

November 8, 2023  
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 November 8<sup>th</sup> 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. Bombardier, Mr. Ferrara, Mr. Gudaitis, Mr. Haliscak, Mr. McGrath, Mr. Morey, and Mrs. Walsh

**Absent:** Mr. Bollettieri, Mr. Gerb, Mr. Mika, and Melanie Adamson from Remington and Vernick Engineers

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

**AGENDA**

**1. Northern Ocean Habitat for Humanity – BOA#23-6020**

**Location:** 224 Second Ave Block 46 Lot 110

**Type of Application:** Construction of a Single-Family Dwelling with "c" Variance Relief

The applicant requested adjournment for the project to the next available meeting. On a motion by Chairman Elliott, seconded by Mr. Gudaitis, with all present in favor, this application was adjourned to January 10, 2024 Board of Adjustment meeting.

**2. Mike Fernandez – BOA#23-6019**

**Location:** 10 Amherst Drive Block 1221.02 Lot 3

**Type of Application:** Construction of an Above Ground Pool with "c" Variance Relief

The applicant requested adjournment for the project to the next available meeting due to noticing issues. On a motion by Chairman Elliott, seconded by Mr. Gudaitis, with all present in favor, this application was adjourned to January 10, 2024 Board of Adjustment meeting.

**3. The, LLC – BOA#22-5990**

**\*\*carried from 5/10/23**

**Location:** Garden Street at Marciel Avenue

**Block 963, Lots 1-5 & 18, Block 964, Lots 6.02, 6.03 & 32-35, Block 966, Lot 1.01**

**Type of Application:** Preliminary and Final Major Site Plan

The applicant's attorney, Benjamin Maibe III, and engineer, Matthew Wilder, presented the preliminary and final major site plan to construct twenty-four townhomes with parking, drainage, and storm water management facilities, located at Garden Street at Marciel Avenue. The Board previously granted the application for a Use Variance and any necessary bulk variances. The Board heard testimony requesting certain waivers; a) from section 35-53. 3 and 35 -67.1 regarding the requirement for curbing and sidewalks along Marciel Avenue frontage. The Board granted these waivers. The applicant proposed a means of ingress and egress to Grand Central Parkway this was rejected by the Board. The applicants have satisfactorily answered the questions posed by the engineer and planner in their reports subject to conditions stated herein below being satisfied. The egress and ingress to Grand Central Parkway shall be emergency access only. A deed restriction shall be recorded by the applicant prohibiting any residents of the premises from being less than 48 years of age. No one less than 19 years of age shall reside on the premises for more than thirty consecutive days in any one year. The applicant shall open Marciel Avenue pave same to a width of 30ft with 10ft stone shoulders. This shall be the main means of ingress and egress for the project. Buildings B and C shall be relocated 25ft further north in order to effectuate the opening of Marciel Avenue. Any rear yard setbacks necessitated by such relocation are hereby granted. The easternmost building shall be relocated 10ft to the east. Any variances necessitated by such relocation are hereby granted. The applicant shall have an additional 14 months extension for the Use Variance previously granted January 27, 2021 and extended by a memorialized resolution on October 12, 2022. Once the site is improved, the owner will control refuse and debris on site and provide garbage collection.

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. Haliscak, 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. Haliscak, with all present in favor, the application was approved with the conditions listed by above Mr. Pavliv.

#### **4. Barry Migliore – BOA#23-6013**

**Location: 277 Butler Blvd Block 1545 Lot 24**

**Type of Application: Elevation of a Single-Family Home with “c” Variance Relief**

Harvey York, the applicant's attorney, presented an application for the elevation of a single-family dwelling with pre-existing variances. The applicant's engineer, Matthew Hockenbury, noted the following non-conformities: an undersized lot 3,600 sq. ft. exists where 6,400sq. ft is required, a frontage of 40 ft. exists where 80 ft. is required, the front yard setback is proposed at 24.9 ft. where 25 ft. is required, the side yard setback has 0.6ft proposed where 7ft is required to the deck, the combined side yard setback has 7.6ft proposed where 18 ft. is required, and the accessory side yard setback is proposed at 3.5ft where 5ft is required to the AC unit in the R-64 zone. A waiver was granted for curbs and sidewalks. A waiver was also granted for a stone driveway. Roof runoff shall be piped through the bulkhead and into the lagoon. The applicant agreed to raise the grade by 6 inches and fixate the deck to have a 4-foot lattice with a gate.

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

Andrew Mika, the owner of 279 Butler Boulevard, spoke in favor of his neighbor's proposal.

On a motion by Mr. Gudaitis, seconded by Mr. Haliscak, 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. Haliscak, with all present in favor, the application was approved with the conditions listed by above Mr. Pavliv.

#### **5. Albert Rodriguez – BOA#23-6017**

**Location: 246 Sandalwood Drive Block 1563 Lot 23**

**Type of Application: Construction of a Single-Family Home with “c” Variance Relief**

Albert and Colleen Rodriguez have been homeowners of 246 Sandalwood Drive since 2018. Their engineer, Rob Harrington from East Coast Engineering, presented the application to construct a single-family dwelling on an undersized lot with a frontage, front yard setback, rear yard setback, and combined side yard setback variance required. The Board was satisfied that the granting of the variances as recited above will not have a substantial detriment to the public good and will not substantially impair the intent and purpose of the Zoning Plan and Zoning Ordinance of the Township of Berkeley. A waiver was granted for curb and sidewalks. The applicant shall raise the grade of the proposed dwelling 4-6 inches. Roof runoff shall be piped through the bulkhead and into the lagoon. The applicant shall provide another means of access in the proposed garage. Lastly, the decks shall remain open below.

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. Haliscak, 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. Haliscak, with all present in favor, the application was approved with the conditions listed by above Mr. Pavliv.

#### **RESOLUTIONS**

On a motion by Mr. Gudaitis, seconded by Mr. Haliscak, with all present in favor, the time extension resolution for BOA#22-5975 was approved.



On a motion by Mr. Gudaitis, seconded by Mr. Haliscak, with all present in favor, the resolution for BOA#23-6012 was approved.

On a motion by Mr. Gudaitis, seconded by Mr. Haliscak, with all present in favor, the resolution for BOA#23-6018 was approved.

#### **VOUCHERS**

Alexander Pavliv, Esquire  
Remington & Vernick  
Linda Sullivan Hill

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

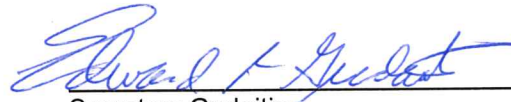
#### **MINUTES**

On a motion by Mr. Gudaitis, seconded by Mr. Haliscak, with all present in favor, the October 11, 2023 meeting minutes were approved.

Seeing no one wishing to be heard, a motion to close to the public and adjourn the meeting was entertained.

#### **ADJOURNMENT**

On a motion by Mr. Gudaitis, seconded by Mr. Haliscak, with all present in favor, the meeting was adjourned at 8:51 PM.

  
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Chairman Elliott  
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Secretary Gudaitis

Respectively Submitted  
Gabrielle Napolitano, Board Secretary