

**RUMSON ZONING BOARD OF ADJUSTMENT
NOVEMBER 18, 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, Blum, Seaman, Wood, Brodsky, Thompson. Also present: Bernard Reilly (Board Attorney), Fred Andre (Zoning Officer), Tom Neff (T&M Assoc.), and State Shorthand.

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

Mr. Andre was sworn in at this time.

Chairman Conklin expressed thanks to Fred Andre for the work he does for the town of Rumson to make sure that the Board's work is ready to go every month.

Resolutions

1. **Jennifer Scandariato, 10 Church St.** – Approval to construct new front and rear additions and second story addition over attached garage.

Mr. Thompson moved to adopt the resolution, and Mr. Brodsky seconded.

Roll Call Vote: Ayes (Eligible) – Blum, Brodsky, Wood, Thompson.

Nays – None

Motion carried.

2. **Petcon Builders, LLC, 17 Edgewood Road** – Approval to raze existing house and construct new residence. Dr. Wood moved to adopt the resolution, and Mr. Blum seconded.

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

Nays – None

Motion carried.

Dr. Wood moved to also adopt the following resolutions, and Mr. Blum seconded.

3. **Michael & Perry Parkes, 34 Blackpoint Horseshoe** – Approval to amend previously-approved plan by retaining second driveway opening and circular drive and install in-ground pool and spa;

4. **Christopher & Elizabeth Neary, 36 First St.** – Approval to construct rear second floor addition;

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

Nays – None

5. **Atlantic Builders, LLC, 2 Buttonwood Lane** – Approval to raze existing house to construct new residence and in-ground pool. The Board discussed the revised application with regard to the issue of the driveway. Mr. Blum commented that the issue is a minor one, which could be worked out administratively. Dr. Wood moved to adopt the resolution, and Mr. Blum seconded.

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

Motion carried.

Prestige Equities, LLC, 59-62 Carton St

Richard J. Pepsny, attorney, appeared on behalf of the applicant. Dean Depaulis, project engineer, was sworn in at this time. Mr. Depaulis explained their continued application, which pertains to revisions at the rear of the building, trees, and mulch. The trash enclosure in the north corner of the property has been removed and will now be restored, upon the requirement of the Board. Mr. Neff noted that the garbage cans are creating a problem on the west side where they are sitting. Mr. Depaulis explained that they will be improving this condition and restoring the trash enclosure.

Chairman Conklin asked about the condition on the west wide, and it was noted that if they restore the trash enclosure, this will address the problem condition on the west side, which will have no garbage cans going forward. Chairman Conklin recalled that the applicant had said this would be done in 2005 when they first came before the Board, and Mr. Pepsny assured that they will conform to this requirement.

Curbing on the north side of the building on the east end can be installed, as requested by the Board in the past. They would like to retain the storage shed for landscape equipment to serve the building. They will remove all the other sheds, except for this one, which would require a variance to retain (accessory structures require 5' setback on rear and side). Mr. Depaulis explained that the storage shed is being used for equipment, and they would like to keep it as it exists, if possible. He was asked if it could be made to conform to the setback requirements, but he said it would take up parking in order to do this.

Mr. Reilly recalled that a complaint from a neighbor was heard previously in objection to the shed being right on the property line; however, their attorney did not recall this issue with the storage shed. It was noted they have no other space within the building to store this equipment. He thinks they could move the shed forward, but it would affect a parking space. For practical reference, he feels it would be better to leave it where it is so that they can provide as much parking as possible. They received a parking variance at a prior meeting. The shed is a cement block structure.

There were no questions or comments from the public.

Mr. Brodsky asked about the equipment in the building, and Mr. Depaulis said it was landscaping equipment. This is the original building from the original site plan that they were supposed to be removing.

Mr. Neff reviewed the check list from T&M Assoc.:

- Added sidewalk behind the building;
 - Parking spaces behind the building – they still need to work out handicapped parking;
 - Curb islands have been added, but some are still missing;
 - Drainage – minor modification;
 - Striping on parking area – can be addressed later;
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- Trash enclosure – clarify area, which was originally called for south of the building, and Mr. Depaulis said they could do this to keep a parking spot'

- Added striping;
- Signs missing;
- Garbage cans back on the site;
- Outside activities in parking lot;
- 34 parking spaces – variance was received.

Chairman Conklin asked Mr. Andre about activities outside the building in the parking area, and Mr. Andre said no approval was given for this.

Chairman Conklin reviewed that many of the items on the T&M check list have been addressed or will be addressed, and he said he will not vote to give them the ability to continue until all the requirements on the check list are accomplished, because the town has been waiting for 12 years to see that these items are addressed.

Mr. Pepsny said they will also establish the fenced-in trash enclosure, which will address that problem.

Mr. Thompson expressed a problem with the storage shed, which they were asked to remove, along with many other items on the list from the town, which have been ignored by the applicant. He thinks they are at least adding in the trash requirement, but still have many things to do.

Mrs. Seaman has no confidence that they will do what they say they will do, since they have not done what they said they will do over the last 10 years.

Mr. Brodsky suggested making the shed smaller, and making it conform without losing a parking space.

Mr. Blum thinks they are focusing on the site maintenance issues, which got the Board's attention but are not the Board's job. The Board's issues concern correcting the issues required by the board. His major concern is from a zoning point of view for retaining a nonconforming building that they were supposed to remove, and there is no other substantial zoning-related issues, with everything else relating to property or site maintenance, which can be handled by a performance bond. His issue is with the storage building, which is nonconforming and slightly on the adjoining property. The building is unrelated to activities in the main building and is almost like another use. Mr. Pepsny said it is used as an accessory structure to the main building. Mr. Blum is uncomfortable allowing the building to stay.

Chairman Conklin disagrees and thinks that the issue is more property maintenance and safety issues, noting that the applicant has been cited many times for safety issues. Mr. Blum noted that this has now been cured.

Mr. Pepsny asked that the application be carried to allow them to comply with the Board's requirements to their satisfaction. This was approved by the Board, and the application will be carried to the January 20th meeting, with no further notice required. They should inform the Board 10 days prior to that meeting of any revised plans.

Mr. Blum will not sit in on this application due to a possible conflict of interest.

Mr. Guzman was sworn in and explained his plan to raze the existing residence and construct a new home. He is the contract purchaser and builder. They looked into renovating the structure; however, their architect felt that the foundation could not take any additional weight without razing the house and putting in a new foundation. He decided to raze the house and build a new house. He noted that this is an irregularly-shaped lot, creating a few abnormalities in the setbacks. He will ultimately sell the property to another buyer. They require a variance, and his architect is present for testimony.

Paul Damiano, architect, was sworn in, and the Board accepted his qualifications. Via a plan provided, he noted the odd-shaped lot where they have a 90' setback. The Board was shown a photo board of the property from Lafayette St. (A-1). He noted the existing dwelling and garage. Various views of the house and lot were shown via the photo board. The setback issue deals with the rear yard, where the lot line changes and becomes narrower. He showed the Board an elevation of the proposed house, which provides an "L" shape to try and keep it as conforming as possible.

The lot shape circle was questioned by Chairman Conklin, and Mr. Damiano demonstrated this via their plan, noting that the circle could conform, if they considered the alternate rear yard scenario. The garage is 15' high, with nothing proposed for the second floor area.

Mr. Andre was asked for an interpretation of the rear yard area, and he said it could be considered a side line, as it follows the property all the way to the rear.

Chairman Conklin thinks it makes sense to say that the rear yard starts from the fence to the dwelling, and the Board agreed. This interpretation means that they would conform to the lot shape circle, and Mr. Damiano agreed.

They are maxing out the floor area, according to Chairman Conklin, and Mr. Damiano concurred. They will be installing dry wells for drainage.

Mr. Guzman has met with William Brooks, Borough Forester, and he reported on an existing American holly in the front yard, a Korean dogwood, and a Red Maple on the south side. Another 10" White Pine will need to come out. Mr. Guzman said they tried to design the home to the prospective client's wishes, and they did not want the American holly in front of the house. He suggested relocating the tree toward the rear of the house. The other trees mentioned can be worked around, and they will try to maintain them, but the roots could be affected by moving the American holly.

William Brooks was sworn in and confirmed that he met with Mr. Guzman on the site today. He noted that the holly is a protected species. The Japanese maple on the southwest corner is a significant specimen, but it is in serious decline and has only 30% of the branches set to leaf out next year. The applicant is willing to replace this after construction. The White Pine on the south property line is within the building footprint and could be allowed to be removed. The dogwood in the driveway area is also a significant specimen tree, and he would not have a problem allowing this to be removed, as long as they agree to replace it in kind. He does not think it will be a problem to move the holly, as long as it is done the right way. He will give Mr. Guzman names of people that are able to handle this. The dogwood may be affected if they move the holly, and they would need to replace that tree also. Mr. Guzman stated he would be willing to replace the trees removed.

Donald Pitman, 1 Church St., was sworn in and stated Mr. Guzman reviewed the plan with him and his wife, and they have no problem with the application. Mr. Guzman has built many homes in the neighborhood, which are all beautiful.

Mrs. Seaman thinks they have done a good job and applauded his willingness to replace the trees.

Mr. Guzman asked if they will be required to state an actual location for the new trees. Chairman Conklin said they would not require this, and Mr. Brooks confirmed that this has not been required in the past.

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

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

Nays – None

Motion carried.

Mr. Blum rejoined the meeting at this time.

Elizabeth & Amy Ayers, 21 Highland Ave

Phillip SanFillipo, Attorney, appeared on behalf of the applicants. Ms. Ayers, property owner, and Matthew Cronin, architect, were sworn in at this time. The Board accepted Mr. Cronin's qualifications.

Ms. Ayers stated that her grandparents purchased the home in 1967. They would like to renovate the house, which was built in the 1950's, and they need to update the electric, plumbing, AC, kitchen, etc. They would like a handicapped-accessible bathroom on the first floor and two bedrooms on the second floor. They also need to update the stairs to the basement to bring them up to code. She noted the trees on the site, stating that all existing trees will remain.

Mr. Cronin described his assignment to update the house and utilities and add some open living space to the home, which is a 1950's ranch. It is a three-bedroom house, and they would like to add more bedrooms and baths and open up the floor plan and take advantage of the view north to the river. The benefits of maintaining the existing set backs allows them to create the addition so it appears to work within the existing home. The two setback issues on the south and north side allows them to line up the two floors of the house. They will have minimal land disturbance with their plan. He thinks the addition will be consistent with other homes in the neighborhood. Mr. Cronin showed the board elevations of the proposed new additions.

Chairman Conklin questioned the size of the lot, which says 21,625 sq. ft. on the survey, and Mr. Cronin noted that this is the usable lot area. The building coverage is increasing by 180 sq. ft., and this is caused by the addition of a screened porch on the northeast corner in the back of the property, behind the existing sun room.

There were no questions or comments from the public.

There is a two-car existing garage on the north side. The Board was shown photos of the area (A-1, 4 photos).

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

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

Nays – None

Motion carried.

Michael & Shanley Walker, 52 Navesink Ave

Dr. Wood will not participate in this hearing.

Mr. Walker was sworn in and stated they purchased the house in September, 2007. It is an old house (110 years old), and they have a beautiful tree in the front of their house that they love. They intend to make improvements to the home while preserving the integrity of the home. They would like to repair the existing porch and move the stairs from the side to the front of the home. He showed the Board eight photos of the home (A-1), noting an existing front porch, which they would like to open and move the stairs to the center. They would like to wrap the porch around the house to come in line with the part of the house that currently extends out. A set of stairs is also proposed for the south side of the porch for access to the back yard. The garage in the rear is existing, and they are not proposing anything for this structure.

Kyle Surgent, builder, was sworn in and testified that the garage height is 15', and is close in age to the house.

PJ Rotchford, 54 Navesink Ave., was sworn in and stated they are in total support of the project and think the plans are very nice.

There were no questions or comments from the public.

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

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

Nays – None

Motion carried.

Dr. Wood rejoined the meeting at this time.

James & Kerri Keane, 21 Church St.

Mr. & Mrs. Keane were sworn in, along with their architect, James T. Daley, whose qualifications were accepted by the Board. Mr. Keane explained that their home flooded while they were away on vacation, and they have been out of their home for seven months. They would now like to repair and add some additional living space for their family. This is a very old home, and they want to keep the charm of the older home, but make it more functional for their family.

Mr. Daley explained the plans for an 11' wide side addition on the side of the existing driveway. No trees will be removed because of this addition. The side setback gets increased, according to the formula, and they are proposing 6' / 21.8' setbacks where 8' / 18' are required. They are also proposing a master bedroom and bath on top of the garage area. The family room in the rear is existing and will remain and not change. The other addition is in the front, and they would like an open front porch, which would require a variance (30' front setback required / 17.05' proposed).

Chairman Conklin noted an existing 8' x 10' shed, which is nonconforming; however, they are willing to move this to conform. This is included in their lot coverage.

James Hallam, speaking from the public, was sworn in and said he lives on First St. and has no objections to the application.

Dr. Wood asked how many cars are proposed for the garage, and Mr. Keane said only one car goes into the garage.

There are no trees affected by this plan.

Mr. Blum asked about the porch, asking if this was for aesthetics or did it have a specific function. Mr. Keane said many of their neighbors have a porch, and he feels it adds to the aesthetics of the house and allows them to watch over their kids with they ride bikes, etc. Mr. Blum would support the application and thinks the porch is the major variance. It would be the closest structure to the street in the area, except for the house to the east, and this owner was present this evening and expressed no objections. Mr. Blum thinks it fits in with the neighborhood.

Mrs. Seaman thinks the porch will be close to the street.

Mr. Blum moved to approve the application, and Mr. Brodsky seconded.

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

Nays – None

Motion carried.

Meadow Builders, LLC, 87 Blackpoint Rd.

Jeffrey Gale, attorney, appeared on behalf of the applicant. Larry Wilt, builder, and Thomas Santry, surveyor, were also present and were sworn in at this time. The Board accepted Mr. Santry's qualifications.

Mr. Santry testified regarding the maximum lot and building coverage. He stated that the dimensions are correct, except for the maximum floor area (2,453 sq. ft. permitted / 2,384 sq. ft. proposed). They will present a revised plan to show this dimension. There are no variances concerning lot coverage, building coverage, or floor area. They are deficient by 1' in the lot circle, and he explained how this is calculated. The deficiency is because they needed to increase the side yard setbacks by 3', and the lot lines are not parallel. This is an existing condition and would occur no matter what home would be built on this lot and is a condition that comes with the land. The present home has an additional variance in front setback, and they will be eliminating this with their plan.

Chairman Conklin questioned the FAR, and Mr. Santry restated their proposal for 2,384 sq. ft., after the credit for the garage. Mr. Gale explained that the original application called for the garage to be developed at the rear of the property; however, the plan was modified to reduce the numbers and comply with the ordinance. They will provide a plan to show the correct numbers. The plan before the Board shows the actual house they propose, but the FAR numbers may be off by a few feet, according to Mr. Wilt.

Chairman Conklin stated that the plan they are looking at is off by over 100'. Mr. Blum reviewed the numbers, noting that the actual number is 16 sq. ft. different than what they show on their plan. They are showing they are above the permitted height, but they will change the design to go below the height shown by 8', which will comply with the ordinance.

Mr. Gale stated that any approval would be subject to them providing a revised plan, based on the approval this evening.

Mr. Blum also mentioned the statement regarding the lot lines not being parallel. The front of their house would be skewed to the street, which would be different than others on the street. Mr. Wilt noted that other new homes on this street have similar lot lines. Mr. Blum stated going parallel to the street lines causes them to lose some allowable size, but keeps it in line with the streetscape. Mr. Santry also noted that other homes nearby are designed similarly to their plan.

Chairman Conklin questioned the lot coverage, and Mr. Andre explained how the numbers are applied. Mr. Wilt confirmed the coverage for the driveway, noting that a band with grass is proposed for the area, which decreases the lot coverage. He again confirmed that they will be submitting revised plans with the correct number.

Mr. Gale stated that one of the neighbors asked them to provide a window in the garage in the rear, facing their property on the south side, and they are willing to do this and also show this in their revised plan.

Charles Hopkins, 29 Center St., was sworn in and explained that his property is oddly shaped. The placement of the garage as proposed would be perpendicular to their living area. They are the ones who requested a window on that side. The driveway in the back was a concern for them as to aesthetics, and Mr. Gale explained that the plan in the rear would be stone or pavers, and this could be a part of the resolution. Mr. Hopkins said, overall, he is in favor of the application.

Chairman Conklin asked how a car would exit the garage, and Mr. Wilt said they originally wanted the garage in another area, which would require a side yard variance and not be a good plan. He thinks an area can be provided with pavers or some permeable surface to properly allow for a K-turn.

Mr. Santry said there will be some regrading on the property for drainage, but nothing substantial. There are no trees on the property. Mr. Wilt would consider planting some.

The placement of the garage was discussed, with Mr. Gale noting that they have been working with the neighbor to make sure a viable exit/egress is provided for the garage, possibly by an area for a K-turn. Mr. Wilt explained alternate proposals for the placement of the garage, noting he did speak with the town for additional suggestions.

Joe Silvestro, 85 Blackpoint Rd., was sworn in and said he is the neighbor on the right side to the west. He asked about the placement of the house on the lot and if Mr. Wilt would consider keeping it in line with the rest of the homes on the block. Mr. Wilt said many homes on the next block are constructed this way, and other new homes that get built on the street will follow this same positioning. Chairman Conklin said the Board could require the house to be built the same as others on the street, parallel to the street and not as proposed. Mr. Gale noted that they require no variances with their proposal, and they tried to present a conforming structure with no new variances.

Mr. Wilt said the value of the house going forward would increase, since he would need to build a smaller home if it were made to conform to the placement of others on the street.

Mrs. Seaman noted that the new homes on the street are similar to their position, and the older homes are more parallel to the property line. She does not have a problem with the orientation of the house on the property, and she is more concerned with the driveway area, which she feels will be awkward to exit. The K-turn area could be a solution, in her opinion, as long as it looks more like grass.

Elizabeth Hopkins was sworn in and also has concerns about the garage and the driveway. She would rather see an attractive design of the driveway, and Mr. Wilt further explained his plan for the design using concrete/grass/pavers or stone.

There were no other questions or comments from the public.

Mr. Brodsky commented that the design makes sense to him, and he agrees that the garage will possibly become more of a shed, although the numbers are conforming. Some type of K-turn would be needed in the driveway area. This conforms in every way.

Mr. Blum agrees with Mr. Brodsky and also thinks they will need some way to exit the driveway.

Mr. Reilly noted that they would need to submit a revised plan. Mr. Gale said they will submit revised plans within two weeks, so that the numbers can be double checked. None of the elements discussed this evening would result in a variance. Mr. Reilly asked what the driveway would be made of, and Mr. Gale said it would not be macadam, but the alternate material could be subject to the desire of the home owner, as long as it is of a permeable nature to comply with the borough ordinance. Mr. Reilly suggested they submit revised plans with a specific material for the driveway, which will hopefully be agreeable to the neighbor.

Mr. Blum said there are several ways to provide a permeable surface that would conform to the borough ordinance. Mr. Gale said they could say they would use pavers and/or gravel.

Chairman Conklin is concerned with the issue regarding the orientation on the lot, which he thinks is the bigger issue. He does not think it is unreasonable to allow the owner to decide on whether stone or pavers will be used. Mr. Reilly said the Board could adopt the resolution in one month.

Mrs. Seaman agrees they could stipulate either stone or pavers.

The consensus of the Board was that either stone or pavers could be required for the driveway, and they would be approving it subject to seeing the revised plans, so that they conform to the ordinance. Normal conditions would apply, and also the driveway would have a K-turn on the new plans and be made of pavers and/or stone.

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

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

Nays – None

Motion carried.

Atlantic Builders

Mr. Castor, principal, appeared to say that the driveway, as proposed, would be changed to make it safer, and he has no problem doing this. He will move the driveway 20' to the south, and the Board agreed this would be preferable. The revised plan will be submitted to show this change.

Approval of Minutes

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

There being no further business, motion was made and seconded to adjourn. Voice Vote: Ayes, unanimous.

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

Respectfully submitted,

Patricia Murphy
Clerk