

**RUMSON ZONING BOARD OF ADJUSTMENT
JUNE 19, 2012
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, McGuire, Atwell, Wood, Blum, Gummer. 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.

Resolutions

1. **Rumson Country Day School, 35 Bellevue Ave** – Approval to modify previous site plan approval. Dr. Wood moved to adopt the resolution, and Mrs. McGuire seconded.
Roll Call Vote: Ayes (Eligible) – Conklin, McGuire, Atwell, Wood, Blum
Nays – None
Motion carried.

2. **John & Moira Barrett, 10 Riverview Ave** – Approval to enclose screened porch;

3. **David & Kelly Cohen, 20 Blossom Rd.,** - Approval to raze existing structure and construct new home;

4. **Steven & Lisa Atallah, 70 East River Rd.** – Approval to raze existing structure and retain exiting in-ground pool and construct new home.

Mrs. McGuire moved to adopt these resolutions, and Dr. Wood seconded.
Roll Call Vote: Ayes (Eligible) – Conklin, Wood, Blum, Atwell, McGuire
Nays – None
Motion carried.

5. **Elmer & Nancy Blumel, 4 Highland Ave.** – Approval to construct second driveway and curb cut on Highland Ave. Mrs. McGuire moved to adopt the resolution, and Dr. Wood seconded.
Roll Call Vote: Ayes (Eligible) –, Wood, McGuire
Nays – None
Motion carried.

Boulder Construction, LLC, 6 Nicol's Terrace

Art Attenasio, attorney, appeared on behalf of the applicants. He explained their proposal to raze the existing house and construct a new, two-story, single-family residence. This is a totally conforming application, and the only variance is due to the unincorporated street. No other nonconformities will be created.

James Camoosa, project engineer, was sworn in and stated he is familiar with the project. He confirmed that there are no bulk variances required. The current house accesses Ridge Road

from Nicol's Terrace, as does this application. There are two other houses on this street, in addition to this proposed home. They will be resurfacing the road when they are finished. This could be a condition of approval. The grading plan has been submitted, and they had no problems from the borough engineer, to their knowledge,. Mr. Andre said he did not see anything regarding the grading.

No trees are planned to be removed. There are no trees that would need to be eliminated in the area of the driveway or house.

The road is a right-of-way, and there was an easement many years ago. It is not clear on how the road is maintained, according to Mr. Attenasio.

Nancy Kop was sworn in to speak form the public. She lives at 67 Ridge Road and said her driveway is off Nicole's Terrace. Her concern is regarding the construction vehicles on the street and also the existing trees that could possibly be damaged during construction. Mr. Camoosa stated that silt fencing will be installed to control runoff. Also, they estimate about 9-10 months construction time. The trees on the road may need to be trimmed on their property only. At present, their trucks can get through on the street. Mr. Camoosa also stated he will meet with his contractors to go over the safety on the street during construction. All construction vehicles will be parked on their lot and not on the street at all times.

Cheryl McCauley, 5 Nicole's Terr., said she will be impacted the most by this construction. Mr. Camoosa reassured her that they will not cause a problem for her.

Donald MacNeal, 3 Nicole's Terr., was sworn in and stated that trees were cut on the street to allow town vehicles to be able to enter the road. He noted that it is difficult to navigate the road, and Mr. Camoosa said he will be there to direct people during the day.

Mrs. Kop said she does not want any of the contractors to transgress through her driveway during construction.

There were no other questions or comments from the public.

Mr. Blum asked Mr. Camoosa about the proposed paving, and he stated that they will probably only be paving up to the driveway in question down to Ridge Road. Mr. Camoosa also stated that all the utilities are adequate.

Mr. Blum questioned the regrading, which is extensive in places. Mr. Camoosa said they will have a neutral balance on the site.

Mrs. McGuire said, according to Mr. André, there is not a problem with the grading on the site, and any grading plan would need to be approved by T&M Assoc. She sees the hardship due to the private road, and noted that they are not seeking any variances. She moved to approve the application, with the conditions regarding the traffic and repaving, as agreed to by the applicant. Ms. Gummer seconded.

Roll Call Vote: Ayes – Conklin, Atwell, Blum, Wood, McGuire, Gummer
Nays – None

Motion carries.

Randolph Rosen, 2 Broadmoor Drive

Randy Rosen, applicant, was sworn in at this time. He explained their proposal to construct a new two-story, single-family residence, along with an in-ground pool and patio. They require a variance for lot width (250' required / 208.2' provided). There will be two maple trees removed with this plan; however, they are not specimen trees.

John Monteforte, architect, was sworn in, and the Board accepted his qualifications. He noted that this is a corner lot, and they tried to design a house with two fronts. It was important for them to have the house address Rumson Road, as it does today. The porte-cochere serves as a main entranceway. The home is attached on the second floor to an attic space over the garage, and the first floor has a space to pull a car into. The current home will remain until they get a CO for the new home. The new home will be pushed back on the Rumson Road side to give it a nicer appearance. Everything on the lot conforms as to lot coverage, building coverage, floor area, FAR, etc.

Sketches of the proposed plan were shown to the Board, depicting the front and rear of the home. There are no additional variances for the additional curb cut, according to Mr. Andre. The area along Rumson Road has three large trees, and Mr. Monteforte said they did not intend to remove any of these trees.

Chairman Conklin thinks the issue is the potential dangerous situation, due to the bend in the street. The existing trees prevent someone from seeing up and down the street. Mr. Rosen said he has looked at this area and does not see a problem. Mr. Monteforte feels their design is the safest as to the visual coming from the driveway.

The garage second floor has a stairwell to the attic space, which is well under the floor area requirement. This is not a connecting link, but it is considered as part of the residence, according to Mr. Andre. Currently, there are no plans to finish this area, and if they decide to do this in the future, they would need to file for a permit.

There were no questions or comments from the public.

Mr. Rosen said they would like to be able to live in the existing home during construction, which will not affect them. There is no pool house planned.

Mr. Blum asked about the original subdivision of Broadmoor Estates and whether there was any restriction as to access. Mr. Rosen said he did not know of any restrictions. He does not plan to change the address to Rumson Road, and it will remain as is. He said that a permit will be needed from the County for the access on to Rumson Road.

Mr. Reilly pointed out that any Board approval would be subject to their receiving approval from the County for the driveway on to Rumson Road. Mr. Monteforte stated that the house currently faces Rumson Road, but there is no real path to the front door, which they are now providing.

Mr. Blum noted the only variance is for the frontage, and if a motion to approve was made, he would not approve it, because the plan as presented does not support this as a desirable arrangement. He thinks a different arrangement on the property would not be a problem for him to approve the variance. He thinks a site distance study should have been done.

Chairman Conklin also feels uncomfortable with the entrance on to Rumson Road. Mr. Rosen said they plan on having the engineer look at the driveway, and Mrs. McGuire suggested they come back with the engineer's plan for this entrance. Also, they could investigate the Broadmoor subdivision to see if there were any restrictions, as per Mr. Blum's suggestion.

Mr. Reilly feels a certification should be received from the attorney to say no limitations occur with this area. This could be in the form of a letter from their lawyer, and the application could be carried to allow them to present this testimony. All members agreed.

Chairman Conklin suggested a resolution be prepared for the Board to approve, should the lawyer or engineer address this site triangle issue. The application will be continued to the July 17, 2012, meeting, when a resolution will be available for vote to approve the application.

Mr. Blum thinks they should explore removing the driveway from Rumson Road and propose another driveway from Broadmoor, instead. Mrs. McGuire agreed and pointed out that if the driveway does change, they would need to re-notice for the revised plan. The variance would not change.

Christopher & Denise Mauthe, 165 Bingham Ave.

Mrs. Mauthe was sworn in and introduced her builder, Daniel Rosen, who was also sworn in at this time, along with her architect, John Skodi, whose qualifications were accepted by the Board.

They explained their plan to raze the existing house and construct a new, two-story, single-family residence. The plan conforms to the zoning ordinance, but the interior lot circle requirement does not conform (115' required / 85' provided). There are no other variances. The space above the garage is connected to the home by a hallway and laundry room. Eventually, they may convert this space to a living area, which will still be under the requirements of the zoning ordinance.

There were no comments or questions from the public.

Mr. Rosen said there are no specimen trees that will be affected by this construction. There is no pool proposed. The garage doors will face the side yard. The grading plan has been submitted. The lot is flat, and the grading will be diminimus.

Mr. Blum noted this is an unusual lot in Rumson. It is unusually wide and less deep, which is why they do not meet the lot circle requirement. The variance is justified, in his opinion. He has no problem with the application.

Mrs. McGuire moved to approve the application, and Dr. Wood seconded.
Roll Call Vote: Ayes – Conklin, Atwell, Blum, Wood, McGuire, Gummer
Nays – None

Motion carried.

George & Irene Wanat, 14 Conover Lane

Mr. Wanat was sworn in and explained that his home is close to Conover Lane and their back yard is the Rumson Country Club. They are seeking approval to install a 10' deer fence across the back property and along the north side for 68'. The fence will not disturb any trees. He showed the Board a sample of the fence, which is known as an "invisible fence". They are proposing this for health and safety reasons. He explained that his wife is an avid gardener, and they have an extensive garden on their property. Every year they plant this garden, and the problem is that a deer trail exists in the rear of their property. He stated that the deer eat their plants and cause problems with their waste. They want to protect their garden and their health.

Mrs. Wanat was sworn in and showed the Board a photo of a similar fence already installed. The area they propose for the fence is basically a wooded area. She stated that since the deer came, she has had Lyme's Disease five times, which causes her many problems. She noted other diseases caused by the deer ticks. She said the deer can jump up to 8' or higher, so a 6' fence, as allowed under the ordinance, would not be sufficient to prevent the deer from coming on to the property. A survey has been submitted to show where the fence line would be, as well as two photos showing how the fence would look in the woods.

Chairman Conklin said they are asking the Board to assume that Mrs. Wanat is getting the Lyme's Disease due to the deer, and this is not always true. He shared some family history regarding this problem, which is carried by many other animals, other than deer. The deer problem is being felt by many people in town and occurs in other areas as well. Mrs. Wanat said the fence will minimize the risk, which is what they are looking to do.

Ron Honsa was sworn in and said he lives at 12 Conover Lane, adjacent to the Wanat's property. He agrees with the Wanat's that the deer problem is significant where they live. They have seen an increase over the last ten years. He has empathy for the problem. He is also a gardener. He noted that a part of the proposed fence that is adjacent to his property would be seen from the back of their deck and screened porch. He showed the Board a map, which shows that the proposed fence would be directly in his sight line from his property, which is a problem for him. He would prefer that the portion of the fence closest to his property be excluded. He would like to see the fence go straight across, instead of including the proposed "jag" as shown. He agrees that there is a need from some kind of deterrent for the deer; however, he would not want the town to approve 10' fences across the town. He showed the area of the fence from his yard, via a photo he provided.

Nancy Honsa was sworn in and noted they have been neighbors with the Wanat's for 18 years, and she has talked with several of their neighbors regarding this issue. She expressed the same concerns as her husband regarding the view of the fence from their property. She noted that the deer do not jump the existing stockade fences or the country club fence that she has seen over the past 18 years. She agrees there is a problem and does not want anyone to be sick, but she is concerned about allowing the installation of 10' fences in town.

Mr. Honsa again expressed his objection to the portion of the fence that will be seen from his property.

Mr. Reilly noted that the objector has distributed photos and a survey of their house, which shows where the fence will be located. He stated that the standard is that the Board can consider a hardship or a local justification for the variances. Their location next to the country club may make it different from other areas in town.

Mrs. McGuire asked if they could move the fence back farther, and Mrs. Wanat said she would be willing to move it so it would not be as readily seen from her neighbors.

Mrs. Honsa asked if the Wanat's did get the variance, would they be able to increase the size of the fence, and Chairman Conklin said it would only be allowed where it is approved this evening.

Ms. Gummer respects the health concerns mentioned; however, the Board would need to think very carefully before they approve 10' fences, because it could set a precedent in the town. She is not convinced that this 10' fence will serve to deter the deer, which could easily enter the property by other means. She does not think there is enough evidence that it would have enough effect. She also agrees with Chairman Conklin regarding the health concerns. She is not convinced that the 10' fence will be a solution for them.

Mr. Wanat thinks the situation is unique, because they are in an isolated area. The Honsa's are the only ones that will see the fence, and it will not affect anyone else.

Chairman Conklin noted that the Board does look at each property individually, and the decisions of the Board stay with the property. The problem they are hearing is an overall town problem, and a number of people in this town have this issue. He does not think there is an indication that putting in this fence will solve the problem. This is a policy issue, since the deer affect a substantial number of properties in town. He has no inclination of approving something that will set a mandate to create policy in this town, and he does not see a hardship that is not felt by many others in town. He thinks approving this application would cause a great number of other people to request the same thing. He thinks this is a policy problem for Borough Council. He would not approve a fence of this type.

Mrs. McGuire and Mr. Blum expressed their agreement. Mrs. McGuire has empathy for them, because there are many more deer in this area, and it is a problem. The deer waste is also a problem.

Mrs. Atwell agrees that fencing a portion of the yard will not serve to eliminate the problem.

Mr. Wanat was told that a 6' fence would be allowed without a variance. The poles would also need to be limited to 6'.

Mr. Reilly advised the Wanat's of their options, since it is apparent that the Board will not be approving the application. If they wish to go forward with the 6' fence, they should see Fred Andre for direction.

Chairman Conklin suggested they ask Borough Council to address the problem.

Ms. Gummer moved to deny the application, and Dr. Wood seconded.

Roll Call Vote: Ayes – Conklin, Atwell, Blum, Wood, McGuire, Gummer

Nays – None

Motion carried.

Approval of Minutes

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

There being no further business, motion was made and seconded to adjourn. Voice Vote: Ayes, unanimous. The meeting was adjourned at 9:40 p.m.

Respectfully submitted,

Patricia Murphy
Clerk