10 days prior to the meeting date and all proofs of service must be in the Municipal Planning and Zoning office no later than 5 days prior to the meeting. Should you have any questions with regard to noticing requirements, contact the Board office at 732-244-7400.

PRINCIPALS

John A. Ernst, Jr., (1909-1987)
John A. Ernst, III, (Retired)
George C. Lissenden, Jr., (Retired)
John J. Mallon, P.E., C.M.E., P.P.
Robert J. Romano, P.E., C.M.E., P.P.
John N. Ernst, P.E., C.M.E., P.P.

Carl P. Werner, L.S., P.P.
Harold Mathis, Jr., L.S., P.P.



B. General Comments

The property is located on the northeast corner of Balsam Drive and Finch Street. The property lies within the CR Zone and comprises an area of 0.89 acres. The site has been developed with a one-story frame dwelling unit with a concrete pad, a detached shed, wood bulkhead and dock with a driveway form Balsam Drive. Most of the developed portion of the site appears to be a stone surface. The property appears to be serviced by public water and sewer.

In accordance with the FEMA Advisory Base Flood Elevation Map the site is situated in zone 'V' with a base flood elevation of 10, with the Governor's January 24, 2013 declaration, the flood elevation is 11.

The applicant proposes to remove the existing dwelling unit and construct a three story single family dwelling unit within the footprint of the existing dwelling unit and concrete pad. It should be noted that there is a garage, storage area and foyer with no living space on the ground floor. An additional 15 ft. x 44 ft. ground floor patio, a 26 ft. wide stone driveway, a new vinyl bulkhead and removal of the existing wood dock is also proposed. An existing non-conforming wood shed that was removed from the site due to super storm Sandy is to be reconstructed in kind.

C. Variances/Waivers and Items of Discussion

1. A variance is required for the construction of the three story dwelling unit on an undersized lot; whereas 0.89 acres is existing and proposed and 3 acres minimum is required.
2. A variance for insufficient front yard setback is required; whereas 33 ft. is proposed and 75 ft. minimum is required.
3. A variance for insufficient rear yard setback is required; whereas 13.0 ft. is proposed and 50 ft. minimum is required.
4. A 12.1 ft. x 16.2 ft. wood shed which was removed due to Super Storm Sandy is proposed to be rebuilt at the pre-existing location which is non-conforming as it is within the front yard setback and will require a variance.
5. The applicant must provide testimony and proofs supporting the granting of the variances.
6. A waiver from providing curb and sidewalks along roadway frontages is required.
7. A waiver from Section 35.54.a is required; whereas a stone driveway is proposed and a paved driveway consisting of a 2" F.A.B.C. surface course on a 6" thick dense aggregate base course is required for all residential driveways. Perhaps a porous pavement driveway should be considered.
8. Testimony regarding the required waivers should be provided.
9. The existing sanitary sewer and water lines in Balsam Drive should be shown on the Plot Plan. The pavement width should also be indicated on the plan.

D. Conditions and Recommendations

Should the Board determine that the relief requested should be granted, we recommend that the approval be conditioned upon the following:

1. The Applicant shall obtain any and all agency approvals, including but not limited to, CAFRA, NJDEP, Building Department, Fire Department, Health Department, and Engineering Departments, Ocean County Soil Conservation District, Berkeley Township Sewage Authority, Berkeley Township Water Utility, etc., if required.
2. The Applicant certifying that the proposed dwelling unit does not encroach into existing easements (i.e., shade tree, utility, drainage, etc.) without proper consent from the Township, or other party involved, if any.
3. The Applicant shall submit payment of any and all outstanding professional review fees of the Board and the Township.
4. The Applicant shall provide all required plans necessary to show compliance with all required Building Codes and Ordinances, to the Building Department at the time of the permit application.
5. The applicant should submit a Grading Plan.

We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

Re: BOA # 12-5412
Applicant: Stephen Gallagher
Application: Construct a Three-Story Residential
Dwelling Unit on an Undersized Lot With
Front and Rear Side Yard Setback Variances
Block 1402, Lots 1 - 11, 11.01 & 11.02
Fronting on: Balsam Drive & Finch Street
Zone: CR
EE & L Project No. 12B4533-7G05



Page 3 of 3

Should you have any questions or we can be of any further assistance on this matter, please do not hesitate to call our office.

Very truly yours,

John J. Mallon, PE
Zoning Board Engineer

PAG/JJM/jet

cc Anna Wainwright, Board Planner
Alex Pavliv, Board Attorney
East Coast Engineering, Applicant's Engineer
Stephen Gallagher, Applicant, via fax
File

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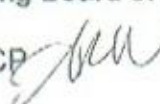
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(201) 624-2136 (fax)

MEMO: Berkeley Township Zoning Board of Adjustment

FROM: Anna Wainwright, PP, AICP Board Planner 

DATE: March 28, 2013

RE: Stephen Gallagher
PLANNING REVIEW #1
Application: SFD on Undersized Lot
Block 1402, Lot 1, 2-11, 11.01, 11.02
1009 Balsam Drive
Zoning District: CR- Conservation/Residential Zone
Plan Title: Plot Plan
Prepared By: Jason M. Marciano, P.E., P.P.
Dated: July 27, 2012, revised through March 19, 2013
Architectural - Richard P. Luthringer, R.A.,
Dated September 23, 2000, revised through January 28, 2013
BOA# 12-5412
Our File: 1506-Z-156

As requested, our office has reviewed the above named variance application and offer the following comments and recommendations:

Zoning Requirements:

CR- Conservation/Residential Zone 35-96.1A - *(existing condition)

| Principal Bldg | Required | Proposed | Variance Requested |
|-----------------------------|-------------------------|-------------------------|---------------------|
| <u>Minimum Lot Area</u> | 3 acres (130,689 SF) | 0.89 acres 38,949 SF | Variance Required * |
| Minimum Lot Frontage | 200 FT | 216.0 FT | None |
| Minimum Lot Depth | 200 FT | 216 FT | None |
| Front Yard Setback | 75 FT | 29 FT | Variance Required |
| Rear Yard Setback | 50 FT | 13 FT | Variance Required |
| Side Yard Setback | 25 FT | 28.55 FT | None |
| Combined Side Yard Setbacks | 50 FT | N/A | None |
| Maximum Lot Coverage | 10% | 5.5% | None |
| Maximum Bldg Height | 35 FT | 32 FT | None |

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A. PROJECT OVERVIEW

The denial states, "Applicant proposes to construct a 3-story SFD on a 0.89 acre lot where 3 acres is required, leaving a 33' front yard setback, 75' required, a 13' rear setback, 50' required, an existing shed 16.2' X 12.1' to remain as pre-existing non-conforming structure." It appears that the applicant requires four variances, one for an existing condition of lot area, the rear yard setback which is the side of the house, and a front yard setback of 29 feet to the front covered porch, and one for the height of the shed (the shed has been removed because of damage, the variances are for proposed structures).

The subject parcel is located along Potters Creek in the central easternmost area of the Township along Barnegat Bay. The property is encumbered by wetlands which encompass approximately 70% of the parcel. The property presently contains a 1 ½ story dwelling which is proposed to be removed in order to construct the new proposed home. The existing home is 920 SF, the proposed home is three stories and 4,356 SF. The applicant has obtained a CAFRA permit to construct the home, under certain conditions.

B. VARIANCES

Even though the lot presently contains an existing home, the non-conforming condition of a dwelling on an undersized lot will be removed or abandoned. So, technically, the applicant must provide similar proofs as would any applicant for construction on an undersized lot. The Applicant should provide to the Board the required proofs necessary for the granting of variances for an "isolated" lot. The Applicant should establish that there is no availability of property which could be purchased to add to the property and eliminate or lessen the variances.

The applicant must have sent certified letters to adjacent property owners asking to purchase additional lands and/or requesting whether or not those owners wished to purchase the subject parcels in the alternative. Proof of same notice and requests should be provided to the Board office, and copied to our office in advance of the meeting date. The applicant should provide enough lead time to adequately satisfy the Board that the neighbors have had sufficient time to respond. The applicant must have made a good faith effort to try to acquire lands which would either eliminate or lessen all variances requested.

Should the applicant satisfy the Board that there is no availability of property, and/or no one wishes to purchase the subject property, then the Board should examine whether or not they believe that the Applicant is proposing a dwelling which will not, and the variances requested will not, cause a substantial detriment to the public good, or be a substantial detriment to the Master Plan and Zoning Ordinance. Reasonable conditions may be imposed and all requested variances should be considered as follows:

Pursuant to the MLUL Section 40:55D-70, the Board of Adjustment may grant a bulk variance request if:

- c(1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property.
- c(2) where in an application or appeal relating to a specific piece of property the purposes of this act...would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

The Board must determine that either the property in question meets any or all of the conditions established above, and/or that the strict adherence to the standards of the Berkeley Township Land Development Ordinance would cause undue hardship to the property owner, and also be satisfied that the granting of the variances will not cause any detriment to the public good, or the Zoning Plan (Master Plan).

The applicant should also provide testimony regarding any requested or required waivers.

C. GENERAL REVIEW COMMENTS

1. The applicant should consolidate all of the existing lots into one new lot, and verify an approved new lot number with the tax assessor.
2. The applicant is proposing to construct a three (3) story (4,356 SF) single family home, where a 1 ½ story (920 SF) home existed. The proposal also contains 1,100 SF of three level patio and decking on the rear of the structure. The applicant should provide to the Board testimony with regard to the size of the new home and its appropriateness to the location and neighborhood.
3. The applicant is proposing a first floor elevation of 13.7 whereas the ABFE for that area is 10 feet, with the 1' freeboard proposed, the first floor elevation could be at 11 feet. Testimony should be provided which discusses the reasons for the proposed first floor elevation, and the decisions made to raise the first floor from the approved 7.25 feet on the CAFRA plans.
4. The permitted building height for the zone is 35 feet, taken from the average finished grade to the mean height between the eaves and ridge. Testimony should be provided as to the finished mean height (maximum) of the proposal.

5. The applicant was required to and received a CAFRA permit for proposed footprint of the home with certain special conditions. Testimony should be provided to address the following conditions and compliance with same:
 - a. Condition #12 – requires the planting of trees on the westerly property side of the home. A plan note should be added to the plans to meet this condition.
 - b. Condition #18 – discusses the lowest habitable floor which shall be “9.0 feet NAVD” (the CAFRA permit was reviewed under previous FEMA regulations). The architectural plans show an elevation of 4. & 4.67 on the garage and foyer. The Condition goes on to require that “The construction of any area below this elevation such as foyers or basements, other than what is shown on the approved plans will require additional permits from the Department”. It would appear that this proposal would require additional permits from the department, as no foyer or “storage area” is shown on the CAFRA plan.
 - c. Condition #22 – stipulates that the garage must have a footprint of no more than 625 square feet, because it is proposed below 6.0 elevation. The proposal is to construct 1,452 SF in garage, foyer and storage areas, below that elevation. It would appear that this is in violation of this condition.
 - d. Condition #19 – requires that the area below the lowest finished floor of the proposed building shall remain “open and accessible to the passage of floodwaters at all times”. The submitted architectural do not appear to provide for any passage of floodwaters, on the lowest level.
6. Any approval must be subject to compliance with all applicable codes and regulations for construction within a floodplain, and any other codes or regulations which may be applicable.
7. The applicant is proposing to connect to public water and sanitary sewer. The applicant should provide testimony and additional details for proposed connections.
8. With regard to grading, it would appear that there is not sufficient room to accommodate the change in grade between the proposed home and the neighboring property without some type swale, or in the alternative move the home further west. The home does not have to maintain the non-conforming setback which could be increased. We defer to the Board engineer on the issue of grading and drainage.
9. The applicant is proposing to reconstruct a non-conforming 16.2' X 12.1' shed in the westerly yard. The applicant should provide testimony with regard to the variance to reconstruct a non-conforming (height) shed, and why a conforming shed could not be constructed since the old one was destroyed. Additionally, testimony should be provided as to why the shed is necessary since the ground floor contains a 700 square foot storage area.
10. The applicant should indicate the off-street parking spaces provided.

11. The applicant should provide testimony regarding any other intentions to landscape the property beyond the trees required by the NJDEP. The easterly side of the home is the location of the only other vegetation on that side, and it will be removed.

E. CONDITIONS AND RECOMMENDATIONS

Should the Board determine that the relief requested should be granted, we recommend that the approval be conditioned upon the following:

1. The applicant must provide any details and/or cost estimates which may be required for any and all improvements, and the posting of any required performance bonds proposed or required by any approvals given by this Board.
2. The Applicant certifying that the proposed new home will not encroach into existing easements (i.e., shade tree, utility, drainage, etc.) without proper consent from the Township, or other party or agency applicable.
3. The Applicant submitting payment of any and all outstanding professional review fees of the Board and the Township.
4. Payment of all COAH Development Fees, where required.
5. The Applicant providing all required plans necessary to show compliance with all required Building Codes to the Building Department at the time of the permit application, including, but not necessarily limited to the following:
 - a. The applicant submitting the required Floodplain Development Application to the appropriate department for compliance review and approval.
 - b. The applicant submitting for a grading permit in accordance with Section 11-1.5.
 - c. The applicant submitting signed and sealed architectural plans of the proposed dwelling in accordance with all testimony and plans provided at the public hearing, as well as applicable building codes.
 - d. Proof of approval and/or waivers, if required from all agencies having jurisdiction including, NJDEP, CAFRA, the Ocean County Board of Health, the Berkeley Township Sewerage Authority, and the Ocean County Planning Board.

We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

Should you have any questions or we can be of any further assistance on this matter, please don't hesitate to call our office at 732-286-9220.

God Bless America

ARW/ktr

cc: Alex Pavliv, Esq., Board Attorney
Jack Mallon, P.E., Board Engineer
Jason Marciano, P.E., East Coast Engineering – Applicant's Engineer
Richard Mazzei, Esq, Applicant's Attorney
Stephen Gallagher, Applicant (7 Jane Drive, Bayville, NJ 08721)

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EAST

SOUTH

WEST

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