

**TOWNSHIP OF BERKELEY  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING AGENDA  
DECEMBER 11, 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. **Paul & Amy Pento**

**BOA# 13-5567**

Variance requested                      SFD, Front, Rear & Combined Side Setbacks

Project:                                      Construct a One Story SFD

Block: 1716                                  Lot: 238.02

Address: 258 24th Avenue              Zone: R-50

Denial reads: "Applicant proposes to construct a deck that will leave a 7.87' front setback (25' required), 4' rear setback (20' required), 11' combined side setback (15' required)".

2. **Carlo & Dora Palombi**

**BOA# 13-5559**

Variance requested                      Undersized Lot, Front, Side & Combined Side Rear Yard Setbacks, Lot Frontage

Project                                        Re-Construct SFD

Block: 1545                                  Lot: 3

Address: 233 Butler Blvd.              Zone: R-64

Denial reads: "Applicant proposes to reconstruct a non-conforming storm damaged SFD with first and second floor additions that will increase the non-conformity. The additions will extend a side wall that has a 5.4 foot setback where 7 feet is required from 16.3 feet to 29 feet horizontally and vertically from 15 feet to 25 feet."

3. **Patricia Mullin**

**BOA# 12-5203**

Variance requested                      Front Yard Setback, Lot Coverage

Project                                        Construct Front Porch, 2<sup>nd</sup> Floor Deck, Third Story Living space & rear yard deck

Block: 1689.06                              Lot: 27

Address: 322 Roberts Ave              Zone: R-64

Denial reads: The denial letter issued May 25, 2012 by the Zoning Official states that a front porch addition and second level front deck are proposed leaving a 14 foot setback where 20 ft. is required and rear second level living space addition and deck. The total construction will increase lot coverage to 43.6% where 35% maximum is allowed.

It appears that the plans have been amended since the issuance of the denial letter as the applicant now proposes the addition of a third story living space and rear yard deck. In addition the front yard setback to the front porch and second story deck is now 12 ft. instead of 14 ft. as quoted in the denial letter.

4. **Krupnick Family Trust**

**BOA # 13-5551**

Variance requested	Front Setback, Bulk Variances, Insufficient Lot Depth
Project	Construct SFD
Block: 775	Lots: 1-5 & 11
Address: 531 Western Blvd.	Zone: C/R

**Denial reads: - "Applicant proposes to construct a SFD on an undersized lot with a 46 foot front setback, 50 feet required, and a 125 foot lot depth, 200 feet required".**

5. **Robert Lange**

**BOA# 13-5566**

Variance requested	Undersized Lot, Combined Side Yard Setbacks
Project	Construct a Two- Story SFD on an undersized lot
Block: 1640	Lots: 1 & 2
Address: Brennan Concourse.	Zone: R-100

**Denial reads: ""Applicant proposes to construct a SFD on a 5000 sf lot where 10000 sf is required and a 25 foot combined sideyard setback where 30 feet is required".**

6. **Perreman Development Group**

**BOA# 13-5555**

Project	Appeal Zoning Official Decision
Block: 1014	Lot: 7
Address: 1046 Route 9	Zone: RHB

**Denial reads: "Zoning Officers decision under 40:55D-70a of the New Jersey Statute. The Zoning Officer has determined that the premises is non-compliant with Section 35-106.5 (copy attached) whereby the applicant proposes to convert a non-conforming residential use to a landscaping and residential remodeling commercial use which is non-conforming commercial uses in the RHB Zone. In addition the applicant has been cited by the Code Enforcement Officer who stated that they were operating a business out of a home which is not permitted at any time in accordance with Chapter 35, Section 131.2 (copy attached).**

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



# Ernst, Ernst Lissenden

A New Jersey Corporation

Certificate of Authorization 24GA27927500  
Consulting Engineers, Planners & Surveyors  
52 Hyers Street, P.O. Box 391 • Toms River, NJ 08754  
Telephone: 732-349-2215 • Fax: 732-349-4127  
Website: [www.eelengr.com](http://www.eelengr.com)

December 3, 2013

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

Re: **BOA #13-5567**  
**2<sup>nd</sup> Review**  
**Applicant: Paul & Amy Pento**  
**Application: Construct a Deck with**  
**Front, Rear and Combined Side Yard Setback Variances**  
**Block 1716, Lot 238.02**  
**Fronting on 24<sup>th</sup> Avenue**  
**Zone: R-50 Zone**  
**EE & L Project No. 12B4533-7P04**

Dear Board Members:

The applicant's attorney has advised me that the plan submitted by TEC Engineering with a revision date of October 1, 2013 was to be used solely for a permit to replace the home within the same foot print. That permit has been issued. Therefore the variances listed in my November 27, 2013 review letter are not applicable.

The applicant submitted a second plan by TEC Engineering, with a revision date of July 1, 2013 which is for a raised deck which is non-compliant with the Ordinance. The variances requested are as follows:

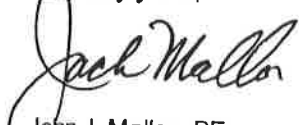
1. Front setback: 35 ft. required; 8 ft. proposed (matches replaced home).
2. Rear setback: 20 ft. required; 4 ft. proposed (matched replaced home).
3. Combined setback: 15 ft. required; 11 ft. proposed (question arises as to property line versus separation line of common elements).

The applicant should address the property line as it is shown on the Tax Map with respect what is shown on the TEC Engineering drawing.

The applicant will need waivers for curb, sidewalk, paved driveway.

All conditions of my November 27, 2013 letter are still applicable.

Very truly yours,



John J. Mallon, PE  
Zoning Board Engineer

JJM/jet

cc Ernie Peters, Board Planner  
Alex Pavliv, Board Attorney  
Paul & Amy Pento, Applicants  
E. Allan MacDuffie, Applicant's Attorney  
TEC Engineering, Applicant's Engineer  
Ronald W. Post, Applicant's Surveyor  
File

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

November 27, 2013

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

**Re: BOA #13-5567**  
**Applicant: Paul & Amy Pento**  
**Application: Construct a One-Story SFD with**  
**Front, Rear and Combined Side Yard Setback Variances**  
**Block 1716, Lot 238.02**  
**Fronting on 24<sup>th</sup> Avenue**  
**Zone: R-50 Zone**  
**EE & L Project No. 12B4533-7P04**

Dear Board Members:

Our office has reviewed the following application for variances submitted for the above referenced property for completeness. The following comments are offered in regards to same.

The denial letter issued on October 18, 2013 by the Zoning Official states "Applicant proposes to construct a deck that will leave a 7.87' front setback (25' required), 4' rear setback (20' required), 11' combined side setback (15' required)".

### A. Completeness

#### 1. The applicant has submitted the following information:

- A plan entitled "Survey of Property w/Topography, Paul & Amy Pento, 258 Twenty Fourth Avenue, Lot 238.02, Block 1716, Berkeley Township, Ocean County, New Jersey", revised on July 1, 2013, prepared by Ronald W. Post Survey.
- A plan entitled "Survey of Property w/Topography & Plot Plan w/ Grading, Paul & Amy Pento, 258 Twenty Fourth Avenue, Lot 238.02, Lot 1716, Berkeley Township, Ocean County, New Jersey, revised on July 1, 2013, prepared by TEC Engineering. (This plan was created with the use of the above mentioned Ronald W. Post Survey).
- A plan entitled "Survey of Property w/ Topography & Plot Plan w/ Grading, Paul & Amy Pento, 258 Twenty Fourth Avenue, Lot 238.02, Lot 1716, Berkeley Township, Ocean County, New Jersey, revised on October 1, 2013, prepared by TEC Engineering. (This plan was created with the use of the above mentioned Ronald W. Post Survey).
- Architectural plans revised June 20, 2013 prepared by Professional Building Systems, Inc.
- Certified property owner's list and map.
- Application and application checklist.
- Applicant's offer to abutting property owners notice.

#### 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 **December 11, 2013 at 6:30 PM** 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.

I have reviewed the submitted information and offer the following comments:

**B. General Comments**

The property is located on the north side of 24<sup>th</sup> Avenue, approximately 118 ft. east of Bayview Avenue and lies within the R-50 (Residential) Zone and comprises an area of 2,500 s.f. The property is currently occupied by a two-story frame dwelling with an enclosed porch, shower, wood deck and wood shed which both encroach onto the adjoining property on the westerly side of the site. In addition, a portion of the wood deck and shower also encroach onto the adjoining property on the northerly side.

In accordance with FEMA Advisory Base Flood Elevation Map the site is situated in Zone "AE" with a base flood elevation of 9 with the Governor's January 24, 2013 proclamation this should be elevation 10.

Per the Plot Plan (revised October 1, 2013) it appears that the applicant proposed to demolish the existing dwelling, shower, wood shed and wood deck and construct an elevated one-story modular 2-bedroom dwelling (on piles) in accordance with the new flood elevation requirements (10.0 is required; whereas 12.33 is proposed). The property is serviced by proposed water and sewer.

**C. Variances/Waivers and Items of Discussion**

1. The following existing non-conformity is grandfathered:
  - a. Lot Area: 5,000 s.f is required; whereas 2,500 s.f exists.
2. The following variances are required:
  - a. Front Setback: 35 ft. is required; whereas 8.00 ft. is proposed (7.81 ft. existing).
  - b. Side Yard Setback: 5 ft. is required; whereas 4.54 ft. is proposed (4.54 ft. existing).
  - c. Rear Yard Setback: 20 ft. is required; whereas 3.73 ft. is proposed (3.59 ft. existing first floor, 0 ft. existing second floor, shower encroaches on Lot 236) .
  - d. Max. Lot Coverage: 35% max. is allowed; whereas 41.36% is proposed
3. The applicant must provide testimony and proofs supporting the granting of the variances.
4. A waiver for not providing sidewalks along the entire property frontage is required.
5. A waiver from providing concrete curb along the edge of pavement is required.
6. A waiver for not constructing a bituminous concrete or concrete material driveway is required.
7. The applicant must provide testimony in support of the requested waivers.
8. The Board should be aware that the application submitted showed on the architectural plans an open elevated deck along the westerly side of the proposed dwelling which is no longer part of this application. Therefore, we offer the following comments:
  - a. A revised set of signed/sealed architectural plans must be submitted.
  - b. The applicant should provide testimony as to the discrepancy with the 4' x 8' open landing. It does not continue along the entire rear of the sunroom. If sliding doors are used to enter the sunroom we recommend the open landing be extended to the dwelling.
  - c. The Plot Plan and architectural plans shall agree.
9. At present are there any drainage problems on the property, adjacent properties or in the street?
10. Is there a nearby drainage system for the site runoff.
11. The applicant should provide testimony for the following:
  - a. What will remain or be removed from the site?

Re: BOA #13-5567  
Applicant: Paul & Amy Pento  
Application: Construct a One-Story SFD with  
Front, Rear and Combined Side Yard Setback Variances  
Block 1716, Lot 238.02  
Fronting on 24<sup>th</sup> Avenue  
Zone: R-50 Zone  
EE & L Project No. 12B4533-7P04



Page 3 of 3

- b. How will the roof runoff from the dwelling be controlled?
- c. Is there a reason why the finished floor elevation at 12.33 is approximately 2 ft. higher than the required 10.0 per the FEMA Advisory Base Flood Elevation?
- d. Have any existing structures been removed?
- e. The applicant should clarify the meaning of the "separation line, common elements" between Lot 238.01 and 238.02.

12. The Board should be aware that parking is noted as being located below the elevated dwelling.

**D. Plat Details**

1. The front setback dimension labeled as "7.87" should be removed.
2. The limit of the crushed stone driveway should be added to the plan.
3. The zoning schedule should define what is an existing non-conformity variance and what variances are being requested.

**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 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 unit 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.
5. Recommend waiver of 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.

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

SA/JJM/jet

cc Ernie Peters, Board Planner  
Alex Pavliv, Board Attorney  
Paul & Amy Pento, Applicants  
E. Allan MacDuffie, Applicant's Attorney  
TEC Engineering, Applicant's Engineer  
Ronald W. Post, Applicant's Surveyor  
Professional Building Systems, Inc., Applicant's Architect  
File



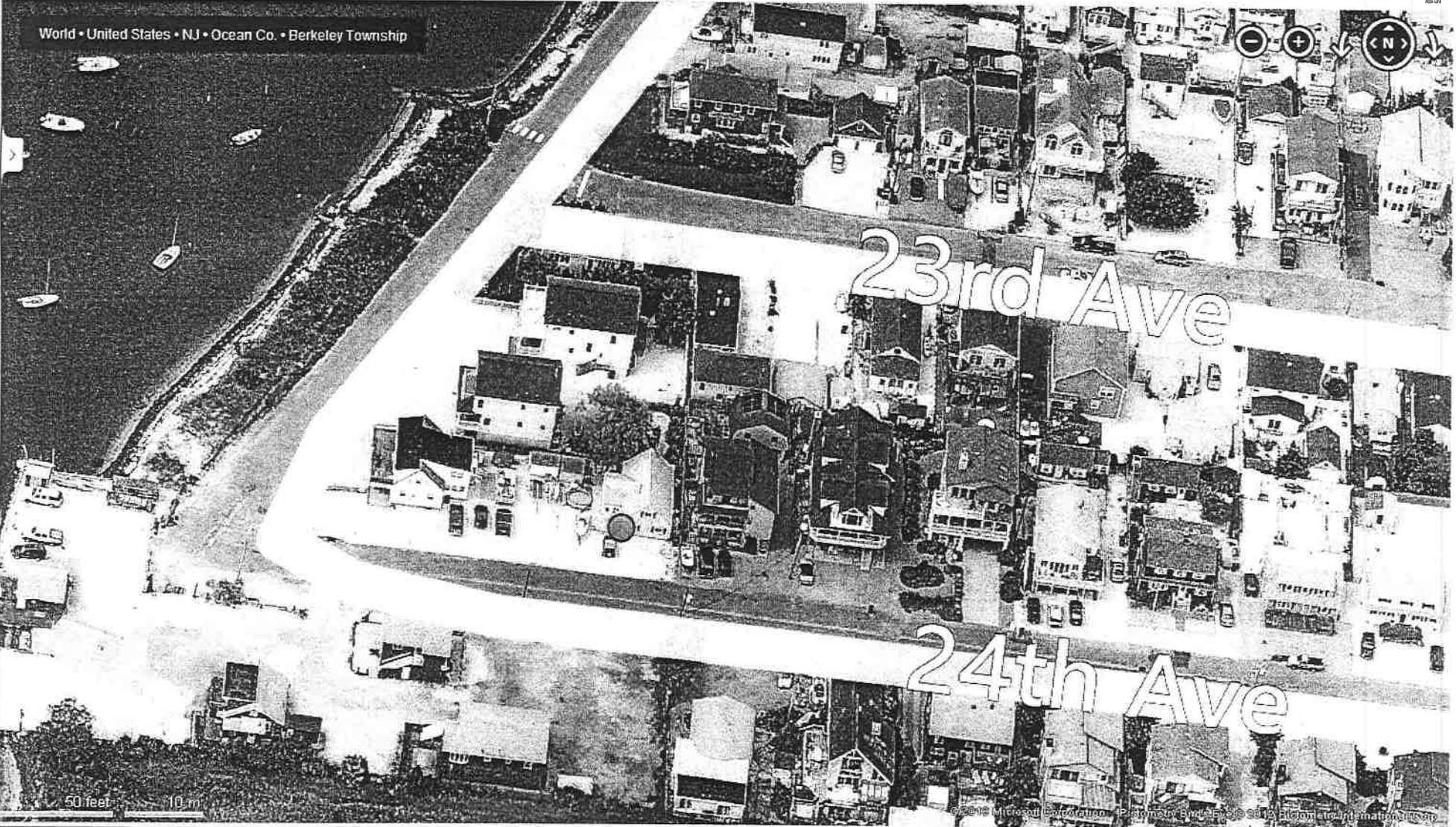
258 24th avenue berkeley nj

Sign in  
0 of 5

Road Bird's eye Traffic

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

November 6, 2013

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

Re: **BOA #13-5559**  
**Applicant: Carlo & Dora Palombi**  
**Application: Reconstruct a Single Family Dwelling on**  
**an Undersized Lot with Front, Side, Combined Side**  
**Yard Setbacks and Lot Frontage Variances**  
**Block 1545, Lot 3**  
**Fronting on Butler Boulevard**  
**Zone: R-64 Zone**  
**EE & L Project No. 12B4533-7P02**

Dear Ms. Kazmac:

In response to my review letter of October 7, 2013 which deemed this application incomplete, the applicant has submitted additional information and we offer the following comments:

The denial letter issued August 13, 2013 by the Zoning Official states that the **"Applicant proposes to reconstruct a non-conforming storm damaged SFD with first and second floor additions that will increase the non-conformity. The additions will extend a side wall that has a 5.4 foot setback where 7 feet is required from 16.3 feet to 29 feet horizontally and vertically from 15 feet to 25 feet."**

### A. Completeness

1. The applicant has submitted the following information:
  - Plan entitled "Proposed Single Family Home, 233 Butler Boulevard, Lot 3, Block 1545, Township of Berkeley, Ocean County, New Jersey", dated October 23, 2013, prepared by Scope Engineering, Inc.
  - A 200 Ft. radius map and certified list of property owners.
  - An application and 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 **December 11, 2013 at 6:30 PM** 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.





I have reviewed the submitted information and offer the following comments:

### **B. General Comments**

The property is located on the northerly side of Butler Boulevard, approximately 330 feet east of North Bay Drive. The property lies in the R-64 zone and comprises an area of 4,800 s.f. The property is currently occupied with a one-story frame dwelling, two (2) sheds, bituminous driveway, a bulkhead along a lagoon, a masonry wall along the westerly property line (adjacent to the property line) and various fencing around the site.

In accordance with the FEMA Preliminary Base Flood Elevation Map the site is situated in zone "AE" with a base flood elevation of 7, with the Governor's January 24, 2013 declaration, the flood elevation is 8. The applicants proposed first floor elevation is 12.0.

The applicant proposes to reconstruct a non-conforming storm damaged single family dwelling (2-story) that will increase the non-conformity. The bituminous driveway will remain and the two (2) sheds and paver sidewalk area in the rear are to be removed.

### **C. Variances/Waivers and Items of Discussion**

1. A variance for lot area; whereas 4,800 s.f. exists and 6,400 s.f. is required.
2. A variance for lot frontage; whereas 60 ft. exists and 80 ft. is required

However the above non-conformities are grandfathered by Ordinance and are pre-existing.

3. The following variances are required:
  - a. Front setback; whereas 25 ft. is required and 21.07 ft. is proposed.
  - b. Side setback; whereas 7 ft. is required and 5.13 ft. is proposed.
  - c. Combined side yard setback; whereas 18 ft. is required and 11.81 ft. is proposed.
4. The applicant must provide testimony and proofs supporting the granting of the variances.
5. A waiver from providing sidewalk along the property frontage is required.
6. A waiver from providing concrete curbing along the edge of pavement is required.
7. The Board should be aware that an increase in impervious coverage surfaces is proposed.
8. At present are there any drainage problems on the property, adjacent properties or in the street?
9. Is there a nearby drainage system for the site runoff?
10. The Board should be aware that the dwelling has roof drains piped directly into the lagoon.
11. No Architectural Plans have been submitted for the proposed two-story dwelling. The board should determine if the plans should be submitted for review. It is recommended that architectural plans be submitted at least ten (10) days prior to the hearing.
12. The approximate parking area is 25 ft. x 10.6 ft. This appears to accommodate only one (1) parking space whereas two (2) spaces should be provided.
13. The proposed decks are at different elevation than the dwelling (over 2 feet). Will they access the dwelling?
14. Will the various types of fencing and masonry wall remain on the site?

### **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:

Re:

BOA #13-5559

Applicant: Carlo & Dora Palombi

Application: Reconstruct a Single Family Dwelling on  
an Undersized Lot with Front, Side, Combined Side  
Yard Setbacks and Lot Frontage Variances

Block 1545, Lot 3

Fronting on Butler Boulevard

Zone: R-64 Zone

EE & L Project No. 12B4533-7P02



Page 3 of 3

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 unit 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.
5. The applicant has requested a Waiver from providing a Grading Plan. Grades are shown on the plan and show positive drainage. It is recommended that the Township Engineer waive the Grading Plan.

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

SA/JJM/jet

cc Ernie Peters, Board Planner  
Alex Pavliv, Board Attorney  
Carlo & Dora Palombi, Applicant  
Scope Engineering, Applicants Engineer  
File



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November 6, 2013

REVISED November 7, 2013

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

Re: **Amended Review**  
**BOA #13-5559**  
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The denial letter issued August 13, 2013 by the Zoning Official states that the "Applicant proposes to reconstruct a non-conforming storm damaged SFD with first and second floor additions that will increase the non-conformity. The additions will extend a side wall that has a 5.4 foot setback where 7 feet is required from 16.3 feet to 29 feet horizontally and vertically from 15 feet to 25 feet."

### A. Completeness

1. The applicant has submitted the following information:

- Plan entitled "Proposed Single Family Home, 233 Butler Boulevard, Lot 3, Block 1545, Township of Berkeley, Ocean County, New Jersey", dated October 23, 2013, prepared by Scope Engineering, Inc. **Revised Map dated November 6, 2013.**
- A 200 Ft. radius map and certified list of property owners.
- An application and checklist.
- **Front and rear elevation prepared by builder.**

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 **December 11, 2013 at 6:30 PM** 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.

I have reviewed the submitted information and offer the following comments:

**B. General Comments**

The property is located on the northerly side of Butler Boulevard, approximately 330 feet east of North Bay Drive. The property lies in the R-64 zone and comprises an area of 4,800 s.f. The property is currently occupied with a one-story frame dwelling, two (2) sheds, bituminous driveway, a bulkhead along a lagoon, a masonry wall along the westerly property line (adjacent to the property line) and various fencing around the site.

In accordance with the FEMA Preliminary Base Flood Elevation Map the site is situated in zone "AE" with a base flood elevation of 7, with the Governor's January 24, 2013 declaration, the flood elevation is 8. The applicants proposed first floor elevation is 12.0.

The applicant proposes to reconstruct a non-conforming storm damaged single family dwelling (2-story) that will increase the non-conformity. The bituminous driveway will remain and the two (2) sheds and paver sidewalk area in the rear are to be removed.

**C. Variances/Waivers and Items of Discussion**

1. A variance for lot area; whereas 4,800 s.f. exists and 6,400 s.f. is required.
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  - b. Side setback; whereas 7 ft. is required and 5.13 ft. is proposed.
  - c. Combined side yard setback; whereas 18 ft. is required and 11.81 ft. is proposed.
4. The applicant must provide testimony and proofs supporting the granting of the variances.
5. A waiver from providing sidewalk along the property frontage is required.
6. A waiver from providing concrete curbing along the edge of pavement is required.
7. The Board should be aware that an increase in impervious coverage surfaces is proposed.
8. At present are there any drainage problems on the property, adjacent properties or in the street?
9. Is there a nearby drainage system for the site runoff?
10. The Board should be aware that the dwelling has roof drains piped directly into the lagoon.
11. No Architectural Plans have been submitted for the proposed two-story dwelling. The board should determine if the plans should be submitted for review. It is recommended that architectural plans be submitted at least ten (10) days prior to the hearing.

**Addressed. Front and rear elevations have been submitted.**

12. The approximate parking area is 25 ft. x 10.6 ft. This appears to accommodate only one (1) parking space whereas two (2) spaces should be provided.

Re:

BOA #13-5559  
Applicant: Carlo & Dora Palombi  
Application: Reconstruct a Single Family Dwelling on  
an Undersized Lot with Front, Side, Combined Side  
Yard Setbacks and Lot Frontage Variances  
Block 1545, Lot 3  
Fronting on Butler Boulevard  
Zone: R-64 Zone  
EE & L Project No. 12B4533-7P02



Page 3 of 3

13. The proposed decks are at different elevation than the dwelling (over 2 feet). Will they access the dwelling?

**Addressed: Amended drawing submitted with decks at same elevation as home.**

14. Will the various types of fencing and masonry wall remain on the site?

**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 unit 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.
5. The applicant has requested a Waiver from providing a Grading Plan. Grades are shown on the plan and show positive drainage. It is recommended that the Township Engineer waive the Grading Plan.

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

SA/JJM/jet

cc Ernie Peters, Board Planner  
Alex Pavliv, Board Attorney  
Carlo & Dora Palombi, Applicant  
Scope Engineering, Applicants Engineer  
File

# REMINGTON & VERNICK ENGINEERS AND AFFILIATES

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November 21, 2013

Ms. Melissa Kazmac, Secretary  
**Berkeley Township Zoning Board**  
Pinewald-Keswick Road, PO Box B  
Bayville, New Jersey 08721

**Re: Application No. 13-5559**  
**Construction of Single Family Dwelling with 'c' Variance Relief**  
**Carlo & Dora Palombi**  
**233 Butler Boulevard, Bayville (Block 1545, Lot 3)**  
Our File: 1506-Z-167

Dear Ms. Kazmac & Board Members:

REMINGTON, VERNICK & VENA has received the above captioned Application for review. Applicant seeks to expand a nonconforming storm-damaged Single-Family Home. The improvements will increase the degree of nonconformity.

Subject is located in the R-64 Zoning District.

This report consists of our review of the Subject Application for conformance with the Berkeley Township Land Development Ordinance (Chapter 35) and is limited to planning issues. Engineering and legal issues shall be reviewed by the Board Engineer and Solicitor, respectively.

Comments are limited to the information presented to date. The Applicant may present additional information and testimony at the Board hearing.

## I. OWNER & APPLICANT INFORMATION

**Owner & Applicant:** Carlo & Dora Palombi  
102 Butler Boulevard  
Bayville, NJ 08721  
% Adele Palombi  
(732) 269-5834

## II. SUBMITTALS

TITLE / DESCRIPTION	PREPARED / SIGNED / SEALED BY	DATE	DATE LAST REVISED
Application Transmittal Memo	Melissa Kazmac	Undated	
Refusal of Permit	John Battisti Zoning Officer	8/13/13	
Appeal to Berkeley Township Board of Adjustment	Applicant	Undated	
Berkeley Township Zoning Board of Adjustment Application		9/17/13	
Site Inspection Permission Form		8/31/13	
Tree Removal Certification		8/31/13	
Notice of Hearing		Undated	

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TITLE / DESCRIPTION	PREPARED / SIGNED / SEALED BY	DATE	DATE LAST REVISED
Applicant's Offer to Abutting Property Owners	Applicant		
Jeffrey W. Accordino		Undated	
Linda M. Leenig		Undated	
Certification of Taxes Paid	Geraldine Dorso, CTC Tax Collector	Undated	
Reproduction of (presumably) Photograph of Subject	Unsigned	Undated	
Checklist L.D. 8: Berkeley Township Application for "C" Variance Checklist		Undated	
Boring Results	Teds Well Service, Inc.	7/11/13	
Tax Map Reproduction (w/ 200' Radius)	Not Discernible	8/27/13	
Adjacent Property Listing	Eric L. Zanelli Tax Assessor	8/27/13	
Front & Rear Building Elevations	Ryan Henninger	2/4/13	
Map of Survey (with notations) Lot 3, Block 1545 Berkeley Township, Ocean County, New Jersey	Lawrence J. Borio, PLS, PP	1/31/13	

### III. ZONING

#### A. Use:

Subject is located in the R-64 Zoning District, which is governed by §36-96.3, which references §36-96.2. §36-96.2 permits detached single-family dwellings for residential purposes, together with their accessory structures.

#### B. Area & Bulk Standards:

ITEM	REQUIRED	PROPOSED <sup>1</sup>	STATUS
Minimum Lot Area	6,000 s.f.	4,800 s.f.	Preexisting Nonconformity <sup>2</sup>
Minimum Lot Frontage	80'	60'	Preexisting Nonconformity <sup>2</sup>
Minimum Lot Depth	n.a.		
Minimum Front Yard Setback	25'	25'	Conforms
Minimum Side Yard Setback	7' (each)	East: 5.4'	Variance Required <sup>3</sup>
		West: 10.5'	Conforms
	18'	15.9'	Variance Required <sup>3</sup>
Minimum Rear Yard Setback	20'	26'	Conforms
Floor Area	864 s.f.	2,464 s.f.	Conforms
Maximum Building Coverage	30%	25.7% <sup>4</sup>	Conforms
Maximum Building Height	35'	Undetermined <sup>5</sup>	Undetermined <sup>5</sup>
<b>Accessory Shed</b>			
Rear Yard Setback	5' <sup>4</sup>	Undetermined <sup>4</sup>	Undetermined <sup>4</sup>
Side Yard Setback	5' <sup>4</sup>	Undetermined <sup>4</sup>	Undetermined <sup>4</sup>
Off-Street Parking	§35-89.12 Minimum 2	Undetermined <sup>6</sup>	Conforms <sup>6</sup>
	RSIS 3 bdrm = 2 spaces.		



Page 3

1. The Borio Map of Survey contains no Zoning Requirements Table and has been reduced from the original version so as not to scale to the stated 1"=20'. This office has done its best to enlarge the drawing to the 1"=20' scale. Measurements are therefore considered accurate if not exact.
2. Nonconformity is a preexisting condition which is not being caused or exacerbated by the proposed activity. The Board may address this issue via Technical 'c' Variance.
3. While the setback for the existing structure is a preexisting condition which is not being caused or exacerbated by the proposed activity (therefore making the condition eligible for a Technical 'c' Variance), the building expansion requires substantive 'c' Variance relief.
4. Assumes sheds depicted on Borio Map of Survey have been demolished. ***Applicant is asked to confirm demolition and whether replacement is intended.***
5. Elevation drawings are not dimensioned or scaled. ***Applicant is asked to confirm building height.***
6. The Borio Map of Survey depicts a 10.5' x 67' driveway along the Subject's westerly side. This space is sufficient for parking the required vehicles.

#### IV. LANDSCAPING

- A. This office has received no Landscaping Plan. ***Applicant is asked to confirm that all planting details are in conformance with applicable sections of §35-48 k & l. Where not in conformance, a variance or waiver is required. A note to this effect is recommended for the Landscaping Plan.***

#### V. VARIANCE(s)

- A. Applicant requests variance relief under N.J.S.A. 40:55D-70(c); commonly referred to as a 'c' or "bulk" variance, for Minimum and Total Side Yard Setbacks.
- B. This office finds preexisting nonconformities for Minimum Lot Area and Minimum Lot Frontage. The Board may address these issues via Technical 'c' relief.
- C. Additional variance relief may be required pending Applicant's response to the issues identified in the body of this report.

In order for the Board to grant a 'c' variance, an Applicant must demonstrate, to the Board's satisfaction, that: (1) such action will relieve peculiar and exceptional practical difficulties or exceptional and undue hardship upon the developer of the subject property resulting from the strict application of the zoning ordinance (typically known as a Hardship Variance); **OR** (2) that granting a variance to allow departure from the zoning ordinance would advance one of the purposes of the Municipal Land Use Law (N.J.S.A. 40:55d-1 et seq. ["MLUL"]) and that the benefits of the deviation would substantially outweigh any detriment (typically known as the Special Reasons). Collectively, these are known as the Positive Criteria.

The granting of a 'c' variance requires the affirmative vote of a majority of the Board members present at the hearing.

The MLUL defines "peculiar and exceptional practical difficulties" and "exceptional and undue

hardship" as:

- (a) [where] 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... would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property...[N.J.S.A. 40:55D-70c(1)]

Under N.J.S.A. 40:55D-2, the MLUL enumerates as its purposes:

- a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;
- b. To secure safety from fire, flood, panic and other natural and man-made disasters;
- c. To provide adequate light, air and open space;
- d. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;
- e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;
- f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;
- g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all NJ citizens;
- h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;
- i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;
- j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land;
- k. To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site;
- l. To encourage senior citizen community housing construction;

- m. *To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;*
- n. *To promote utilization of renewable energy resources;*
- o. *To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to complement municipal recycling programs.*

**Variance Justification**

Applicant states that health issues necessitate the expansion of the dwelling and has provided evidence that attempts to purchase neighboring lands have been unsuccessful.

***Applicant is asked to expand on these issues within the context of the requirements for variance relief detailed above.***

Any resubmissions in response to this report should be accompanied by a point-by-point response to all items, *with revisions on the plans clouded or highlighted to indicate changes.* In order to facilitate the Board's decision making process, Applicants are strongly encouraged to resolve as many items as possible prior to the hearing on this matter.

As always, Board members, Applicants and their professionals should feel free to contact me in our Pleasantville office if they have any questions or require additional information.

Respectfully Submitted,  
Remington, Vernick & Vena Engineers  
by



Stuart B. Wiser, P.P., AICP  
Corporate Associate  
Regional Director of Planning & Redevelopment

SBW:/ag

cc: Alex Pavliv, Esq. – Board Attorney  
Jack Mallon, P.E. – Board Engineer  
Carlo and Dora Palombi – Applicant (102 Butler Blvd., Bayville, NJ 08721)

233 butler place berkeley nj



Sign in  
0 of 5



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# Ernst, Ernst Lissenden

A New Jersey Corporation

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## PRINCIPALS

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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.

September 24, 2012

Berkeley Township Zoning Board of Adjustment

Pinewald-Keswick Road

P.O. Box B

Bayville, NJ 08721

Re: **BOA #12-5203**

**Applicant: Patricia Mullin**

**Application: Front Yard Setback & Exceeding Lot Coverage  
Block 1689.06, Lot 27**

**Fronting on Roberts Avenue.**

**Zone: R-31.5**

**EE & L Project No. 12B4533-7 M05**

Dear Ms. Kazmac:

In response to my review letter of June 28, 2012, the applicant has submitted additional information and our office has reviewed the above referenced variance application for completeness. The following comments are offered with regard to same.

The denial letter issued May 25, 2012 by the Zoning Official states that a front porch addition and second level front deck are proposed leaving a 14 foot setback where 20 ft. is required and rear second level living space addition and deck. The total construction will increase lot coverage to 43.6% where 35% maximum is allowed.

It appears that the plans have been amended since the issuance of the denial letter as the applicant now proposes the addition of a third story living space and rear yard deck. In addition the front yard setback to the front porch and second story deck is now 12 ft. instead of 14 ft. as quoted in the denial letter.

### A. Completeness

1. 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 October 10, 2012 meeting agenda.
2. 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 north side of Roberts Avenue approximately 521 ft. west of Bay View Avenue. The property lies within the R-31.5 zone and comprises an area of 3,150 s.f. The site has been developed with a two story single family dwelling unit with a concrete driveway and patio. A paved road with a concrete curb is present along the entire property frontage.

The property lies within Flood Zone AE with a base flood elevation of 5.0.

The applicant now proposes to construct a first story porch and second story deck in the front yard and a second story living area and deck in the rear yard. The applicant also proposes to construct a third story living space with a deck in the rear yard. The existing concrete driveway will remain and a new patio at grade is to be constructed in the rear yard.

Re:

BOA #12-5203

Applicant: Patricia Mullin

Application: Front Yard Setback & Exceeding Lot Coverage

Block 1689.06, Lot 27

Fronting on Roberts Avenue

Zone: R-31.5

EE & L Project No. 12B4533-7 M05



Page 2 of 2

1. A front yard setback variance is required as the proposed setback to the proposed first story porch and second story deck is 12 ft.; whereas 20 ft. minimum is required.
2. A rear yard setback variance is required as the proposed setback to the second story deck 9.44; whereas 10 ft. minimum is required.
3. A variance for exceeding the maximum lot coverage is required as the proposed lot coverage is 43.6%; whereas 35% maximum is allowed.
4. The applicant is to provide testimony supporting the granting of the variances.
5. The survey indicates that stormwater is directed away from the building to the east and west property lines and then is directed to the street and what appears to be vacant property to the rear of the site. Testimony verifying this should be provided.
6. The survey indicates that the crawl space is at elevation 6.64 while the finished first floor is at elevation 10.05 while the elevation certificate indicates the finished first floor elevation to be 10.04. Testimony should be provided on continuing the additional stormwater from the front expansion in the front yard. The rear portion flows to a vacant wooded area which appears to be unbuildable.
7. 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 variance will not cause any detriment to the public good, or the Zoning Plan (Master 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, etc., if required.
2. The Applicant certifying that the proposed building addition 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

JJM/jet

cc Anna Wainwright, Board Planner  
Alex Pavliv, Board Attorney  
Patricia Mullin, Applicant  
Ronald W. Post, Applicant's Surveyor  
Melillo Architecture, Applicant's Architect  
File



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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.

November 19, 2013

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

**Re: BOA # 13-5551**  
**Applicant: Krupnick Family Trust**  
**Application: Construct a Single Family**  
**Dwelling Unit on a Lot With Insufficient Depth &**  
**Front Setbacks and Bulk Variances**  
**Block 775, Lots 1-5 & 11**  
**Fronting on: Western Blvd. & Southern Blvd.**  
**Zone: Conservation/Residential Zone (C/R)**  
**EE & L Project No. 12B4533-7K05**

Dear Ms. Kazmac:

Our office has reviewed the above referenced variance application for completeness. The following comments are offered in regards to same.

The denial letter issued on July 30, 2013 by the Zoning Official states that the "Applicant proposes to construct a SFD on an undersized lot with a 46 foot front setback, 50 feet required, and a 125 foot lot depth, 200 feet required".

### **A. Completeness**

1. The applicant has submitted the following information:
  - A plan entitled "Property Development Plan, Applicant: Krupnick Family Trust, Lots 1 – 5 & 11 ~ Block 775, Berkeley Township, Ocean County, New Jersey", revised on August 27, 2013, prepared by Nelke Constantine & Associates., Inc.
  - A plan entitled "Plan of Survey, Lot 1 – 5 & 11 ~ Block 775, Tax Map Sheet #57, Berkeley Township, Ocean County, New Jersey", dated April 3, 2013, prepared by Nelke Constantine & Associates., Inc.
  - Architectural plans prepared by Michele DiSalvo (last revised on May 7, 2010).
  - A 200 ft. owners list and certified property owners list.
  - An application with 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 **December 11, 2013 at 6:30 PM** 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

Re: BOA # 13-5551  
Applicant: Krupnick Family Trust  
Application: Construct a Single Family  
Dwelling Unit on a Lot With Insufficient Depth &  
Front Setbacks and Bulk Variances  
Block 775, Lots 1-5 & 11  
Fronting on: Western Blvd. & Southern Blvd.  
Zone: Conservation/Residential Zone (C/R)  
EE & L Project No. 12B4533-7K05



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 northeast corner of Southern Boulevard and Western Boulevard and lies in the C/R Zone and comprises an area of 15,625 s.f. The property is currently vacant and wooded.

The site appears to be situated in Woodmansie Series Soils which are well drained soils and having a seasonal high water table expected to be greater than 6 ft. from the surface of the ground.

The Flood Insurance Rate Map indicates that the property is situated on Flood Zone "X" (unshaded) which is an area determined to be outside the 0.2% annual chance flood plain. The FEMA Advisory Base Flood elevation Map (ABFE) indicates that this area remains unchanged. Freshwater wetlands do not appear to be present onsite.

The applicant proposes to construct a two-story frame dwelling unit with a driveway onto Southern Boulevard, three (3) stone pits for roof drainage purposes, a potable well for water service and a septic field for sewage.

#### **C. Variances/Waivers and Items of Discussion**

1. The following variances are required:
  - a. Lot area: 15,625 s.f. exists; whereas 130,680 s.f. is required.
  - b. Lot frontage: 125 ft. exists; whereas 200 ft. is required.
  - c. Lot Depth: 125 ft. exists; whereas 200 ft. is required

\* the above variances are existing non-conformities.

  - d. Front yard setback: 46 ft. and 57.7 ft. are proposed; whereas 75 ft. is required.
2. The applicant must provide testimony and proofs supporting the granting of the variance.
3. It appears that the applicant is seeking waivers from providing curb and sidewalk. Currently no curb or sidewalk is present on Southern Boulevard which is the driveway access for the dwelling. Curb exists on Western Boulevard.
4. The applicant must provide testimony in support of the above requested waivers.
5. Has any clearing of the site been performed since the submitted survey dated April 13, 2013?
6. The Board should be aware that "generic" architectural plans have been submitted with the application. We recommend that site specific plans be submitted for review and approval prior to the hearing or at least change the Title Block.
7. Has the applicant attempted to buy or sell property to make this lot more conforming to the Zoning Ordinance?
8. The applicant should address control of runoff from impervious surfaces.
9. How does the development of this lot affect the Master Plan and Zoning Ordinance?

#### **D. Plat Details**

1. The required lot area in the zoning schedule should read 130,680 s.f.
2. Note 5 should be revised to show the dense aggregate base will be 6" thick.

Re: BOA # 13-5551  
Applicant: Krupnick Family Trust  
Application: Construct a Single Family  
Dwelling Unit on a Lot With Insufficient Depth &  
Front Setbacks and Bulk Variances  
Block 775, Lots 1-5 & 11  
Fronting on: Western Blvd. & Southern Blvd.  
Zone: Conservation/Residential Zone (C/R)  
EE & L Project No. 12B4533-7K05



Page 3 of 3

**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 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 submission of a Grading Plan per Township Ordinance.

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

SA/JJM/jet

cc Ernie Peters, Board Planner  
Alex Pavliv, Board Attorney  
Nelke Constantine & Associates, Applicant's Engineer  
Krupnick Family Trust, Applicant  
John Doyle, Applicant's Attorney  
File

# REMINGTON & VERNICK ENGINEERS AND AFFILIATES

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Remington & Vernick Engineers  
232 Kings Highway East  
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(856) 795-9595  
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Remington, Vernick  
& Vena Engineers  
9 Allen Street  
Toms River, NJ 08753  
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(732) 691-2815 (fax)

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& Walberg Engineers  
845 North Main Street  
Pleasantville, NJ 08232  
(609) 645-7110  
(609) 645-7076 (fax)

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Wildwood City, NJ 08260  
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(609) 522-5313 (fax)

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& Beach Engineers  
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(610) 940-1161 (fax)

73 West Main Street, Rear  
Mechanicsburg, PA 17055  
(717) 766-1775  
(717) 766-0232 (fax)

1000 Church Hill Road, Suite 220  
Pittsburgh, PA 15205  
(412) 263-2200  
(412) 263-2210 (fax)

Univ. Office Plaza, Bellevue Building  
262 Chapman Road, Suite 105  
Newark, DE 19702  
(302) 266-0212  
(302) 266-6208 (fax)

Remington, Vernick  
& Arango Engineers  
The Presidential Center  
Lincoln Building, Suite 600  
101 Route 130  
Cinnaminson, NJ 08077  
(856) 303-1245  
(856) 303-1249 (fax)

300 Penhorn Avenue, 3rd Floor  
Secaucus, NJ 07094  
(201) 624-2137  
(201) 624-2136 (fax)

November 21, 2013

Ms. Melissa Kazmac, Secretary  
Berkeley Township Zoning Board  
Pinewald-Keswick Road, PO Box B  
Bayville, New Jersey 08721

Re: Application No. 13-5551  
Construction of Single Family Dwelling with 'c' Variance Relief  
Krupnick Family Trust  
531 Western Boulevard, Bayville (Block 775, Lots 1-5 & 11)  
Our File: 1506-Z-170

Dear Ms. Kazmac & Board Members:

REMINGTON, VERNICK & VENA has received the above captioned Application for review. Applicant seeks to construct a Single-Family Home on an undersized lot.

Subject is located in the Conservation / Residential (CR) Zoning District.

This report consists of our review of the Subject Application for conformance with the Berkeley Township Land Development Ordinance (Chapter 35) and is limited to planning issues. Engineering and legal issues shall be reviewed by the Board Engineer and Solicitor, respectively.

Comments are limited to the information presented to date. The Applicant may present additional information and testimony at the Board hearing.

## I. OWNER & APPLICANT INFORMATION

Owner & Applicant: Krupnick Family Trust  
PO Box 109  
Lakewood, NJ 08701  
% Alan Krupnick  
(732) 363-6000

## II. SUBMITTALS

TITLE / DESCRIPTION	PREPARED / SIGNED / SEALED BY	DATE	DATE LAST REVISED
Application Transmittal Memo	Melissa Kazmac	10/31/13	
Refusal of Permit <sup>1</sup>	John Battisti Zoning Officer	7/30/13	
Appeal to Berkeley Township Board of Adjustment <sup>1</sup>	Applicant	10/11/13	
Berkeley Township Zoning Board of Adjustment Application <sup>1</sup>		Undated	
Site Inspection Permission Form <sup>1</sup>		10/11/13	
Tree Removal Certification		10/11/13	
Notice of Hearing <sup>1</sup>		Undated	

N:\SECRETAR\BERKZONE\Z170\1506Z170 - Krupnick Family Trust - Appl #13-5551 - as submitted.doc

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#### IV. LANDSCAPING

- A. This office has received no Landscaping Plan. *Applicant is asked to confirm that all planting details are in conformance with applicable sections of §35-48 k & l. Where not in conformance, a variance or waiver is required. A note to this effect is recommended for the Landscaping Plan.*

#### V. VARIANCE(s)

- A. Applicant requests variance relief under N.J.S.A. 40:55D-70(c); commonly referred to as a 'c' or "bulk" variance, for Minimum Lot Area, Minimum Lot Frontage, Minimum Lot Depth and Minimum Front Yard Setback.
- B. This office finds that the nonconformities for Lot Area, Lot Frontage and Lot Depth appear to be preexisting nonconformities that may be addressed via Technical 'c' relief.
- C. Additional variance relief may be required pending Applicant's response to the issues identified in the body of this report.

In order for the Board to grant a 'c' variance, an Applicant must demonstrate, to the Board's satisfaction, that: (1) such action will relieve peculiar and exceptional practical difficulties or exceptional and undue hardship upon the developer of the subject property resulting from the strict application of the zoning ordinance (typically known as a Hardship Variance); OR (2) that granting a variance to allow departure from the zoning ordinance would advance one of the purposes of the Municipal Land Use Law (N.J.S.A. 40:55d-1 et seq. ["MLUL"]) and that the benefits of the deviation would substantially outweigh any detriment (typically known as the Special Reasons). Collectively, these are known as the Positive Criteria.

The granting of a 'c' variance requires the affirmative vote of a majority of the Board members present at the hearing.

The MLUL defines "peculiar and exceptional practical difficulties" and "exceptional and undue hardship" as:

- (a) [where] 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... would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property...[N.J.S.A. 40:55D-70c(1)]*

Under N.J.S.A. 40:55D-2, the MLUL enumerates as its purposes:

- a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;
- b. To secure safety from fire, flood, panic and other natural and man-made disasters;
- c. To provide adequate light, air and open space;

- d. *To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;*
- e. *To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;*
- f. *To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;*
- g. *To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all NJ citizens;*
- h. *To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;*
- i. *To promote a desirable visual environment through creative development techniques and good civic design and arrangement;*
- j. *To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land;*
- k. *To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site;*
- l. *To encourage senior citizen community housing construction;*
- m. *To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;*
- n. *To promote utilization of renewable energy resources;*
- o. *To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to complement municipal recycling programs.*

#### Variance Justification

Applicant has provided no justification for the variance requests. ***Applicant is asked to address these issues within the context of the requirements for variance relief detailed above.***

Any resubmissions in response to this report should be accompanied by a point-by-point response to all items, *with revisions on the plans clouded or highlighted to indicate changes.* In order to facilitate the Board's decision making process, Applicants are strongly encouraged to resolve as many items as

Berkeley Township Zoning Board  
Our File: 1506-Z-170

Page 6

possible prior to the hearing on this matter.

As always, Board members, Applicants and their professionals should feel free to contact me in our Pleasantville office if they have any questions or require additional information.

Respectfully Submitted,  
**Remington, Vernick & Vena Engineers**  
by



Stuart B. Wiser, P.P., AICP  
Corporate Associate  
Regional Director of Planning & Redevelopment

SBW:/ag

cc: Alex Pavliv, Esq. – Board Attorney  
Jack Mallon, P.E. – Board Engineer  
Krupnick Family Trust – Applicant (P.O. Box 109, Lakewood, NJ 08701)







# Ernst, Ernst Lissenden

A New Jersey Corporation

Certificate of Authorization 24GA27927500  
Consulting Engineers, Planners & Surveyors  
52 Hyers Street, P.O. Box 391 • Toms River, NJ 08754  
Telephone: 732-349-2215 • Fax: 732-349-4127  
Website: [www.eelengr.com](http://www.eelengr.com)

## 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.

November 27, 2013

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

**Re: BOA #13-5566**  
**Applicant: Robert N. Lange**  
**Application: Construct a Two-Story SFD on an**  
**Undersized Lot with a Combined Side Yard Setback**  
**Variance**  
**Block 1640, Lots 1 & 2**  
**Fronting on Brennan Concourse**  
**Zone: R-100 Zone**  
**EE & L Project No. 12B4533-7L03**

Dear Board Members:

Our office has reviewed the following application for variances submitted for the above referenced property for completeness. The following comments are offered in regards to same.

The denial letter issued on October 17, 2013 by the Zoning Official states "Applicant proposes to construct a SFD on a 5000 sf lot where 10000 sf is required and a 25 foot combined sideyard setback where 30 feet is required".

### A. Completeness

1. The applicant has submitted the following information:
  - A plan entitled "Survey Map, Block 1640, Lots 1 & 2, Berkeley Township, Ocean County, New Jersey", dated September 17, 2013, prepared by East Coast Engineering, Inc.
  - A plan entitled "Plot Plan, prepared for Robert N. Lange, Block 1640, Lots 1 & 2, Berkeley Township, Ocean County, New Jersey", dated November 20, 2013, prepared by East Coast Engineering, Inc.
  - Architectural plan, dated October 24, 2013, prepared by Dario Architecture Design.
  - Certified property owner's list and map.
  - 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 **December 11, 2013 at 6:30 PM** meeting agenda.

Re: BOA #13-5566  
Applicant: Robert N. Lange  
Application: Construct a Two-Story SFD on an  
Undersized Lot with a Combined Side Yard Setback  
Variance  
Block 1640, Lots 1 & 2  
Fronting on Brennan Concourse  
Zone: R-100 Zone  
EE & L Project No. 12B4533-7L03



Page 2 of 3

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.

I have reviewed the submitted information and offer the following comments:

**B. General Comments**

The property is located on the southeasterly corner of Brennan Concourse and Hurley Avenue and lies in the R-100 (Residential) Zone and comprises an area of 5,000 s.f. At present the property is vacant of structures but is partially wooded. There is existing water and sewer located on the intersecting streets.

In accordance with FEMA Advisory Base Flood Elevation Map the site is situated in Zone "AE" with a base flood elevation of 8 with the Governor's January 24, 2013 proclamation this should be elevation 9.

The applicant proposes to construct a two-story dwelling in accordance with the new flood elevation requirements that will be accessed by a proposed concrete driveway along Hurley Avenue. In addition, the construction of retaining wall along the south and east property lines is proposed.

**C. Variances/Waivers and Items of Discussion**

1. The following variances are required:
  - a. Minimum Lot Area: 10,000 s.f is required; whereas 5,000 s.f. exists.
  - b. Minimum Lot Frontage: 100 ft. is required; whereas 50 ft. exists.
  - c. Minimum Front Setback: 35 ft. is required; whereas 14.9 ft. is proposed.
  - d. Minimum Rear Setback: 100 ft. is required; whereas 24.9 ft. is proposed.
2. The applicant must provide testimony and proofs supporting the granting of the variances.
3. A waiver for not providing sidewalks along the entire property frontage is required.
4. A waiver from providing concrete curb along the entire frontage is required. There does appear to be existing curb at the southeasterly curb return at the intersection or each side of the existing inlet.
5. Has the applicant attempted a Buy-Sell Agreement with the neighboring properties to attempt to minimize the proposed variances?
6. An existing storm inlet has been located at the southeasterly intersection. The proposed drainage flow appears to go in that direction. However, please provide testimony to determine where the existing drainage systems outfalls.
7. How will roof runoff be handled for the proposed dwelling?
8. The Plot plan proposes a block wall along the easterly and southerly property lines. The southeast corner has a wall height of 2 ft. The property has a low point in this corner and the wall blocks the flow of water from the adjoining properties. The applicant should amend the plan to address this.
9. How does the development of this lot affect the Master Plan and Zoning Ordinance?
10. There appears to be a discrepancy between the proposed elevations and dwelling/steps shown on the Plot Plan and the design shown on the architectural plan. Please clarify. In addition, the block and lot shown on the architectural plan is incorrect and should be revised.
11. Proposed heights of the dwelling must be shown on the architectural plan. We are unable to verify the proposed building height. The Plot Plan indicates 26.5 ft. ±.

Re: BOA #13-5566  
Applicant: Robert N. Lange  
Application: Construct a Two-Story SFD on an  
Undersized Lot with a Combined Side Yard Setback  
Variance  
Block 1640, Lots 1 & 2  
Fronting on Brennan Concourse  
Zone: R-100 Zone  
EE & L Project No. 12B4533-7L03



Page 3 of 3

12. Per R.S.I.S. Standards, two (2) parking spaces must be provided for the dwelling. It appears there might not be adequate space for two (2) vehicles without one projecting into the right-of-way. The applicant should provide testimony.
13. The plan shows proposed water and sewer connecting into Hurley Avenue however, there are no existing utilities shown in this area. The existing water and sewer should be added to the plan.
14. The Board should be aware that a Sight Triangle Easement measured 25 feet from the corner of each street right-of-way line is required. This must also be shown on the Plot Plan and an easement.

**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 unit 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.
5. Submission of 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.

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

SA/JJM/jet

cc Ernie Peters, Board Planner  
Alex Pavliv, Board Attorney  
Robert N. Lange, Applicants  
East Coast Engineering, Applicant's Engineer  
File



hurley avenue berkeley nj

Sign in 0 of 5

Road Bird's eye Traffic Fullscreen Print Share





# Ernst, Ernst Lissenden

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Consulting Engineers, Planners & Surveyors  
52 Hyers Street, P.O. Box 391 • Toms River, NJ 08754  
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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.

November 26, 2013

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

Re: **BOA #13-5555**  
**Applicant: Perreman Development group**  
**Application: Appeal of Zoning Official Decision**  
**Block 1014, Lot 7**  
**Address: 1046 Route 9**  
**Zone: RHB-Zone**  
**EE & L Project No. 12B4533-7P03**

Dear Board Members:

Our office has reviewed the following application for an appeal of the Zoning Officers decision under 40:55D-70a of the New Jersey Statute. The Zoning Officer has determined that the premises is non-compliant with Section 35-106.5 (copy attached) whereby the applicant proposes to convert a non-conforming residential use to a landscaping and residential remodeling commercial use which is non-conforming commercial uses in the RHB Zone. In addition the applicant has been cited by the Code Enforcement Officer who stated that they were operating a business out of a home which is not permitted at any time in accordance with Chapter 35, Section 131.2 (copy attached).

The following comments are offered in regards to same:

### A. Completeness

1. The applicant has submitted the following:
  - A Berkeley Township Zoning Permit Application;
  - An Appeal to the Zoning Board of Adjustment;
  - Letter from Perreman Development Group, LLC, dated August 18, 2013 explaining why they are compliant with various pictures of the site;
  - Copies of Section 35-106.5 Rural Highway Business Zone and Section 106.1 Neighborhood Business Zone.
  - The applicant indicates that a survey by Ronald W. Post was submitted however no survey was received.
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 **December 11, 2013 at 6:30 PM** 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

Re: BOA #13-5555  
Applicant: Perreman Development group  
Application: Appeal of Zoning Official Decision  
Block 1014, Lot 7  
Address: 1046 Route 9  
Zone: RHB-Zone  
EE & L Project No. 12B4533-7P03



Page 2 of 2

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.

I have reviewed the submitted information and offer the following comments:

**B. General Comments**

This property is located on the northwest corner of Harbor Inn Road and Route 9 in the Bayville section of Berkeley Township. The property is located in the RHB Zone (Rural Highway Business) Zone. I have attached copies of the Section 35-106.5 RHB Zone which indicates the permitted uses. Also attached find a copy of the NB (Neighborhood Business) Zone Section 35-106.1 as the RHB Zone permits uses from the NB zone.

The applicant's appeal takes the position that the use of landscaping and residential remodeling commercial use is permitted in the zone. It shall be the Board's decision upon hearing the testimony to either uphold the Zoning Officer's decision thus requiring a use variance or to interpret the Ordinance that the use is a permitted use which would then revert it back to the Zoning Officer to determine if sufficient material was submitted for permits to be issued.

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

Enclosure

JJM/jet

cc Ernie Peters, Board Planner  
Alex Pavliv, Board Attorney  
Perreman Development Group, Applicant  
John DeVincens, Applicant's Attorney  
File



**REFUSAL OF PERMIT  
OFFICE OF THE ZONING ENFORCEMENT OFFICER  
OF  
BERKELEY TOWNSHIP**

Date: 08/16/2013  
Re:Application#: 44636  
To:  
PERREMAN DEVELOPMENT GROUP  
1046 ROUTE 9  
BAYVILLE NJ 08721

BOA # 13-5555

Voucher/Receipt#	341427
Check #:	665
Amount collected	\$ 60.00
RHB ZONE	

Your application for a permit to:  
Change of Use

on the property at 1046 ROUTE 9 BAYVILLE Block: 1014 Lot: 7

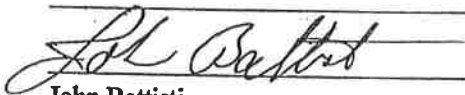
has been denied for noncompliance with provisions of Article (s): 35-106 Sections :5 of the Municipal Zoning Ordinance for the following reasons:

Applicant proposes to convert a non-conforming residential use to a landscaping and residential remodeling commercial use which are non-conforming commercial uses in the RHB zone.

Information on procedures for an appeal of this decision to the Board of Adjustment can be obtained from the Secretary of the Board of Adjustment. It should be noted that under State Statute, notice of appeal of this decision must be filed with this office not later than (20) days from the date of this notice. You can also file for a variance to the board of Adjustment and can obtain from the Secretary of the Board of Adjustment the required forms .

The permit which you submitted has been placed in the inactive files in the Community Development Office / Construction Code Department / Zoning Department. Please contact this office to reactivate the permit.

Denied by:

  
John Battisti

Zoning Official

CC: Board Secretary  
Permit  
Letter  
John Battisti, Zoning Official

Variance application fees \$250.00  
Initial variance escrow fees \$100.00  
Two separate checks required

**TOWNSHIP OF BERKELEY**

627 Pinewald Keswick Road

P.O. Box B

Bayville, NJ 08721-0287

www.berkeleytownship.org

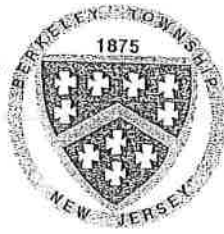
**BUREAU OF CODE ENFORCEMENT**

Kenneth Anderson, Code Enforcement Officer

Phone: (732) 244-7400

Fax: (732) 244-6227

Email: codeenforcement@twp.berkeley.nj.us



**BERKELEY**

**TOWNSHIP**

8/13/2013

Perrman Development  
1046 Route 9  
Bayville, NJ 08721

RE: 1046 Route 9

Dear Property Owner,

It has come to the attention of this office that the above captioned property has;  
Operating a business out of a home in not permitted at anytime.

This is in direct violation of the following Berkeley Township Codes(s):

Chapter	Section	Description
35	131.2	ZONING PERMITS & PROCEDURE

Accordingly, it is required that you correct within ten (10) days of this notice. Failure to comply with this request will result in the filing of a formal complaint with the Municipal Court of Berkeley Township. Please feel free to contact this office with any questions or comments you may have.

Very truly yours,

*Kenneth Anderson*

Kenneth Anderson  
Code Enforcement Officer

KA:aww

## Article XIV Enforcement

## 35-131 ZONING OFFICER.

## 35-131.1 Appointment, Duties and Records.

a. *Appointment and Duties.*

1. The Township Council shall appoint a Zoning Officer, who shall be authorized to and shall administer and enforce the provisions of this chapter. At the discretion of the Township Council, the position may be held by the Building Subcode Official.
2. The Zoning Officer shall receive applications for zoning permits. In no case shall a permit be granted by the Zoning Officer for the construction, alteration or use of any building or land that would be in violation of this chapter.
3. The Zoning Officer or his duly authorized agent shall have the right to enter and inspect any building or premises and examine any plans during the daytime course of his duties to determine whether or not any construction, alteration or use of any building or use of land is in conformance with any permit issued therefor under the provisions of this chapter.
4. The Zoning Officer shall order, in writing, the remedying of any conditions or the cessation of any construction, alterations or use found to be in violation of any provision of this chapter or of any conditions which may have been attached to the issuance of a permit to construct, alter or use a building or lot by an official or official body of the Township of Berkeley.

b. *Records.*

1. The Zoning Officer shall keep a record of all applications for permits and certificates issued and denied, together with all notations of specific conditions involved. He shall file and safely keep copies of all site plans and information supplemental thereto, which shall be part of the records of his office and shall be available for the use of the Township Council and other officials of the Township of Berkeley, County or State.
2. The Zoning Officer shall prepare a monthly report for the Township Council, summarizing for the period since his last previous report all permits issued and all violations found and consequent actions taken by him.

- c. *Advisement.* Should the Zoning Officer be in doubt as to the meaning or intent of any provision of this chapter, as to the location of a district boundary line on the Zoning Map or as to the propriety of issuing any permit in any particular case, he shall request a ruling from the Board of Adjustment as to its interpretation and decision.

(Ord. No. 94-29 § 118-19)

## 35-131.2 Zoning Permits and Procedures.

- a. No construction, alteration or excavation for any building or other structure nor any use of building or land shall be begun without the issuance of a permit by the Zoning Officer indicating the proposal is in compliance with the provisions and requirements of this chapter.
- b. All applications for permit shall be made on forms provided by the Zoning Officer. Each such application shall be accompanied by a plan drawn to such scale as required to show exact dimensions and locations of all buildings, yards, lot lines, off-street parking and such other appropriate details and information as may be necessary to provide for the administration of this chapter. All dimensions shown on these plans relating to the lot to be used or built upon shall be based on actual survey, deed description or an approved subdivision plat. Should the application for zoning permit involve the construction, addition or enlargement of a building or structure regulated by maximum height provisions of this chapter, or where a two-dimensional drawing is insufficient for determining compliance with certain provisions of this chapter, the Zoning Officer may require building elevation drawings and cross sections be submitted prior to the issuance of a zoning permit. Where the approval of a site plan is required, submittals shall meet the requirements of the provisions of this chapter which deal with site plans. One (1) copy of the approved site plan shall be returned to the applicant, together with the permit issued by the Zoning Officer and with such conditions as may have been attached thereto by an official body of the Township of Berkeley acting under this chapter. In those instances where permits are not granted, the applicant shall be advised in writing as to the specific reasons involved.
- c. Before a certificate of occupancy is issued for any new construction, including residential, industrial or commercial, a certified location survey must be submitted to the Zoning Officer showing that the location of the completed structure complies with all setback, side yard and back yard provisions of this chapter.
- d. *Permission or Denial.*

### 35-106.1 Neighborhood Business Zone.

#### a. *Permitted Uses.*

1. Retail sales, businesses and personal service establishments, which are clearly of a neighborhood size, scope and nature, similar but not limited to the following:
  - (a) Convenience stores and retail establishments selling groceries, meats, produce, baked goods and such other food items.
  - (b) Stationary, tobacco and newspaper stores.
  - (c) Luncheonettes, coffee shops, restaurants, deli, cafe and confectionary stores.
  - (d) Package liquor stores;
  - (e) Barber shops, hair, nail, tanning and beauty salons.
  - (f) Shoe repair, tailor and jewelry stores dry cleaning, laundromats, florists, novelty, notions and boutique stores, video and card shops.
  - (g) Appliance, hardware, paint, plumbing and electrical stores.
  - (h) Studios for dance, music, art, photography and the like.
  - (i) Banks and financial institutions, excluding check cashing businesses and pawn shops.
  - (j) Fishing, boating and marine supply stores.
  - (k) Business, professional, educational and governmental offices.
  - (l) Essential services.
  - (m) Child care centers.

#### b. *Permitted Accessory Uses.*

1. Off-street parking for the use of employees and patrons.  
(Ord. No. 94-29 § 118-16.31; Ord. No. 99-36-OAB § 7; Ord. No. 08-14-OAB § 1)

### 35-106.2 Highway Business Zone.

#### a. *Permitted Uses.*

1. Retail and commercial merchandise and service establishments.
2. Banks and financial institutions.
3. Business, corporate and professional offices including medical offices.
4. Restaurants, bars and other establishments serving food and beverage including catering establishments.
5. Retail food stores including supermarkets.
6. Theatres and recreation facilities, including golf driving ranges, miniature golf, roller rinks, ice rinks, fitness centers, bowling alleys, amusement centers, and batting/basketball cages.
7. Libraries and museums.
8. Artists' and photographers' studios.
9. Business and instructional schools and studios, including trade schools, martial arts and the visual and performing arts.
10. Health clubs and spas.
11. General service and repair shops, including carpentry, cabinetmaking, furniture repair, plumbing, or similar shops.
12. Dental and medical laboratories.
13. Mortuaries or funeral homes.
14. Day-care center, preschool and day nursery school.

### 35-106.5 Rural Highway Business Zone.\*

\*Editor's Note: Former subsection 35-106.5, Regional Business Zone, previously codified herein and containing portions of Ordinance No. 94-29, was repealed in its entirety by Ordinance No. 08-15-OAB.

#### a. *Permitted Uses.*

1. All uses permitted in the Neighborhood Business Zone.
2. Small retail and commercial centers.
3. Personal service establishments.
4. Business and professional offices, including medical offices.
5. Restaurants and eating establishments.
6. Boat sales and showrooms not in conjunction with a marina may be permitted, provided that the following standards and conditions are complied with.
  - (a) Outdoor storage of inventory shall not be stored closer than twenty-five (25) feet to a right-of-way or side or rear lot line and not closer than ten (10) feet to a building.
  - (b) If adjacent to a residential zone or existing residential use, a twenty-five (25) foot wide buffer area shall be provided. Said buffer areas shall consist of evergreen plantings and/or screen fencing capable of providing appropriate screening of the operations of the lot from adjoining residential uses and districts.
  - (c) One (1) parking space shall be provided for each two hundred (200) square feet of gross floor area.
7. Churches and houses of worship, parish houses, convents and cemeteries.
8. Campgrounds pursuant to the requirements of Section 35-128.

#### b. *Prohibited Accessory Uses.*

1. Off-street parking for the use of employees and patrons.

#### c. *Conditional Uses.*

1. Public utilities in accordance with subsection 35-127.8.
2. Cellular telecommunication towers and facilities in accordance with subsection 35-127.12.

#### d. *Area, Yard and Bulk Requirements.*

1. Lot area — 40,000 square feet
2. Lot frontage — 200 feet
3. Front yard — 50 feet
4. Rear yard — 40 feet
5. Side yard — 20 feet
6. Combined side yard — 40 feet
7. Maximum lot coverage — 50%
8. Maximum building height — 35 feet
9. Minimum accessory structure setback
  - (a) Rear yard — 20 feet
  - (b) Side yard — 15 feet

(Ord. No. 08-15-OAB § 3; Ord. No. 09-07-OA § 2)