

RUMSON ZONING BOARD

FEBRUARY 23, 2016

MINUTES

Regularly scheduled meeting called at order at 7:35 pm with a salute to the flag, followed by a roll call of: Mr. Brodsky, Mr. Thompson, Mr. Lizotte, Mr. Cottrell, Dr. Wood, and Mr. Duddy.

Absent: Mr. Blum, Mrs. Seaman, Mr. Torcivia

Also present: Mr. Andre', Mr. Reilly, Esq., Thomas Neff representing T&M Associates, and James Fisher representing State Shorthand Reporting Service.

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

Chairman Brodsky announced the Heal application will be carried to the March 15, 2016 meeting without further notice to the public.

The application of John and Maria LaGratta, 5 Heathcliff Road, Block 118, Lot 8, located in the R-1 was presented by David Shaheen, Esq., attorney for the applicants. Mr. Shaheen stated the applicants purchased the property in 2015 and they're hoping to add an addition to provide more adequate living space for the family. The home currently consists of three bedrooms and, if approved, the project will add two additional bedrooms, a study and a playroom. Four of the six variances being requested are existing and will not be affected by this application. The lot is shallow and located in an acre and a half zone with 180 feet in depth consistent with the other properties along Heathcliff Road. Mr. Shaheen called Paul Damiano to present testimony.

Mr. Paul Damiano, sworn and John LaGratta, sworn.

Mr. Fred Andre', Zoning Officer was sworn.

The Board accepted Mr. Damiano's credentials as the licensed architect. Mr. Damiano stated the existing home is currently a two-story Colonial with a one-story addition on the side, where the garage is located at the rear and has an existing room above. Mr. Damiano describes the home in detail. The first floor consists of a formal living room, dining room, kitchen, and an informal family room, a study, mechanical space, a small mud room and a laundry room. Property is in close proximity to a pond and has no basement availability.

The addition to the first floor is essentially the equivalent of a finished basement. The height of the finished area above the garage is currently at 9 feet and tapers down to 4 feet. The second-story dormer is not to increase floor space but for usable head room for the area. Although it falls within the front yard setback it is concealed from street view. The garage setback is 47.3 feet where 56 feet is required. Rear yard setback is 43.8 feet for the roof overhang with the main structure at 45.3 where 50 feet is required. The property has a good amount of shrubbery and tree screening.

All exterior materials will match.

Chairman Brodsky noted the addition in the back is accessed only through the garage with no access to main house. He stated that the two-story addition is higher than the main house and is located outside the building envelope. Perhaps there could be some other accommodation with regard to the location, or size of the project as to not exacerbate the overage.

Mr. Cottrell asked for a clarification with regard to the front yard setback. Mr. Damiano explained that the front setback is 100 feet, the proposed dormer over the garage is within the setback and triggers the variance.

Mr. Reilly asked whether the pool and patios depicted on the plans were part of the application. Mr. Damiano advised that they were added to plans to illustrate the allowable coverage and that the applicant would not need a variance in the future. The proposed lot coverage is shown as 7,792 and includes the pool facilities. The building coverage is 3,256 where 4,225 is permitted. The application is under the FAR at 5,157 where 6,936 is permitted. The property is somewhat constrained and has limits on where a conforming addition can be located.

Chairman Brodsky opens the application to the public.

Beth and John Giannotto, residing at 1 Heathcliff Road were sworn. Mrs. and Mr. Giannotto stated they reviewed the plans, and felt the height of the structure is very visible and overlooks their backyard, pool and family room. They felt that the addition could be reduced to lessen

any impact on their property, and that additional screening be added to increase the existing buffering. Applicants agreed to supplement the landscape buffer.

Chairman Brodsky notes the hardship of the narrowness of the lot, however the height of the two-story addition exceeding the main house seems excessive. Mr. LaGratta stated that having three young children drove the positioning of the addition. Mr. Damiano commented that perhaps they could lower the height two and a half feet. 35 feet is the maximum height for the Zone and the proposal is currently at 31.7. Applicant agreed to lower the height by two and a half.

Mr. Duddy commented that the application is very difficult due the lot shape and the pond. He also asked about the possibility of softening the mass of the addition. Mr. Damiano stated they could try and make some adjustments to roof line and still maintain the Colonial character of the main house. Mr. Thompson stated that a compromise with the ridge height is a movement in the right direction. Various Board Members agreed that an adjustment to the roof line would soften the appearance.

Applicant agrees to make adjustments and submit revised plans for review.

Mr. Cottrell makes a motion to approve the application with the stated height and roofline adjustments. Applicant agrees to push the second-floor face back four feet, and add additional landscaping. Revised plans will be submitted 10 days in advance of the next meeting for review by the Board and public. Mr. Thompson seconds the motion.

Roll Call vote:

Ayes: Brodsky, Thompson, Lizotte, Cottrell, Wood, Duddy

Nays: None.

Chairman Brodsky announces the next application to be heard is SURFBBQ Real Estate, 132 East River Road.

Michael A. Bruno, Esq., representing the applicant appears before the Board. Mr. Bruno advised the Board that the application is a pre-existing non-conforming use that was subsequently a conditional use in the zone that was approved in 2009. Application is for an outdoor cafe, which is permitted under the ordinance with certain conditions.

Mr. Bruno offers that everything requested in the T&M review of the application has been submitted. Mr. Thomas Neff representing T&M Associates advised the Board that a majority of the requested waivers are minor in nature. There is no objection to the granting of the requested waivers. Mr. Bruno confirms there are no easements or deed restriction on the property. There are no changes in connection with the existing restaurant. The only change being requested is to allow the outdoor cafe area. There are no proposed changes to the previous approval.

Victor Rallo, owner of SURFBBQ, L.L.C., sworn.

Mr. Rallo stated the property was purchased approximately five or six months ago. They did some renovations and currently have a Certificate of Occupancy. The restaurant could be open soon. They are requesting an outdoor sitting area on the Blackpoint Road side of the property facing the Firehouse. There is an existing concrete area, with a curb and a driveway leading to the refuse area. They have repaired the fencing and blacktop. The refuse area is in the same location as previously approved with minor improvements to the surrounding fence.

The outdoor sitting area will have 28 seats on the existing concrete area. There's existing adequate lighting in the area. Applicant plans to have five picnic tables with umbrellas and will comply with the conditions specified in the engineering review letter. The seasonal operating hours will comply with the Borough's ordinance. The applicant proposes a fence along the curb to buffer the seating area from the driveway and also from the house next door. A small three-foot fence is proposed at the entrance to the seating area.

Mr. Neff advised the Board of the recent ordinance change allowing for a maximum fence height of four feet in the front yard. There's no variance for the location, just the 3-foot height of the fence. The fencing in the rear will be six foot tapering down to the three foot for aesthetic purposes. Mr. Bruno offers photographs of the existing site to the Board. The Board suggested three-foot fencing in the front with six feet on the sides to buffer the seating area from adjoining property. There will be no outdoor waiting area associated with this application.

Mr. Bruno advises the variances previously approved will not be exacerbated. The three-foot high fencing will separate the public sidewalk from the seating area and is within the property line.

Mr. James Kennedy, licensed engineer on the application, Sworn.

The Board accepts Mr. Kennedy's credentials. Mr. Kennedy and Mr. Bruno stipulate they will comply with all the requirements listed in the engineer's review number 1.6. No additional signage will be added. No coverage increase is requested. Patrons will utilize the municipal parking lots and on-street parking. Applicant requesting a waiver with regard to planting street trees and supplying a sight-triangle easement.

Chairman Brodsky opens the application to the public.

John Alwine and Michelle Foster residing at 70 Blackpoint Road, sworn. Mr. Alwine and Ms. Foster addressed the Board asking whether the sound buffer that was in the 2009 approval is still intact. There have been issues in the past with ambient noise disturbance and conditions may be worse with outdoor seating. Also patrons leaving the establishment have been rowdy. Staff clean up afterhours is a big disturbance. Parking is difficult with larger vehicles blocking visibility and driveway ingress and egress. They question whether anything will be done with odors and smoke from the barbecue process. Their primary issue is with the outdoor seating and patrons loitering in the neighborhood.

Previous approval allowed bands and music as long as door was closed. Mr. Rallo advised that the establishment is very different than what was previously operated at the site. The restaurant capacity currently is 141 or 142 with an additional 28 outside. The previous approval was 167 capacity inside.

Mr. Bruno advised the Board there is a condition that the outdoor seating be closed at 10 o'clock and the applicant has agreed to abide by the ordinance. Mr. Neff referred the Board to Comment 1.3 and 1.4 in the review letter about setback issues. This being a new use the ordinance applies. A 50 foot front yard setback is required where the applicant is proposing zero. 25 feet is required for the side yard, 12 is being proposed. All of which is not possible with this property, and the decision is entirely up the Board. Mr. Bruno advised that applicant could not comply with those requirements. Applicant is agreeable to abiding by all the use restrictions and the time limitations. There are no negative impacts to the community. This restaurant has been in existence for quite a while. The operator has another restaurant in town, which is very well run. Mr. Neff advised that the restaurant use has been in existence but the outdoor seating has not.

Bob Peters residing at 9 Center Street, sworn. Mr. Peters' property is located diagonal to the application. Mr. Peters advised the applicant has done a good job with the facility but he is

concerned with noise aspect associated with this application. The amount of requested seating is substantial and so will the volume of noise and detract from the neighbors' quality of life.

Mary Flahive residing at 72 Blackpoint Road, sworn.

Ms. Flahive addressed the Board and is also concerns about the noise element and echoed the concerns of other neighbors. Ms. Flahive is also concerned with the refuse pick up and whether smoking will be allowed. Mr. Rallo advised the pickup would be through the driveway, and there will be no smoking in that area.

Mr. Thompson asked whether the applicant has done any acoustical work on the interior of the restaurant. Mr. Rallo stated they didn't add anything to the acoustics, but the operation will be different than the previous establishment. Any musical performance would be along the lines of a single guitar. They do not foresee any bands or the like. The interior has been revamped and changed. What they have created is not super fancy. It's not super expensive. It's geared towards families and it's not a hang out where you would come to listen to music all night. Any type of music venue would be on a small scale. Neighbors' concerns are very important.

The Board granted Mr. Bruno a recess to confer with his client.

Chairman Brodsky continues with Board business and moves onto Resolutions and asked for a motion on the Panza and Lane Resolutions with standard conditions.

Mr. Thompson moves for approval of both resolutions, seconded by Mr. Lizotte.

Roll Call Vote:

Ayes: Brodsky, Thompson, Lizotte, Cottrell, Wood, Duddy

Nays: None

Chairman Brodsky asks for a motion on the Cofone Resolution. Mr. Thompson moves for an approval of the Resolution, seconded by Mr. Lizotte.

Roll Call Vote:

Ayes: Brodsky, Thompson, Lizotte, Wood

Nays: None

Abstain: Cottrell, Duddy

Chairman Brodsky asks for approval of the Minutes from the January 19, 2016 meeting with a few minor adjustments. Mr. Thompson motions to approve as amended, seconded by Mr. Lizotte.

By voice vote the January 19, 2016 Minutes are approved.

Board resumes the application of SURFBBQ Real Estate. Mr. Bruno advised the Board the applicant has heard the concerns of the neighbors and offers the following proposal: The removal of two of the tables in the rear and to limit the operating hours to 9 o'clock for that outdoor area. Placing the two table in the front of building on River Road and have that open till 10 o'clock as per the ordinance. Thus reducing the intensity in the rear and the operating hours to address the comments and concerns. Applicant will submit a plan showing the changes. Applicant does not allow any loitering by their staff or anyone. All noisy refuse cleanup is done in the morning hours and pick up will be through a private hauler and will following the ordinance.

Mr. Thompson mentioned that the applicant has operated successfully in the area and is addressing all the concerns mentioned by the public and the Board with a wonderful compromise. Mr. Lizotte agrees with Mr. Thompson. Mr. Lizotte stated a strong consideration should be given to having a six-foot-high fence surrounding the outdoor seating which would help with any noise generated. The 9 o'clock closure is great. The proposal of removing two tables minimizes any impact.

Mr. Bruno reiterates there will be three tables in the rear and two tables in the front for a total of 18 seats in the back and 10 seats in the front. The applicant will do a double six-foot-high stockage fence on both sides and three-foot of fencing at the entrance. Mr. Rella stated that they will place some sort of fencing in the area on River Road separating that from the public sidewalk.

Mr. Cottrell makes a motion to approve the application with the double stockade fences as identified by the applicant, the 18 seats in the rear and 10 seats in the front, closing at nine p.m. in the rear, staying true to the ordinance in the front, abiding by the refuse disposal and a three-foot fence at the entrance. Motion seconded by Dr. Wood. Applicant will submit a revised site plan before the adoption of the resolution.

Roll Call Vote:

Ayes: Brodsky, Thompson, Lizotte, Cottrell, Wood, Duddy

Nays: None.

There being no further business, motion was made and seconded to adjourn. By unanimous voice vote meeting is adjourned at 9:35 p.m.

Next meeting will be March 15, 2016.

Respectfull submitted,

Michele MacPherson