

April 10, 2024
Zoning Board of Adjustment Minutes
Township of Berkeley
627 Pinewald-Keswick Rd P.O. Box B Bayville, NJ 08721

6:30PM

SALUTE TO THE FLAG

Chairman Elliott called the April 10th Zoning Board of Adjustment meeting to order at 6:30PM and asked everyone to please rise for the flag salute and a moment of silence.

SUNSHINE ACT STATEMENT

Chairman Elliott announced: "This meeting was advertised in the Asbury Park Press and posted on the Township's bulletin board as required by the Open Public Meeting Act."

ROLL CALL

Present: Chairman Elliott, Mr. Ferrara, Mr. Gudaitis, Mr. Hyland, Mr. McGrath, Mr. Morey, Mr. Sager, Mr. Stone, and Mrs. Walsh

Absent: Mr. Bombardier and Mr. Mika

Professionals Present from the Municipality: Alex Pavliv from Pavliv & Rihacek, LLC, Ernie Peters from Remington and Vernick Engineers, and Melanie Adamson from Remington and Vernick Engineers

AGENDA

1. Rudolph Rinderer – BOA#24-6048

Location: 155 Route 9 Block 882 Lot 2.05

Type of Application: Interpretation of Adopted Resolution (BOA#19-5857)

Joseph Michelini, the applicant's attorney, and Jason Marciano, the applicant's engineer, described the request for clarification on the previously approved resolution regarding BOA#19-5857. Mr. Michelini stated the resolution included retail sales but did not specifically address the sale of street legal quads and motorcycles. Mr. Gudaitis commented there will be no parking of these units on the blacktop/in the parking spaces (no outdoor display). Chairman Elliott noted this has been the second interpretation on this resolution of approval. Mr. Morey questioned the Police Department's authority to issue summonses (Title 39) on the property.

On a motion to approve retail sales included street legal quads and motorcycles by Mr. Gudaitis, seconded by Mr. Ferrara, with all present in favor, the request was approved.

2. John & Victoria Marcsisin – BOA#23-6030

***carried from 03/13/2024*

Location: 69 Spinnaker Court Block 1108.11 Lot 35

Type of Application: Construction of an In-Ground Pool with "c" Variance Relief

The Board approved the variance for: installation of an inground pool to be located 9 feet from the bulkhead, where 15 feet are required and lot coverage of 32.6% proposed where 30% is the maximum permitted on Block 1108.11 Lot 35 in the R-60 zone subject to the following conditions: backwash from the pool shall be flushed towards the street and not the lagoon, roof runoff shall be directed through the bulkhead and into the lagoon, and the pool shall be of fiberglass construction and saltwater treatment.

On a motion by Chairman Elliott, seconded by Mr. Gudaitis, with everyone present in favor, the above application was opened for public discussion.

Hearing no one wishing to be heard, a motion to close to the public was entertained.

On a motion by Mr. Gudaitis, seconded by Mr. McGrath, with all present in favor, the above application was closed for discussion.

On a motion to approve the variance application by Mr. Gudaitis, seconded by Mr. Ferrara, with all present in favor, the application was approved with the conditions listed above.

3. La Pierre, LLC – BOA#23-5996

***carried from 03/13/2024*

Location: Tallwood Way Block 1409 Lot 3.06

Type of Application: Minor Subdivision and Use Variance

A minor subdivision will create two new lots. Proposed Lot 3.07 in the HB/CN-B zone on the west side of the property will remain vacant. On the proposed Lot 3.08 in the R-100 zone on the east side of the property, the applicant proposes a 3-story multifamily residential building with a total of 25,252 sf and twenty-four (24) units. Public water and sewer are anticipated. The applicant seeks to bifurcate the application and requests a minor subdivision and a use variance.

On a motion by Chairman Elliott, seconded by Mr. Gudaitis, with everyone present in favor, the above application was opened for public discussion.

The owner of 117 Marcus St, Mike Baldi, emphasized the flooding problem in this area through exhibit O-1, a photo package comprised of 5 photos. Patrick Westcott of 5 Maria Lane commented on the increased drainage and traffic problems. The owner of 24 Butler Boulevard voiced his opposition to the proposed apartment complex. Lou Zigarelli of North Bay Drive commented there is no room for this traffic on Butler Boulevard. Jim Sullivan noted this would not be beneficial to the existing neighborhood. Ernie Fitzherbert questioned the original plan consisting of a detox center. The Tallwoods Care Center Maintenance Director, James Biggs, disagreed with the proposal. Lucy Farrell of Maria Lane questioned the lighting and landscaping. Helen Fitzherbert noted this application is emotional for the neighborhood as it is financial for the applicants. The resident of 55 Butler Boulevard, Kelly Czupkieswicz, asked the applicant's professionals to clarify the hardship presented.

On a motion by Mr. Gudaitis, seconded by Mr. Ferrara, with all present in favor, the above application was closed for discussion.

On a motion to approve the variance application by Mr. Gudaitis, seconded by Mr. Stone, the application was denied.

Ayes: Chairman Elliott, Mr. Gudaitis

Nays: Mr. Ferrara, Mr. Hyland, Mr. McGrath

4. Crystal Care Realty LLC – BOA#23-6014

***carried from 10/11/2023, 01/10/2024 & 03/13/2024*

Location: 395 Lakeside Blvd Block 409 Lot 1

Type of Application: "c" Variance Relief for an Existing Fence and Gazebo

The applicant's attorney, Ryan Murphy, and planner, Christine Cofone, presented the bulk variance application for the existing six-foot fence and 11x14 gazebo. The Board found that the proximity of the fence and gazebo to the road to be a safety hazard to potential users of the gazebo. The Board found that intended or unintended acceleration of vehicles parked adjacent to the fence would be a safety hazard.

On a motion by Chairman Elliott, seconded by Mr. Gudaitis, with everyone present in favor, the above application was opened for public discussion.

Hearing no one wishing to be heard, a motion to close to the public was entertained.

On a motion by Mr. Gudaitis, seconded by Mr. Ferrara, with all present in favor, the above application was closed for discussion.

On a motion to deny the variance application by Mr. Gudaitis, seconded by Mr. Stone, with all present in favor, the application was unanimously denied. The applicant has thirty days to remove and dismantle the fence and gazebo before Code Enforcement will begin writing additional violations.

5. Terrence and Betty Easton – BOA#23-6037

***carried from 03/13/2024*

Location: 34 Twenty-Second Ave Block 1708 Lot 2225

Type of Application: Bulk Variance

The Board approved the variance for: construction of a detached garage with a height of 18.7ft where 15ft is permitted, a covered shower with a rear yard setback of 5.1ft where 20ft is required remove the existing shed and cover an existing front deck Block 1708 Lot 2225, in the RC zone subject to the following conditions: A waiver for curb and sidewalk is hereby granted. A waiver for a paver driveway is granted. The rear deck shall not be enclosed. There shall be no cars in the garage. The detached garage shall not be used for habitation.

On a motion by Chairman Elliott, seconded by Mr. Gudaitis, with everyone present in favor, the above application was opened for public discussion.

Hearing no one wishing to be heard, a motion to close to the public was entertained.

On a motion by Mr. Gudaitis, seconded by Mr. Ferrara, with all present in favor, the above application was closed for discussion.

On a motion to approve the variance application by Mr. Gudaitis, seconded by Mr. McGrath, with all present in favor, the application was approved.

6. Kent Weiss – BOA#23-6036

Location: 2112 Bay View Avenue Block 1710 Lot 218

Type of Application: Construction of Single-Family Dwelling with “c” Variance Relief

The Board approved the variance for: construction of a SFD on an undersized lot consisting of 5889 sq. ft. where 7,500 sq. ft. is required, front yard setback 17.5ft proposed and 25ft required Bayview Ave., front yard setback 15ft provided 25ft required 22d Ave. and accessory front yard setback (pool) 16ft provided 35ft required, subject to the following conditions: Applicant shall be permitted to install a 6” retaining wall to raise the property grade to install a recharge system. A waiver for curb and sidewalks is hereby granted. A height variance is hereby granted for the side stairs. Roof runoff is to be directed into the recharge system. The proposed recharge trench shall be extended by a length of 50 feet. A waiver is granted for a paver driveway. The pavers on the east side of the home shall be removed to facilitate the recharge trench.

On a motion by Chairman Elliott, seconded by Mr. Gudaitis, with everyone present in favor, the above application was opened for public discussion.

The owner of 238 Twenty-Second Ave, Joe Marchiafava, commented on the overdevelopment in this area. Kathleen Price of 243 Twenty-Second Ave noted the retaining wall will cause more water on neighboring properties. She worried the in-ground pool would also create more flooding.

On a motion by Mr. Gudaitis, seconded by Mr. Ferrara, with all present in favor, the above application was closed for discussion.

On a motion to approve the variance application by Mr. Gudaitis, seconded by Mr. Sager, with all present in favor, the application was approved with the conditions listed above.

7. 221 Rosewood LLC – BOA#23-6035

Location: 221 Rosewood Drive Block 1556 Lot 11

Type of Application: Construction of Single-Family Dwelling with “c” Variance Relief

The Board approved the variance for: construction of a SFD with minimum lot area of 3,200 sq. ft. 6,400 sq. ft. required (pre-existing condition) and lot frontage 40ft proposed where 80ft is required (pre-existing condition) and a side yard setback 5.3ft proposed 7ft required combined side yard setback 13.1 ft proposed and 18 ft required, 4ft accessory side yard setback to A/C unit where 5ft required, and rear yard setback (deck) 9.8 ft proposed to deck 20 ft. required lot coverage 35.09% permitted 30% maximum permitted on Block 1556 Lot 11, in the R-64 zone subject to the following conditions: Roof runoff shall be piped through the bulkhead and into the lagoon. A waiver for curb and sidewalks and paver driveway is hereby granted. Deck to remain open.

On a motion by Chairman Elliott, seconded by Mr. Gudaitis, with everyone present in favor, the above application was opened for public discussion.

The owner of 218 Rosewood Drive, Jim Sullivan, noted this would be a positive development in his neighborhood.

On a motion by Mr. Gudaitis, seconded by Mr. Stone, with all present in favor, the above application was closed for discussion.

On a motion to approve the variance application by Mr. Gudaitis, seconded by Chairman Elliott, with all present in favor, the application was approved with the conditions listed above.

8. Jeffrey R. Jerman – BOA#23-6038

Location: Baker Avenue Block 584 Lot 36.01

Type of Application: Construction of Single-Family Dwelling with “c” Variance Relief

The Board granted the variance for: construction of a SFD on an undersized lot consisting of 10,000 sq. ft. where 12,500 sq. ft. required on Block 584 Lot 36.01 in the R-125 zone subject to the following conditions: Applicant shall repair the paving at the intersection of Baker and Veterans Highway to improve the current drainage situation. A waiver from the tree removal ordinance is hereby granted. Applicant shall have the right to obtain a building permit before the final topcoat of the road is installed by others.

On a motion by Chairman Elliott, seconded by Mr. Gudaitis, with everyone present in favor, the above application was opened for public discussion.

The owner of 432 Baker Ave, Frank Pace, commented on the current drainage status of the existing lot. Richard Hayes noted the flooding issues.

On a motion by Mr. Gudaitis, seconded by Mr. Ferrara, with all present in favor, the above application was closed for discussion.

On a motion to approve the variance application by Mr. Gudaitis, seconded by Mr. Ferrara, with all present in favor, the application was approved.

9. Rudolph Rinderer – BOA#24-6042

Location: 2 John F. Kennedy Blvd Bock 882 Lot 1.01 (New Lots 1.01 and 1.03)

Type of Application: Use Variance and Minor Subdivision

The Board granted the minor subdivision and use and bulk variances for Block 882 proposed Lots 1.01 consisting of 19,864.03 sq. ft. and proposed lot 1.03 consisting of 15,416,56 sf subject to the designation by the Tax Assessor. subject to the following conditions: A waiver is granted for the providing of curbs and sidewalks on the far side of JFK Boulevard. A waiver is hereby granted for the necessity of improving the parking lot. A waiver is hereby granted for providing a sight triangle. A waiver is hereby granted for the widening of JFK Boulevard. This waiver is granted because the widening of JFK has been bonded for by an applicant and will be completed by that applicant.

On a motion by Chairman Elliott, seconded by Mr. Gudaitis, with everyone present in favor, the above application was opened for public discussion.

Hearing no one wishing to be heard, a motion to close to the public was entertained.

On a motion by Mr. Gudaitis, seconded by Mr. Ferrara, with all present in favor, the above application was closed for discussion.

On a motion to approve the variance application by Mr. Gudaitis, seconded by Mr. McGrath, with all present in favor, the application was approved.

10. Christopher Krukovsky & Nicole Segalla – BOA#23-6032

Location: 607 Riverside Drive Block 1372 Lot 3

Type of Application: Fence

The Board approved the variance for the installation of a 6-foot privacy fence within the side yard setback area along Riverside Drive on Block 1372 Lot 3, in the R-100 zone. A variance is hereby granted for the tree planting done by the applicant.

On a motion by Chairman Elliott, seconded by Mr. Gudaitis, with everyone present in favor, the above application was opened for public discussion.

Peter Lofreddo represented the applicant's neighbors at 601 Riverside Drive. He presented Exhibit 0-1, a photo package with a clear explanation of each ordinance that is in violation. He testified the applicant claimed their hardship was a civil dispute between neighbors – not a hardship per the MLUL.

On a motion by Mr. Gudaitis, seconded by Mr. Stone, with all present in favor, the above application was closed for discussion.

On a motion to approve the variance application by Mr. Gudaitis, seconded by Mr. Stone, with all present in favor, the fence application was approved as is.

Abstain: Mr. McGrath

11. Sunrise to Sunset Holdings LLC – BOA#23-6028

Location: Corner of Route 37 – Sunset Drive N & Prince Edward Avenue Block 1675 Lot 1,2,6-24

Type of Application: Use Variance and Preliminary/Final Major Subdivision

This application was carried to the May 8, 2024 Board of Adjustment meeting.

RESOLUTIONS

On a motion by Mr. Gudaitis, seconded by Mr. Stone, with all present in favor, the resolution for BOA#22-5955 was approved.

On a motion by Mr. Gudaitis, seconded by Mr. Stone, with all present in favor, the resolution for BOA#23-6022 was approved.

On a motion by Mr. Gudaitis, seconded by Mr. McGrath, with all present in favor, the resolution for BOA#23-6025 was approved.

On a motion by Mr. Gudaitis, seconded by Mr. Stone, with all present in favor, the resolution and settlement agreement for BOA#22-5988 were approved.

Absent: Mr. Bombardier

VOUCHERS

Alexander Pavliv, Esquire
Remington & Vernick
Linda Sullivan Hill

On a motion by Mr. Gudaitis, seconded by Mr. Stone, with all present in favor, the bills were approved.

MINUTES

On a motion by Mr. Gudaitis, seconded by Mr. Stone, with all present in favor, the February 28, 2024 special meeting minutes were approved.

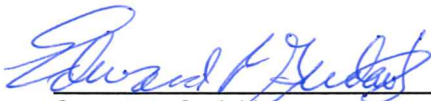
On a motion by Mr. Gudaitis, seconded by Mr. Sager, with all present in favor, the March 13, 2024 meeting minutes were approved.

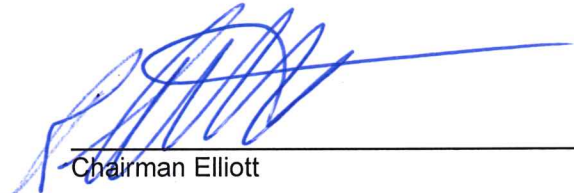
OPEN GENERAL PUBLIC FORUM

On a motion by Mr. Gudaitis, seconded by Mr. Sager, with all present in favor, the meeting was open for general public comment.

CLOSE GENERAL PUBLIC FORUM AND ADJOURNMENT

Hearing no one wishing to be heard, a motion to close the general public forum and adjourn the meeting was entertained. On a motion by Mr. Gudaitis, seconded by Mr. Ferrara, with all present in favor, the meeting was adjourned at 12:04AM.



Secretary Gudaitis

Chairman Elliott

Respectively Submitted
Gabrielle Napolitano, Board Secretary