

**RUMSON ZONING BOARD OF ADJUSTMENT**  
**APRIL 29, 2014**  
**MINUTES**

Chairman Conklin called the regular meeting to order at 7:30 p.m. with the Pledge of Allegiance. The Roll was called with the following members present: Conklin, Duddy, Cottrell, Seaman, Sylvester, Blum, Thompson. Also present: Bernard Reilly (Board Attorney), Fred Andre (Zoning Officer), State Shorthand.

The requirements of the Open Public Meetings Act were stated as met.

Mr. Reilly swore in Mr. Thompson as a member of the Rumson Zoning Board of Adjustment for a regular 4-year term.

Mr. Andre was also sworn in at this time.

**Dennis & Marshall Lynch, 8 Navesink Ave.**

Mr. Blum and Mr. Thompson will not sit in on this continued application.

Mark Aikens, attorney, appeared again on behalf of the applicants. He reviewed their last hearing, recalling the Board's comments at that time. He stated that this evening's testimony will show that the Board's goals have been achieved with their revised plan.

Michael Mahns, architect, still under oath, was again present for testimony. The changes were reviewed via Exhibit A-7, dated 4/29/14:

- Reduction in the size of the cabana;
- Reduction in size of screened porch;
- Reduction in size of rear porch on the river;
- Reduction in center portion of house;
- Reduction in size of garage;
- Reduction in size of motor court and parking area.

These revisions total a 524.56 sq. ft. reduction in building area, and a floor area reduction of 16.27 sq. ft.

Mr. Krog, landscape architect, also still under oath, showed the Board a revised landscape plan (A-8), which is a colorized rendering of the previously-submitted landscape plan, revised 4/11/14. This plan shows the reduction in lot coverage by the elimination of 600 sq. ft. of parking area east of the carriage house, and the reduction in the size of the motor court. The remainder is the same as shown last month.

Mr. Fichter, planner, who was also still under oath, testified that the lot coverage has been reduced from the original application by 1,432.69 sq. ft. from the first application. All of his prior testimony stands.

There were no questions or comments from the public.

Mrs. Seaman asked about a magnolia tree on the south side of the property, and Mr. Krog said Mrs. Lynch could comment on this tree. Another tree on the right side of the property was also mentioned by Mrs. Seaman, and Mr. Krog said they are still deciding on this tree, but will probably be moving it away from the property line.

Mrs. Lynch was sworn in at this time, and stated they are trying to save as many trees as possible. They will be having someone come to look at the magnolia tree to see if it can be saved, as it is close to the construction and may be impacted. She said they will be replacing any trees that do need to come down.

Mr. Sylvester asked about their comments regarding reductions in the plan, and Mr. Mahns said they have exceeded their goals with the new figures.

Chairman Conklin commented that the applicant has done a very good job in getting to an acceptable position, and he asked if any of the Board members would not be in favor of the revised application.

Mr. Sylvester agrees that the applicants have been very responsive to the Board's concerns.

Mr. Cottrell said he thinks the adjustments make the application better.

Mrs. Seaman appreciates the applicant's attention and cooperation.

Discussion arose regarding the use of the carriage house. Mr. Reilly has drafted a resolution, which says this structure can be used as a residence for domestic employees and guests of the residents of the main house and not used as a rental for unrelated household members. Mr. Aikens said this was the intention of the applicant. If they ever did want to change this, they would need to come back before the Board.

Mr. Duddy moved to approve the revised application, and Mr. Cottrell seconded.

Roll Call Vote: Ayes – Conklin, Seaman, Duddy, Cottrell, Sylvester

Nays - None

Motion carried.

Mr. Blum and Mr. Thompson rejoined the meeting at this time.

**James & Janice Dooley, 35 Third Street**

Brooks Von Arx, attorney, appeared on behalf of the applicants. He described the property as a nonconforming lot in the older section of town. It is slightly smaller than the requirement for lot area, lot frontage, interior lot shape, and side setback. The applicants would like to raze the existing residence and construct a new house. Because of the narrowness of the lot, they are asking for a side yard variance (8' on each side where 8' and 18' are required – 2' shy of the requirement). Otherwise, the project would be conforming.

James M. Pollifone, architect, was sworn in, and the Board accepted his qualifications. He explained that the existing structure was in bad shape. He recommended they demolish the

house and construct a new house. They encountered restrictions, due to the narrowness of the lot. They designed an open plan for the house in a craftsman's style. The house is 24' wide, which provides a borderline status for the functioning of the rooms. The bedroom would become unusable on the second floor, if they were made to adhere to the ordinance requirements. The building conforms in all ways, except for the side yard setbacks, and the existing conditions of the lot frontage. He testified there was no additional available land for their purposes. The setback for the deck in the rear lines up with the side of the house (8'). The deck is approximately 6.5' off the ground.

Chairman Conklin asked if they could bring the width of the deck 2' back, and Mr. Von Arx said his client said this would be acceptable to them.

Breta Young, 33 3<sup>rd</sup> St., was sworn in and expressed her support for the application, now that she is aware of the area of the deck, which will now be farther away from her property.

There were no other questions or comments from the public.

Mr. Blum asked about the setbacks of the house to the north and south of this structure. Mr. Pollifone said that the house to the north is set back 1' to the property line. Mr. Von Arx noted that the property to the south has a driveway next to their side yard. He does not know the actual distance to the house. Mr. Blum noted that the setbacks in this neighborhood appear to be nonconforming, and this application provides a better setback than most.

Mr. Thompson thinks they are doing a nice job with what they are dealing with.

Mr. Duddy agrees that there is a hardship with the 40' lot.

Chairman Conklin also thinks they have done a very good job.

Mr. Duddy moved to approve the application, to include the 2' reduction in the width of the deck. Mr. Thompson seconded.

Roll Call Vote: Ayes – Conklin, Seaman, Duddy, Cottrell, Sylvester, Thompson, Blum

Nays - None

Motion carried.

### **Clockworks Development Group, LLC, 54 Shrewsbury Drive**

Michael Bruno, attorney, appeared on behalf of the applicant. A colored rendering (A-1) was distributed to the Board. Robert Adler, architect, was sworn in, and the Board accepted his qualifications. Mr. Bruno noted there are existing variances for the lot:

- Lot frontage (250' required / 200' existing);
- Corner lot shape (115' required / 72.5' provided).

Mr. Adler said they are proposing a design that is completely conforming, and the house faces the shorter of the two frontages. There are 400' of frontage along Shrewsbury Dr. They are facing the house on Osprey Lane, instead of Shrewsbury Dr., due to the water issues on the lot.

They will be improving the drainage on the lot, and will be providing the required setback for front, side, and rear yards. They will also be able to provide a back yard with this orientation.

Mr. Bruno noted that the house needs to be raised to FEMA regulations. Mr. Adler explained that they will be grading the lot to provide positive drainage, so that water will collect into a storm drainage system. The house is elevated to accommodate the flood zone for the area. Their finished elevation will be 11', with a crawl space below.

Chairman Conklin commented on potential problems for nearby property owners due to the re-grading. Mr. Adler further explained their drainage proposal, noting piping that will collect water and send it out to the storm sewer, as well as a swale and inlets collecting water within the subject property, also going out to the storm sewer.

A. J. Garito, project engineer, was sworn in, and the Board accepted his qualifications. He stated that he designed the drainage plan before the Board. He explained that they intend to pick up the water and pipe it into the existing storm sewer. Any runoff from the driveway would run off into the existing ditch and go into the storm sewer on Shrewsbury Ave. They will be reconstructing the inlet on Shrewsbury Ave., as suggested by the town. They have done a Storm Water Management plan, and they will not be increasing the impervious coverage from what exists today. Their plan will also be reviewed by the borough engineer.

William Brooks, tree expert, was sworn in, and stated he has prepared a tree assessment for this application. He described the trees on the property, stating that the only trees proposed to be removed are ones that fall within the footprint of the primary and secondary structures. There are some American hollies in this area, which are prohibited from removal; however, the applicant has agreed to replace these elsewhere on the lot. There was evidence of considerable tree removal post Sandy (approximately 25 trees). There are 19 trees proposed to be removed with this application, and he proceeded to describe the types of trees and the extent of existing evident damage. He stated that no significant specimen trees will be removed. The six American hollies will be replaced with six replacements, as previously stated. He reported that minimal or no fill will be brought in near the best trees on the property. The northeast corner trees will remain in tact. The driveway will be on the north, so as not to impact the important trees on the lot. Eight deciduous shade trees will be added to mitigate the removal of the trees.

Chairman Conklin asked Mr. Andre for his opinion, and Mr. Andre stated he does not see any problem, and there has been no clear cutting on the lot.

Mr. Thompson acknowledged that this property has been a mess for years, and any improvement will be good.

There were no questions or comments from the public.

Mrs. Seaman asked about the drainage design, and Mr. Garito further explained their proposed system.

Mr. Cottrell asked if they inquired about getting any additional land for this application, and Mr. Brooks said there was none available.

Mr. Duddy feels this is a low area, and the applicant has attempted to better the water situation and add trees.

Mrs. Seaman moved to approve the application, and Mr. Thompson seconded.

Roll Call Vote: Ayes – Conklin, Seaman, Duddy, Cottrell, Sylvester, Thompson, Blum  
Nays - None

Motion carried.

**Mark Filipkowski & Cathy Carilli, 101 Waterman Ave (Corner Oyster Bay)**

Michael Convery, attorney, appeared on behalf of the applicants. They are seeking to raise the dwelling to conform to the base flood elevation and also to make changes to the façade of the building and decks to make them more functional for their purposes. They also seek to add a stair case.

Andrew Janiw, planner, and Donald Passman, architect, were sworn in at this time, and the Board accepted their qualifications. The site plan was marked A-1. Mr. Passman explained the proposal as a two-story dwelling, which had some problems during Sandy, so they will be raising the structure 6'8" from its current elevation. This puts the decks 15' off the ground, requiring more steps. They are proposing a decorative set of steps on the front to address this elevation change. The deck on the side will have a covered deck over it. They will be adding 64 sq. ft. of coverage. There is also another piece of deck as a connecting structure on the east side to connect the front porch to the side and back decks. He also showed the Board floor plans for the interior and elevations of the exterior. An aerial map was shown and marked A-2. The neighbor to the south was located on the map, with an area noted between the applicant's house and the house to the south. The front porch steps were described, with Mr. Passman saying there will be 17 steps to the entrance, with several landings to break up the design.

Chairman Conklin asked about the second floor deck on the side of the neighbor that is 12'3" off the property line. Mr. Passman said there will be a deck on the second floor next to the neighbor, and this is new. The size of the second floor deck is 5'4" x 14' in size. Chairman Conklin noted many of the changes are functional; however, many are because they want a certain design.

Mr. Blum said that building and lot coverage are increasing by 150 sq. ft. They are still under the permitted number for building coverage; however, lot coverage puts them over.

Mr. Janiw noted that many of the variances are pre-existing or are a necessity to raise the house and provide proper access. The changes proposed are not intrusive to the neighbors, and mostly take advantage of the water views. He thinks this plan enhances the points of the Master Plan, which he proceeded to review. These changes are common for this neighborhood, and the proposed decks provide proper circulation for the home. The setbacks propose about 1.5' additional encroachment, which is not atypical for the neighborhood, and he pointed out several examples on the aerial map provided, noting the many unique lot shapes. He thinks the variances qualify under the hardship "C" variance. The coverage issue results from the necessity

for the expanded stairs. He reviewed a variance granted in 2004 for coverage, which was not executed, although Chairman Conklin noted this is a totally new application.

Tom Reid, neighboring property owner, was sworn in and expressed his support for the application. He thinks it is a very nice plan, and he has spoken to many of the nearby neighbors, who also expressed their support.

There were no other questions or comments from the public.

Mr. Convery stated that the neighbor on the south side also expressed her support to Mrs. Carilli.

Mr. Janiw noted that the property has been well maintained, and much thought went into the elements included in the design. They think it is within the character of the neighborhood.

Mrs. Seaman asked about the stone walls, and Mr. Passman said these will not be raised.

Mr. Sylvester commented that they have seen many homes raised over the past year and a half, and he feels this applicant has done a good job to soften the look of this type of elevation. The coverage issue does not appear to impact the neighbor, and no objections from the neighbors were heard.

Mr. Duddy thinks the lot is extremely large, and the Board has been more lenient with lot coverage when it is an oversized lot. They have taken steps to soften the look and have only added 150 sq. ft. He thinks they have done a good job. He would be in favor of the application.

Chairman Conklin thinks it is important to note the functionality of the application and what is needed to make it appropriate. In this case, they have made the house look better and not just raised it to the required elevation. He thinks it is well done, and the second floor decks make it more attractive.

Mr. Thompson moved to approve the application, and Mrs. Seaman seconded.

Roll Call Vote: Ayes – Conklin, Seaman, Duddy, Cottrell, Sylvester, Thompson, Blum

Nays - None

Motion carried.

### **Approval of Minutes**

Mr. Cottrell moved to approve the minutes from the March meeting, with corrections, and Mrs. Seaman seconded. Voice Vote: Ayes, unanimous.

### **Roger & Joann Molnar, 81 Waterman Ave.**

Joann Molnar was sworn in. She stated that she purchased the property in 1998, and her architect, Michael Monroe, is present to explain their plan.

Mr. Monroe was sworn in, and the Board accepted his qualifications. They have repaired the storm damage and want to raise the house 7' to comply with the base flood elevation. The house to the right has been raised, and the house to the left has not been raised. They propose a tower

element to make the house look more attractive. They are raising the deck in the rear. They received a variance in 1998 and 2006. They would like to put a deck over an existing deck. Their living area is on the second floor. The attic level is very small. They think a two-story deck will look nicer and will not block anyone's view or present any issues. It will give them a functional use, also.

Their A/C units have been in the same place since 1998. They will screen this area. Their side yards are nonconforming and do not afford anywhere to put the units. No one has ever complained about the location of units. They will also be installing a small generator in the same space. The pool equipment can fit below this. He showed the properties within the 200', noting that he does not think they will be impacting anyone. They need approval for the second floor deck.

Chairman Conklin questioned the generator issue, and Mr. Reilly stated they are permitted. The Board could limit the size as a condition of approval.

Mr. Duddy commented that generators that are encased are significantly quieter than a portable unit. Mr. Monroe said they would stipulate that they would install a small generator that would fit on the platform and be within the 2' setback. Mr. Andre noted that the ordinance provides for accessory setbacks for generators and they could specify the size of the unit. Mr. Monroe said this would be fine with them.

Tom Reid, speaking from the public, was again sworn in and expressed his support for this application. He thinks it is what they can do with the extremely limited space.

There were no other questions or comments from the public.

Mrs. Seaman agrees that they are limited with the narrow lot, and they have done a good job and have the support of the neighbor.

Mr. Cottrell moved to approve the application with the limit on the size of the generator. Mr. Thompson seconded.

Roll Call Vote: Ayes – Conklin, Seaman, Duddy, Cottrell, Sylvester, Thompson, Blum  
Nays - None

Motion carried.

### **Resolutions**

- 1. Roger & Nicole McLaughlin, 42 Blackpoint Horseshoe** – Approval to cover existing porch. Mr. Cottrell moved to adopt the resolution, and Mr. Sylvester seconded.

Roll Call Vote: Ayes (Eligible) – Conklin, Duddy, Cottrell, Seaman, Sylvester  
Nays – None

Motion carried.

2. **Vasili & Manioucha Krishnamurti, 41 Bellevue Ave.** - Approval for new pool, pergola, bench, and 6' masonry screening wall;
3. **Edward & Kaye Wise, 54 East River Road** – Approval to raze existing residence and detached garage to construct new single-family residence, in-ground pool, and detached garage;

Mr. Cottrell moved to adopt these two resolutions, and Mr. Duddy seconded.

Roll Call Vote: Ayes (Eligible) – Conklin, Cottrell, Duddy

Nays – None

Motion carried.

There being no further business, motion was made and seconded to adjourn. Voice Vote: Ayes, unanimous. The meeting was adjourned at 9:55 p.m. The next meeting will be **May 20, 2014.**

Respectfully submitted,

Patricia Murphy  
Clerk