

RUMSON ZONING BOARD

JANUARY 19, 2016

MINUTES

Regularly scheduled meeting called to order at 7:30 PM with a salute to the flag, followed by a roll call of:

Mr. Brodsky, Mr. Duddy, Mr. Cottrell, Mrs. Seaman, Dr. Wood, Mr. Thompson, Mr. Blum, Mr. Torcivia, Mr. Lizotte

ABSENT: None.

Also Present: Bernard Reilly, Esq.; Fred Andre'; Michele MacPherson representing State Shorthand Reporting Service.

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

Mr. Reilly administered the Oath to Mr. Lizotte, who will serve as Alternate #2 for a two-year term.

Mr. Reilly asked if there were any nominations for the position of Chairman. Mr. Cottrell nominated Mr. Brodsky with a second by Mr. Thompson.

Roll call vote:

Ayes - Lizotte, Cottrell, Thompson, Seaman, Blum, Torcivia, Wood, Duddy

Nays - None

Abstain - Brodsky

Mr. Brodsky graciously accepted his role as Chairman and asked for nomination for the position of Vice Chairman. Dr. Wood nominated Mr. Duddy for the position with a second by Mrs. Seaman.

Roll call vote:

Ayes - Brodsky, Lizotte, Cottrell, Thompson, Seaman, Blum, Torcivia, Wood

Nays - None.

Abstain - Duddy

Mr. Duddy graciously accepted the position.

Chairman Brodsky asks for approval of the Resolution for Board Attorney. Mr. Cottrell submits Bernard Reilly for the position with a second by Dr. Wood.

Roll call vote:

Ayes - Brodsky, Lizotte, Cottrell, Thompson, Seaman, Blum, Torcivia, Wood, Duddy

Nays - None

Next Chairman Brodsky asks for approval of the Resolution appointing T & M Associates as Board Engineer. Motion was made by Mrs. Seaman with a second by Mr. Lizotte.

Roll call vote:

Ayes - Brodsky, Lizotte, Cottrell, Thompson, Seaman, Torcivia, Wood, Duddy

Nays - None

Abstain - Blum

Chairman Brodsky requests Board moves to adopt resolutions. Resolution for the McSweeney application located at 96 Ridge Road, which was approved without special conditions attached. After review and one minor correction removing the word "cantilevered" and replacing it with "angled", Mr. Cottrell motions for approval of the Resolution with a second by Dr. Wood.

Roll call vote:

Ayes - Brodsky, Cottrell, Thompson, Seaman, Torcivia, Wood, Duddy

Nays - None

Abstain - Lizotte

Next the Resolution for adoption of the Reynolds application located at 15 Blackpoint Horseshoe, with special conditions attached. Special condition #6 to preserve the tree in the rear yard and the replacement of a tree being removed in the front yard; Special condition #7 to allow applicants to maintain pool equipment in its present location subject to providing a landscape and fencing plan, which was submitted to the Board for review along with a photograph of equipment in its current condition. Chairman Brodsky and Mrs. Seaman did a site inspection to confirm present conditions.

Mrs. Debra Williams residing at 17 Blackpoint Horseshoe, sworn at the previous hearing and remains under oath, addressed the Board with regard to the current conditions being noncompliant with the 1998 variance pertaining to the location of the pool equipment. Mrs. Williams supplied the Board with a photograph of her view of property. The variance clearly states the equipment be screened with fencing and landscaping which is clearly not being complied with.

Mr. Tim Williams residing at 17 Blackpoint Horseshoe was sworn. Mr. Williams confirmed his wife's testimony that the said pool equipment is very visible from their property. The equipment is located close to the property line and should be screened as stated in the previously approved resolution. The area is visible where they do their outdoor entertaining and also from the second floor windows.

Mr. Duddy stated that the wording in the '98 Resolution states landscaping and fencing so it is not visible. Since Rumson granted the previous applicants the right to locate this equipment five feet from property line and not 15 feet, it should not be visible from any portion of a neighbor's property. Mr. Reilly advised the Board that not visible would be from a reasonable standpoint and not invisible.

Mark Aikins, Esq., representing the Reynolds addressed the Board. Mr. Aikins stated that the architect revisited the area taking stock of existing screening and evaluated that with a six-foot stockade fence and planting shrubbery would be of marginal use. There's only a three-foot stretch between the easterly portion and the westerly edge of the six-foot stockade fence, which is actually an existing solid wood fence, six foot four inches to six foot nine inches high and is fairly significant before adding any additional planting. The question before the Board is should there be plantings that exceed six foot four or six foot nine.

Chairman Brodsky commented that the Board is charged with the decision whether or not the screening is adequate and complies with the 1998 Resolution granting the variance for the placement of pool equipment. Mr. Thompson stated the variance conditions should be complied with and applicant and everyone concerned should be able to come up with a solution. Perhaps adding an additional section of fencing, as the Chairman suggested would solve this situation.

Mr. Aikens requested a straw poll vote on whether additional fence and planting added as opposed to the existing condition as depicted in Z-1.2 submitted to the Board is adequate.

Chairman Brodsky reiterated that he thought the fencing was adequate but he was unable to view area from the Williams' property. He thought perhaps an additional eight feet of fence would remedy this situation and be in compliance with the previous approval. Mrs. Seaman also stated that viewing the

property she thought the screening was sufficient but did not have a vantage point from the neighboring property.

Mr. Cottrell and Mr. Torcivia agreed with Mr. Duddy and Mr. Thompson that the equipment should not be visible and comply with the granted variance. Mr. Blum commented that the screening does look incomplete. He feels that with a little amount of effort this could be rectified. Secondly, this issue doesn't affect the overall application. It's a matter of enforcement of a prior condition imposed by a sister board years ago subject to the granting of a variance. First impression is the present condition is not what the Planning Board intended by that '98 resolution. Their intention was little more certain screening from adjacent properties than what the photograph depicts. The Board can approve the application as submitted and the insufficient screening is an enforcement issue.

Mr. Reilly stated that the screening was not really a condition of approval but just a factual item. Screening was apparently adequate in 1998 and over time has deteriorated. The Board could require the applicant to restore adequate screening of this equipment consistent with the 1998 resolution.

Majority of the Board agrees that one standard section of fencing should be added to existing condition and would properly shield equipment from the public view.

The property owner Christine Reynolds asked Board for clarification on additional materials. Board agrees there is no room for plantings. Referring to Sheet Z-1.2 submitted to the Board, which reflects a 6 foot 4 inch to 6 foot 9 inch stockade fence which transitions to an existing four-foot high chain-link fence, which is slightly east of the stockade fence and would remain unaffected. Applicant agrees to add a section of six-foot high stockade fence west of the existing chain-link fence for eight feet. Mr. Unger, the architect on the project, supplied the Board the dimensions, stating that adding eight more feet of fencing would extend it four feet beyond the electrical panel depicted on Z-1.2.

Mr. Reilly requested the Board continue to the next agenda item so the resolution can be amended.

Chairman Brody called for the application of Robert and Joann Panza, 32 Allen Street, be presented. Keith Mazurek, Architect, was sworn and testified on behalf of the applicants. Mr. Mazurek advised the Board that the Panzas have owned the property 27 years. The existing lot is nonconforming in lot depth and circle, as well as the existing two-story house with a full basement is sitting in the front yard setback. Applicant is proposing to raze the structure. New home will be conforming to floor area, building coverage, height, and lot coverage. No variance will be required for any of those conditions. However due to the shallowness of the lot, they request to hold the existing streetscape of Allen Street. Placing the front of house and front porch where the existing house is. The rear of the house will conform to the rear yard setback. The new home will have a full basement, be two stories, and have an

attached one-car garage. Mr. Mazurek offered an aerial of the existing streetscape for the Board's consideration. No trees will be removed for this project. Mr. Mazurek agreed that there will be no possible future expansion allowed on the property without applying back to the Board.

Donna Messio residing at 34 Allen Street addressed the Board and asked if it were possible to move house further back and still meet the rear setback and was advised that it wasn't possible. The proposal will actually align with the rear and front of her house. Her concern is that the house is large and very close to the street. Mr. Mazurek stated the proposed house is four feet lower than allowed with a 12 on 12 pitch in the front section. The attic space is not habitable.

Mr. Blum questions the ownership and condition of the block wall along the north property line. Robert Panza, property owner, was sworn. Mr. Panza advised the Board they own the wall. Mr. Mazurek advised that the wall will be reviewed and repaired to support the new grading. Mr. Blum also questioned the need for the T-shape on driveway. Mr. Panza stated that was his specific request to have due to of the narrow street with parking on one side, which made backing straight out difficult. Mr. Blum also commented that the applicant is meeting the ordinance requirement exactly and on Zoning Officer's and Building Department review details will have to be precise.

Mr. Duddy stated that the setbacks are in place for a reason, but in this case the consistency of the neighborhood overrides the setback.

There being no further public or Board comments Chairman Brodsky asked if there was a motion to be offered. Mr. Duddy makes a motion to approve the application, seconded by Mr. Lizotte.

Roll call vote:

Ayes- Brodsky, Lizotte, Cottrell, Thompson, Seaman, Blum, Torcivia, Wood, Duddy

Nays- None

Chairman Brodsky calls for the Board to continue with the Reynolds' resolution. Mr. Reilly advised the Board that paragraph 6 be deleted up to the words "the renovation" and be replaced with three sentences stating as follows: At the January 2016 meeting the owner of Lot 5 appeared and indicated that the pool equipment was visible from portions of their rear yard and they had not been contacted by the applicant so as to work out an acceptable screening plan. The applicant was also present and spoke. After some review and discussion by the Board it was determined that the applicant should add another approximate eight-foot section of six-foot-high screening fence to the north end of existing six-foot-high screen fencing. So as to bring the end of the screening fencing to a point four feet to the north on a parallel plane of the most northerly piece of pool equipment. And the balance of the paragraph 6 that

begins with "The renovation", which speaks to the substance of the plan, should remain. And under conditions delete everything after the word "subject", and add the words "subject to the applicant adding an approximately eight-foot section of six-foot-high screening fencing to the present northerly end of the existing six-foot-high screening fencing so as to extend that fencing to approximately four feet northerly beyond the most northerly piece of pool equipment. This is a continuing condition and the applicant or its successors will maintain the six-foot-high screen fencing as extended by this resolution so long as the pool equipment remains with a deficit setback."

Mr. Aikins advised the Board that the applicant had no objection to the amended resolution.

Mr. Cottrell makes a motion to approve the amended resolution, seconded by Mrs. Seaman.

Roll call vote:

Ayes - Brodsky, Cottrell, Thompson, Seaman, Blum, Torcivia, Wood, Duddy

Nays - None

Abstain - Lizotte

Chairman Brodsky calls for the next agenda item, the continued application of Christine Cofone, 46 Bingham Avenue. Mr. Cottrell and Mr. Duddy are recused from hearing the application. Michael Herberts, Esquire from the law firm of Herberts, Van Ness, Cayci and Goodell appearing on behalf of the applicant. Mr. Herberts advised that after the Board's review and comments from the November 17, 2015 hearing, the applicant has revised the plans for the Board's consideration. The house been moved slightly forward by .6 feet, the rear setback has been reduced by 8.8 feet, the maximum coverage area variance has been eliminated, and decreased by 677.04 square feet, maximum floor coverage is reduced by 755.61 square feet. The application still requires a variance for the width of the driveway. Mr. Herberts presents Christine Cofone, licensed professional planner. Board accepts Ms. Cofone's credentials.

Ms. Cofone apologized for not being present at the last hearing due to conflict with her schedule. Ms. Cofone stated that after reviewing all the variances requested, the application has been scaled down. Plans have been revised and submitted to the Board. The revised plans show a three-bedroom home with a one-car garage, a family room, and parlor, and an eat-in kitchen. The existing property is significantly undersized. It's located in the Borough's R-5 Zone, with a lot area requirement of 6,000 square feet. Lot is 4,127 square feet. Application now proposes a house is 1,959 square feet with a family room on the opposite side of the previous proposal to address the concern of a neighbor, who was present at the last meeting. This new proposal will allow the concerned neighbor more light, air

and open space. The existing structure has a 4.6 side yard setback, which will be eliminated that variance. Application now conforms to the combined side yard setbacks.

Applicant is requesting front and rear yard setback variances for this property. The property running back from Bingham is 83 feet requiring a 35-foot front yard setback and proposal is for 17 feet. The required rear yard setback is 35 feet, proposal is 18.1 feet. The current fencing on the property is in somewhat of questionable state, if replacement is necessary it will be replaced with similar fencing. The applicant is requesting a maximum floor area ratio variance. Proposal is for 1,959 which is approximately 309 square feet over the requirement. The variances being requested should be considered as hardship variances with no opportunity to acquire additional property. Conforming to the front and rear setback leaves approximately 13 feet of building envelope making it impossible to build a conforming house. Ms. Cofone feels the Board can grant the requested variance relief under Criteria G, sufficient space and appropriate location. And also Criteria I, a desirable visual environment.

The applicant has removed the oil tank and has received a No Further Action Letter. Permits were received from the Building Department as well. She feels that the benefits of the variances would outweigh any detriment and will have no adverse negative impacts on any adjoining properties.

Chairman Brodsky asks the reasoning behind an attached garage as opposed to detached. Ms. Cofone advises that a lion's share of homes along Bingham Avenue have attached garages and they are more functional. Driveway length is required at 17 feet, application is for an additional three feet requiring a (2) variance. Ms. Cofone advised that it's a better zoning alternative and allows cars kept off the street.

Steve Wondrash, residing at 44 Bingham Avenue, sworn at the November hearing, appeared before the Board. Mr. Wondrash stated he appreciated the changes made to the plans. He also preferred keeping cars off the street and the request for 20 feet is not unreasonable for their needs. Proposed facade is in keeping with the neighborhood.

Chairman Brodsky commented that the property is at least 30 percent under what is required. Applicant is seeking a home that is 20 percent over what is permitted in terms of Floor Area. On new construction the Board's practice is always to have a conforming application. The property is very shallow making a conforming application very difficult. If the applicant were to receive credit for the detached garage the overage percent would be approximately 10 percent and would add to the living space of the home.

Mrs. Seaman agreed with the Chairman on the overage however a detached garage would not be functional and has the potential of becoming a shed rendering it useless as a garage. Mr. Thompson agreed and appreciated the compromises the applicant has made regarding the neighbor's concerns. Dr. Wood commented that the applicant did a nice job on their new proposal. Mr. Blum stated he had

no issues with the revised plans. The house would lose functionality if it were cut down any further. The one variance that's a little aggressive is the 20 foot driveway width. He feels 17 or 18 feet would be fine. Mr. Torcivia liked the revised plan addressing the concerns of the Board from the last hearing. The constraints of the lot were difficult to deal with and the applicant did a good job.

There being no further comments from the public or the Board, Chairman Brodsky called for a motion. Dr. Wood motions to approve the revised application, seconded by Mr. Torcivia.

Roll call vote:

Ayes - Brodsky, Lizotte, Thompson, Seaman, Blum, Torcivia, Wood.

Nays - None

Recused - Duddy, Cottrell

Chairman Brodsky asked for the next agenda item. The application of Rose Lane, 6 Tyson Lane. Michael Daly, the builder is sworn and testified on behalf of the applicant. Mr. Daly stated that all setbacks meet the requirements. The only issue is the Interior Lot Shape. The requirement of 100 feet where only 83 feet exists. The new proposed house will be located in the center of the property. Two small oak trees will be removed on the rear of the property. Two hollies will remain, and the application is maintaining the front yard setback. No fill will be required as the property is pretty level. Future pool will be located 25 feet off the property line with decking allowed to be 15 feet off. The application before the Board presently is only for the new house.

Matt Minnetian residing at 4 Tyson Lane was sworn. Mr. Minnetian questioned whether there was any disturbance to the existing tree line. Mr. Daly advised that they would remain as they are. The old pool is being removed. Mr. Minnetian was concerned any regrading would cause flooding on his property. Mr. Daly stated that any drainage would be going away from the house towards the street, and towards the left, and towards the back. The existing grades in the back left corner are not changing. All drainage will be reviewed by the Board's Engineer. Mr. Minnetian expressed concern of the wear and tear of heavy construction equipment on a small street like Tyson Lane.

Jeremy Minnetian residing at 4 Tyson Lane was sworn. Mrs. Minnetian echoed her husband's concerns about the heavy equipment on their street.

Chairman Brodsky commented on that application as follows: The proposed lot coverage is close to the maximum allowed. The 10,591 reflected on the plans includes future additions such as the pool and

decking. Mr. Daly responded that it does include the circle driveway, the patio and the deck, the future pool.

There being no further comments from the public or the Board, Mr. Blum makes a motion to approve the application, seconded by Mr. Cottrell.

Roll call vote:

Ayes - Brodsky, Lizotte, Cottrell, Thompson, Seaman, Blum, Torcivia, Wood, Duddy

Nays - None

Chairman Brodsky calls for the next agenda item. The Minutes from the December 15, 2015 Zoning Board meeting. Mr. Thompson makes a motion to approve the Minutes with the following corrections: Under the McSweeney application, fourth paragraph, third line it says abided with the ordinance at that time, replacing and "with" with the word "which" said that the development would be conforming. Page 2, the first paragraph beginning "the house would be oriented with the front of the house towards the driveway." and the last sentence to read "as viewing it from the front side". Page 3, paragraph beginning Mr. Blum, second line should read "and whether it would be necessary". Page 4, under the Reynolds' application, the last paragraph one sentence should read "the equipment is 3.9 feet off the property line". And should reflect that Mr. Lizotte was not present at the meeting. Mrs. Seaman seconded the motion.

By unanimous voice vote the December 15, 2015 Minutes are approved.

There being no further business, motion was made and seconded to adjourn. By unanimous voice vote meeting is adjourned at 9:30 p.m.

Next meeting will be February 23, 2016.

Respectfully submitted,

Michele MacPherson