

**RUMSON ZONING BOARD OF ADJUSTMENT
AUGUST 19, 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, Brodsky, Wood, Seaman, Blum, Thompson, Duddy. 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. Andre was sworn in at this time.

Burke Development Associates, 119 Blackpoint Rd. (Continued Application)

Mr. Thompson will not sit in on this application.

Rick Brodsky, attorney, appeared on behalf of the applicants. He noted their revised plans, as requested by the board at the last meeting, showing additional drainage information and the flipping of the house. He noted that this plan allows them to save an existing tree, as discussed last month.

Mrs. Seaman said she liked the drainage situation in the back, and she is glad they are able to save the tree.

Mr. Reilly has prepared a resolution to address the revised plan. Mr. Brodsky moved to adopt the resolution, and Dr. Wood seconded.

Roll Call Vote: Ayes (Eligible) – Conklin, Blum, Wood, Seaman, Duddy, Brodsky

Nays – None

Motion carried.

Mr. Thompson rejoined the meeting at this time.

H. Stevens Developers, LLC, 9 Sailors Way

Rick Brodsky, attorney, appeared on behalf of the applicants. He explained their plan to raze the existing house and build a new, single-family home and in ground pool. Their only nonconformity is an existing minimum lot size (1.5 acres required / 1.47 acres existing). New construction will create no new nonconformities.

Chairman Conklin asked Mr. Brodsky to address the drainage, and also if the proposed patio and pool are included in this application. Mr. Brodsky said they are included, although it is not the builder's intention to build them at the present time. The numbers do indicate these structures.

Harry Harnick, builder, was sworn in, and the Board accepted his qualifications. With regard to the trees, Mr. Harnick said no trees will be impacted with this plan, and there will be no grading issues, as all grading will remain the same, except for around the house, which will be somewhat

elevated. The future pool may impact an existing spruce tree, although they do not plan to construct this at this time.

The drainage will be reduced, since the proposed building area is smaller than the existing building coverage, and the lot coverage will be the same. They propose flash block, and leaders will drain out to Sailors Way. The pool will not be a part of this original construction, but in case a future buyer wishes to have a pool, they are asking for approval at this time. Mr. Reilly noted that if the pool is not constructed within the first year, they may need to come back for an extension of this approval. The current pool will be demolished.

The proposed generator, according to their plan, will be enclosed with a small fence. This is acceptable, according to Mr. Andre.

There were no questions or comments from the public.

Mrs. Seaman asked about the proposed pool and whether this will affect the drainage at the time of any future construction. Mr. Andre said they would need to submit a new drainage plan for the pool at the time of construction.

Mr. Duddy noted that everything complies, and they have answered the tree and drainage issues. He moved to approve the application, and Mr. Blum seconded.

Roll Call Vote: Ayes (Eligible) – Conklin, Blum, Wood, Seaman, Duddy, Brodsky, Thompson
Nays – None

Motion carried.

Petcon Builders, LLC, 129 Rumson Rd. (Corner Bellevue Ave)

Michael Holzapple, attorney, appeared on behalf of the applicants. They would like to raze the existing structure and construct a new, conforming structure, except for a variance to have the home face Rumson Road. The other variances are existing and include frontage and lot shape.

This is a corner lot, and facing the house toward Rumson Road is in keeping with what exists. They propose to orient the house the way it has always existed.

John Tsakiris, builder and principal in Petcon Builders was sworn in, and the Board accepted his qualifications. They are the contract purchasers of the property, subject to the granting of the variances. He explained their plan for the new house, which cannot have a basement, due to the high water table. They will have a crawl space, and there is a bulk space over the garage and porte-cochere to provide storage. They have 200' on Bellevue Ave. where 250' are required, due to the corner lot. The circle requirement is 115' and 67.83' are existing. The ordinance in Rumson requires the smaller frontage be primary, and they have a problem with this because they don't want the setback to be 65' from Rumson Road. Their design is 115' from Rumson Road, and the rear setback is close to what exists.

Drainage comes from west to east, and placing the house on Bellevue would block the drainage patterns. Keeping the house east to west, as it exists, makes more sense to them in terms of developing the property. The house is totally conforming, except for the existing nonconformities.

They also propose a pool, which they feel would be appropriate for a home of this size. The dimensions of the pool are included in their calculations.

This proposed structure is in keeping with others in the neighborhood, in their opinion. Mr. Tsakiris noted that the garage cannot face Rumson Road or Bellevue Ave., so they are proposing to have it face the rear of the property.

Chairman Conklin asked about the proposed pool house, and Mr. Tsakiris said no heat is proposed for this structure, which will be 20' x 20' in size, one story, with a limited kitchen that provides a refrigerator and counter, but no cooking equipment. It cannot be used as living space, and Mr. Reilly said this will be a condition of any approval. The cabana is proposed in the rear where they have more space on the west side, providing the proper setback.

The trees proposed for removal have all been inspected by the town's arborist. They propose to remove approximately 8 – 10 trees, and they will be replacing more than they are taking out. The trees that are coming out are all dead or dying.

The drainage will continue as it has been from west to east. Mr. Tsakiris described an invert on the southeast corner of the property, which provides drainage as currently occurs. The house will be raised approximately 2' from the current grade. Chairman Conklin asked how the Board can be sure that their plan will not overwhelm the existing drainage. Mr. Tsakiris said that the grades on the southeast portion will not substantially change, and most of the change will be around the house. The neighbor to the south has a large berm, which precludes any water from going on to this property. They will be grading so that the water will move from west to east and taken out by the invert that currently exists.

Mr. Brodsky (Board member) recalled that the house next door was substantially higher than this property. Mr. Tsakiris said their plan should add more percolation to the ground, and the grading will remain close to what exists. The water is now handled by natural grading from west to the southeast, and there is also a culvert to handle the water in this area.

William Brooks, Borough Forester, was sworn in and confirmed that he has been on the lot and looked at the trees proposed for removal. There are two significant specimen trees on the southwest corner. The trees marked for removal show serious decline. He noted that the number of trees permitted for removal in the R-1 zone is eight. Mr. Tsakiris said he will get a copy of the grading plan to the attorney for review. Mr. Brooks, Borough Forester, stated their plan is consistent with the tree ordinance, and no significant trees are proposed for removal.

Mr. Thompson asked for a better count for the number of trees to be removed, as the plan appears to indicate more than 8-10 trees, as testified to by Mr. Tsakiris. Mr. Tsakiris stated three trees will come out that are in the driveway and house area. There are a few dead trees to be removed, and the balance of the trees to be removed are mostly dead or will not be able to survive, due to the grade change.

Mr. Brooks stated that the plan shows the Gum tree to be removed, which would be prohibited, as it is a significant specimen tree. This tree is located in the southwest corner in the area of the proposed pool construction. This is the one that has a double trunk. Mr. Tsakiris said that the pool would need to be moved to work with the tree.

Mrs. Seaman confirmed that the Sweet Gum would not be removed, and Mr. Brooks said it is protected, but they could take off one of the double trunks. This tree should survive, if the one side is removed, according to Mr. Brooks. He noted some suggestions for remediation of this type of tree. The ordinance does not prohibit taking off the leader for safety issues.

Chairman Conklin said they need to see a grading plan to show what impact it will have on the trees, along with the exact trees they will be taking out.

James Mirandi, 128 Rumson road, was sworn in and expressed concern with the water and drainage issues. He reported that Rumson Road's drainage system does not have the capability to accept any more water. He is concerned that the proposal will take away from the natural drainage. He would like to see additional studies done to see where the water will run and what mitigation they will propose for the amount of water.

Nancy Borneman, 56 Bellevue Ave., corner of Rumson Road, was sworn and said she already has a problem with water, and further reported on the water situation in the area. She would also like to see a drainage plan.

Rob Eyerluss, 21 Lennox Ave., was sworn in and said he is the son of the current owner of the property. He pointed out that one house south of this house was built up very high, which caused much of the water problems that occur today. He stated that no properties around them are affected by their water, and they were actually affected by the water from other properties. The current drainage from this property does not affect any other properties nearby.

Mr. Blum stated that the ongoing issues along Rumson Road are unrelated to this property, and occurred after nearby construction occurred about 20 years ago.

Richard Jones, 37 Navesink Ave., was sworn in and asked how they would characterize the current storm water, and Mr. Tsakiris said the water goes into a catch basin along Bellevue. Mr. Jones also questioned the drainage on to Bellevue Ave. He stated that the plot plan does not show elevation 50' beyond the property, as required. With regard to the trees, he asked about the total slated for removal, and Mr. Brooks stated he does not know the exact number at present, but

he will be determining this to make sure they are within the parameters of the ordinance. The tree plan will be available for the next meeting.

Chairman Conklin reviewed that the board needs to get reports on specimen trees, grading, and footprints for the houses.

Mr. Blum asked if they are proposing any storm water mitigation, and Mr. Tsakiris said there is no ability to do recharge, due to the high water table. Mr. Blum stated that the lot coverage is being increased somewhat, and he asked if the capacity of the drainage has been analyzed. Mr. Tsakiris said this has not been done, to his knowledge. Mr. Blum asked if this would be subject to the Storm Water Management ordinance, and Mr. André said it is and runoff would be limited to what currently exists.

Chairman Conklin would like to see this plan first, and the Board agreed that there are many issues that need to be addressed. The application will be carried to the October meeting, when revised plans will be shown, and no further notice will be required. The revised plans will need to be submitted at least 10 days prior to that meeting.

Atlantic Builders, LLC, 2 Buttonwood Lane (Corner Rumson Road)

Rick Brodsky, attorney, appeared on behalf of the applicant. The application is to raze the existing dwelling and construct a new, single-family home and in-ground pool. There are two existing nonconformities:

- Existing lot frontage along Rumson road (250' required / 248.82' existing);
- Existing corner lot shape (115' required / 106.33' existing).

The new construction creates no new nonconformities and alleviates an existing setback condition along Rumson road (40' existing / 80' proposed).

Kostas Natsis, principal of Atlantic Builders LLC, was sworn in. A colored rendering of the proposed elevation was show to the board. Chairman Conklin noted that this lot is very overgrown, and Mr. Brodsky stated there are well over 100 trees on the lot. Normal maintenance has not occurred over the years, and much underbrush will be coming out. Mr. Brodsky stated that Mr. Brooks, Borough Forester, has visited the site and has prepared detailed notes for the builder and landscaper. All of his suggestions were incorporated into their landscape plan, which is available for review this evening.

Mr. Brodsky said the house will face Rumson Road, as does the existing home. Mr. Natsis offered his credentials as a builder in the area. He explained his plans for the house, and he will replace the trees that they will be removing, as per the plan from Mr. Brooks (landscape plan dated 8/18/14). The proposed location of the home is shifted from what currently exists, a little farther away from Rumson Road and from the adjacent property to the west (40'), making it comply with the ordinance. The trees within the footprint will be removed, and Mr. Brooks will

testify to his plan. The landscape plan shows all the suggestions and replacement trees as noted in Mr. Brooks' plan.

William Brooks, Borough Forester, was again sworn in and said nothing has gone on with this property over the past 20 years. There were some small saplings removed. The rear of the property was as overgrown as the front along Rumson Road. There were 108 trees on the property, consisting of 30 different species. There are some dogwoods and hollies. The applicant has agreed that any of these trees to be removed that are within the footprint will be replaced with like specimens. They may investigate the feasibility of moving some of these, but if they do not do this, they will be replacing them with 3 ½" caliper trees. The two hollies in the footprint to be removed will be replaced with 8'-10' American hollies. The two significant specimen trees are eastern white pine and honey locust. There are many dead limbs on these trees, since no care has been afforded them. The west edge has a significant specimen tree, and by shifting the house as proposed, this tree will not be affected. There are no other significant specimen trees proposed for removal.

Mr. Brooks identified all the trees within the footprint as to size and specimen and informed the applicant as to the requirements under the borough ordinance. The total trees to be removed outside the footprint are six, which is allowed. One on the south property line has already begun to split and should come out. Another double trunk pin oak south of the existing patio will not survive, due to the proposed fill. It is not a significant specimen and is permitted to be removed. It is better to take this opportunity to get new ones. The property needs substantial removal of underbrush and cleaning up, and the applicant will be doing work consistent with the ordinance. The property will be better off after this work is done.

Charles Bell, Jr., Engineer, was sworn in, and the Board accepted his qualifications. He stated that the water table is elevation 10', and they need to be 2' above this, taking the finished floor up to 21.3' with a full basement. They are proposing about 3' of fill around the dwelling and the pool. Mr. Bell said their plan addressed the variance issues, and the drainage plan will be done for the construction permit. They have no problem putting in additional dry wells to take the roof drainage. This will reduce the amount of runoff from the property. The proposed structure is larger than the existing structure, so the dry wells will help reduce the runoff on the property.

Linda Mallan, 6 Buttonwood Lane, was sworn in, along with her son, Tom Mallan. Mr. Mallan expressed a concern with the drainage, reporting on a current drainage problem on his mother's property over the years, which has been made worse due to other recent construction. Any rain event causes standing water to occur in her front yard. The increase in the lot coverage and lack of a drainage plan will cause even more standing water, especially on the southeast corner. The drainage from the pool goes toward his mother's property also. Chairman Conklin also noted that the change in the underbrush and trees may also affect this condition.

Mr. Brodsky noted that they have not done their entire drainage plan, but their intention is to make the condition better with the addition of dry wells, which do not currently exist. Chairman Conklin thinks their may be an issue as to where these dry wells are located. Mr. Bell stated that piping the roof leaders into the dry wells will reduce the impervious coverage on the lot that is not currently being handled. The roof area will be increased; however, once this is piped underground into dry wells, this will reduce the amount of water on the property. Chairman Conklin is concerned about the change in the ground and the additional lot coverage with the pool, deck, etc.

Mrs. Seaman would like to see a drainage plan, so that the Board can be sure that a greater water problem does not occur.

Mr. Mallan said he welcomes the renovation of the property, but they want to make sure they do not get any additional water.

Cynthia Siwulec, 181 Rumson Road, was sworn in and said she lives next to the subject property. Her concern is also with the drainage, due to the increased coverage and less vegetation. She asked about the proposed fill and whether it will run into her driveway. Mr. Bell pointed out the area of fill, noting that they are required to provide a silt fence to keep the soil within the property area.

There were no other questions or comments from the public.

Mr. Brodsky asked what the normal course is for the drainage plans, and Mr. Andre said that the borough engineer reviews the drainage plan after the resolution is adopted. Chairman Conklin noted that this is something that the board can require. Mr. Brodsky said that Mr. Bell can prepare the drainage plan for the Board to review before the resolution is adopted to show that they will be addressing the water conditions. Chairman Conklin asked about the flow of the water, as well as the roof runoff and the dry wells. The applicant will agree to have the application carried, and no further notice will be required.

Mr. Blum thinks they should look at the south side of the property, as it pertains to the elevation of nearby properties. The fill in the area will cause significant change to the drainage patterns, in his opinion. Their plan is significantly different than the development pattern in the neighborhood. The property next door was discussed, noting that their property will be raised to provide a basement, so this will provide a substantially different development pattern. They are not prohibited from doing this, but it requires taking a careful look at the grade, so that the difference maintains the surface grading patterns.

Mr. Bell stated that, based on the comments heard, they may need to change the location of the pool and other areas. They can rework it to have it reconsidered by the Board. Also, Mr. Blum suggested they reconsider the current driveway area, which may not provide enough maneuvering room.

Mr. Duddy agrees with Mr. Blum's comments. He agrees that this lot was very neglected, and he is happy with what they are proposing. He is concerned with the board's approving the plan before they are aware of the actual drainage plan. The Board is not really qualified to approve any engineering plan, but Chairman Conklin thinks the board can review the plan and have it discussed for the public's information.

Mr. Brodsky said they are willing to do what needs to be done to make sure no problems occur. They would like to come back to the October meeting with their revised plan. The application will be carried to that time, with no further notice required (10/21/14).

Peter & Lauren Carras, 30 Laffayette St.

Mr. & Mrs. Carras were sworn in and explained their plan to change the layout of the kitchen, powder room and laundry room by squaring off the back of the house and adding a second floor to put in a master bath and two closets. They would not go any farther to the property line or closer to the property next door. The plans do not exceed the allowed floor area, and they have tried to make the addition look like a part of the historic structure, which they have substantially restored.

The addition will be 200 sq. ft. much of which is a reconfiguration of some of the existing rooms. They will be taking down an existing one-story addition, which is about 10' x 13' in size. The house was built in 1885, and they are trying to make it functional for the family. They have a small bathroom upstairs, and they would like another master bathroom upstairs. The master bedroom is about 12' x 11', and this will not change. The addition squares off the back of the

house with a second floor above. They will be redoing the outside of the house next. They have a number of pre-existing nonconformities.

There were no questions or comments from the public.

Mr. Thompson thinks they are to be commended for saving the historic structure in this neighborhood.

Mrs. Seaman agrees and thinks the plan will make the house look better.

Mr. Brodsky asked about the building coverage, but agrees with Mr. Thompson's comments and likes the great lengths they have gone to make this older home more functional. He would support the application.

Mr. Duddy agrees and would also support the application.

Mr. Blum asked about the A/C units, and Mrs. Carras said they are proposed for the same side as their neighbor's units, which they thought would be the best place. They have researched the size, and were told there was enough room.

Mr. Duddy moved to approve the application, and Mr. Thompson seconded.

Roll Call Vote: Ayes (Eligible) – Conklin, Blum, Wood, Seaman, Duddy, Brodsky, Thompson
Nays – None

Motion carried.

At this time (9:30 p.m.) a short recess was taken.

Mikhail & Michelle Kutsak, 27 North Ward Ave.

Mr. Reilly advised that this application will be carried to the September 16th meeting, with no further notice required.

Chelsea Building & Development Co., 1 Wilson Circle

Scott Eskwitt, attorney, said they will be changing one variance request for the side yard setback to comply with the ordinance. A revised plan will be submitted as part of the resolution.

Robert Conti, partner in the company, was sworn in, along with Charles Surmonte, engineer. The Board accepted Mr. Surmonte's qualifications. Mr. Conti explained that they demolished the existing home on the property, as it was an eye sore and was in the town's best interest. They have a corner lot and are proposing a single-family home with a stream on the left side of the lot. They have shown this on the plan, along with a wetlands area. There is a setback restriction, based on these areas, and the house has been positioned accordingly. The wetlands side setback will be 27', as required. They have agreed to add screening along the entire side of Lot #2 (east side), between the two properties with 7' – 8' high trees (green giants). The design of the home is in keeping with the surrounding homes in the neighborhood.

Mr. Surmonte explained the DEP issues they had to deal with:

- The ditch along the west property line is tidal and brings CAFRA permits into play;
- Fresh water wetlands are also associated with this ditch.

It has been classified as a swale, so no buffer is required. They are entitled to a permit for CAFRA, and they will not be disturbing any riparian vegetation. They are proposing a short retaining wall on the left side of the house. The grading plan will not elevate the grade on either side of the lot. Lot #2 drains on to their property. The house will be elevated to 13' to comply with the flood hazard regulations. The grade will be brought up 2' – 3' to protect the house. The house will have a 35' setback to give them an opportunity to have a back yard. There is no way they could meet the required 75' setback.

Michael Leckstein, attorney, appeared to represent Mr. & Mrs. Eadon, owners of Lot #2. They have discussed the matter with the applicant and have worked out the screening plan. He asked about the location of the house, which will be slid to the left. Mr. Leckstein stated that his clients had advised them that there is a low spot in the corner of the properties where water accumulates and goes from the subject property on to Lot #2. Mr. Surmonte disagrees and stated that no water flows from their property onto Lot #2. Their plan shows that the water will flow to the ditch; however, if it overflows from this area, it will flow on to his client's lot. Mr. Leckstein's clients would like to fill in this area and build a retaining wall so that the water does not flow on to their property in the future. Mr. Surmonte said their elevation was 6', and he would need to consider the impact to Lot #1 with this suggestion. Mr. Leckstein would like to coordinate the elevations in this area. Mr. Reilly noted that a revised plan will need to be submitted, showing the new location for the house, and this will need to be reviewed by the Board at the next meeting. He suggested they work together between the meetings so that they can come to an agreement, which may be included on the revised plan. The applicant will agree to this.

Mr. Leckstein also asked about the plantings, and Mr. Andre said these can be planted right up to the property line. The applicant will put together a plan to be reviewed by the neighbor, and this will be a condition of approval. Mr. William Brooks, Borough Forester, can also be consulted regarding the plantings. Mr. Brooks was sworn in again for this application, and stated that planting these trees 4' apart will be somewhat close, because it will not allow enough room for growth. Mr. Conti noted that they researched the issue and found that 6' – 10' between plantings is recommended, and Mr. Brooks agreed. Chairman Conklin said the applicant should submit their plan prior to the next meeting for review and approval.

Bill Watkins, 2 Wilson Circle, was sworn in and said they got flooded out after Sandy and were told they could not put any fill on their property. Now this application is proposing fill, as well as a retaining wall. He questioned the existing well on the property, and Mr. Conti said it will be filled in, and the bamboo growth will be removed. Mr. Surmonte explained that the ditch is a tidal feature, and they are not introducing that much fill. They will not have any impact on the elevation. They are proposing nothing to the rear of the property as to fill, and the existing drainage pattern will remain.

Marilyn Watkins, 2 Wilson Circle, was sworn in and expressed concerns with the raising of all the properties, which will affect her property. Mr. Surmonte said the subject property is still lowest in the neighborhood, but Mrs. Watkins said her property is just as low. She does not know where the water will go, and she thinks it will all go to her property. Mr. Surmonte said her property lies up a bit and is not lower than their lot. Their wall is to give them some workable space on that side, which will not be extended much past the foundation. Mr. Conti stated that any water rising in the area will rise on everyone's property. They are not proposing to fill the rear natural low areas of the property. They are doing nothing that will make the situation worse.

Chairman Conklin commented that the original house was smaller and lower. There is a change in the dynamics of the lot, due to the difference in the size and location of the house. The current drainage is not relevant as to what will occur, in his opinion.

Mr. Surmonte said that under a tidal condition you can determine the pattern of the water, which is from elevated tide. This is different than other properties which are affected by rain water. They are very conscious of what is going on around the other homes in the area.

Mrs. Watkins asked if they could extend the plantings along her property line, and Mr. Conti suggested they be prudent with both neighbors and come up with an agreement as to the screening this evening, so that the project does not stall. They are trying to make this project better for the town.

Chairman Conklin stated he is more concerned with the drainage.

Dr. Michael Risin, 18 Wilson Circle, was sworn in and noted the conditions on Wilson Circle. He is also concerned about changing the drainage patterns. He reported on water problems on the street. He likes the idea of a new house but is concerned with the effect of the change in the drainage pattern. Mr. Surmonte again noted that they minimized the amount of fill they are proposing for this house, so that these problems will not be made worse.

Elaine Eadon, Wilson Circle resident, was sworn in and said she is happy that the old house was taken down. They have lived in their house for 35 years. She reported on drainage issues in the area, noting other lots that have changed their elevation and the water problems that resulted from this change. Newly added retaining walls have caused problems for her property, which now has water draining on to it. She has looked into adding fill and a retaining wall on her lot to protect her lot from flooding.

Tom Eadon, Wilson Circle, was sworn in and stated they appreciated working with the builder, who will be providing screening between the properties. He would like to see a plan showing the screening, and Chairman Conklin said if the application is approved, the resolution would be presented next month during which time they can get together to see any plan.

Nancy Sullivan, 14 Wilson Circle, was sworn in and stated her agreement with the statement made by Dr. Risin regarding the environmental impact on this street by the water during a heavy rain. Chairman Conklin noted that this Board is not the venue for street drainage

suggestions, and they should approach Mayor and Council regarding this issue. Mrs. Sullivan said she liked the proposed screening.

There were no other questions or comments from the public.

Mr. Blum asked about the area between the proposed wall and the creek and how this area will be finished. Mr. Surmonte said they will allow natural vegetation to grow and do what needs to be done to stabilize the area. It will not be raised and will not change, remaining at the existing grade. The garage is proposed for below the street, and Mr. Blum asked if they could raise this, so that

the water would drain off this area toward the street. He thinks there is room here to allow runoff to the street and remove it off the property. Mr. Conti said he thinks they can do this.

Also, the roof water can be directed into the creek, and Mr. Blum thinks these suggestions will substantially reduce any runoff. It cannot be piped, but it can be directed so as to run over the ground to the street. He noted that it is an exceptional lot, and this is a classic "C" variance situation. He does not think the application is unreasonable, and with a few adjustments, he would not have a problem.

Mr. Brodsky agrees that it is a tough piece of property, with severe grading. They are providing an opportunity for the water to run off the lot and into the creek. He does not think it is oversized. The change in the driveway elevation will be a benefit with regard to flooding. He does not think their plan will have an impact on the other properties, as most of the water is tidal.

Mr. Duddy agrees that directing the water to the creek would alleviate some of the water problems. He also agrees that this will not impact the other lots, and raising the driveway will also be helpful as to drainage.

Mr. Thompson cannot support the application, due to the many outstanding questions and issues relating to the setbacks and drainage. Filling a lot will affect the water, in his opinion. He is not hearing any willingness on the builder's part to address the concerns heard this evening.

Chairman Conklin again mentioned the change in the dynamics, and Mr. Blum said he does not think the new plan will increase the net runoff because the lot coverage is about the same, since the house is bigger, but the driveway is smaller. They have not increased the lot coverage with this plan.

Mrs. Seaman thinks there is a hardship situation, and something will eventually get built on the lot. She agrees with Mr. Blum's suggestion for the driveway. She thinks anything they can do to minimize the water issues would be appreciated.

Mr. Reilly reviewed the consensus of the Board that the application could be approved, assuming they can work out revising the plans to deal with the drainage issues and the building issues with the neighbors. They would need to come back with a revised plan to reflect the changes, and he can prepare a resolution to be approved at the next meeting, if the Board is satisfied with what they have done. If it cannot be worked out, the matter would need to be further discussed.

The application will be carried to the September 16th meeting, when a resolution will be available for a vote, if everyone is happy with the revised plan. No further notice will be required.

Sean & Marion Moran, 9 North Ward Ave.

Mark Aikens, attorney, appeared on behalf of the applicants. He noted that the Board saw this application a year ago, when approval was granted to move the carriage house to another location on the property and construct a new manor house. They have now decided to leave the carriage house in its current location, which causes a variance situation. They have the architect, landscaper, and planner available for testimony. The new manor house fully conforms to the ordinance.

James Anderson, architect, was sworn in, and the Board accepted his qualifications. He described their proposal for a new residence, which will be a shore cottage design in the tradition of a river home with a double front on the street and water. The details will emulate other buildings on the street. If there were no carriage house on the property, they would not need to come before the board, as the house is totally conforming.

The carriage house will now remain in its current location. The changes for the carriage house were described by Mr. Anderson – all of which will complement the new manor house. The nonconformities to this structure will be reduced with these changes.

Jason Fichter, planner and engineer, was sworn in, and the Board accepted his qualifications. He reviewed the variances required in order to leave the carriage house in its current location:

- Secondary residence on property (existing);
- Structure located in front yard (existing);
- Existing side yard nonconformity;
- Technical variance for accessory building remaining on property without a principal building (temporary condition until manor house in constructed).

The property values of the neighborhood will be conserved and enhanced. Also, better safety will be afforded due to the new construction and will protect the residence and other homes and neighbors from flooding. Light, air, and open space will be maintained and improved. They are maintaining an appropriate density for the neighborhood. Development will occur on a developed lot, protecting the environment. They are continuing the conditional use and structure (carriage house).

It is Mr. Fichter's opinion that the proposed development will not cause substantial detriment to the public good. Also, the pre-existing nonconforming use is permitted under the ordinance under certain conditions, and he thinks they meet this requirement. All other aspects are improved, including the general health, safety, and welfare. The intent and purpose of the zone plan would not be impaired, in his opinion. The positives would outweigh any detriments.

Chairman Conklin asked about the nonconforming use, and Mr. Aikens stated that the prior application noted their intention to continue the rental nature of the property.

There were no questions or comments from the public.

Mrs. Seaman asked about the time line, and Mr. Aikens said they have a builder and will begin construction immediately.

Mr. Brodsky noted they are maxing out of all the coverage, and Mr. Aikens said they do propose a pool, which is included in their calculations and shown on their plan. The first floor elevation will be at 14’.

Mr. Duddy asked why they originally wanted to move the carriage house, and Mr. Aikens said it was to get it more in line with the new manor house, but they have now decided to leave it where it is.

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

Roll Call Vote: Ayes – Conklin, Blum, Thompson, Wood, Seaman, Duddy, Brodsky

Nays – None

Motion carried.

Approval of Minutes

Motion was made and seconded to approve the July minutes, with corrections. Voice vote: Ayes, unanimous.

Resolutions

- 1. James & Marie Orsini, 2 Waterway** – Approval to construct new residence and in ground pool;
- 2. Gregory & Noushin Framke, 8 Edwards Point Road** – Approval to raze existing house, retain existing cabana and pergola, construct new residence and in-ground pool.

Mr. Brodsky moved to adopt the resolutions, and Dr. Wood seconded.

Voice Vote: Ayes, unanimous. (Dr. Wood abstained from voting on the Orsini resolution).

There being no further business, motion was made and seconded to adjourn. Voice Vote: Ayes, unanimous. The meeting was adjourned at 11:10 p.m.

The next meeting will be **September 16, 2014.**

Respectfully submitted,

Patricia Murphy
Clerk