

**RUMSON ZONING BOARD OF ADJUSTMENT**  
**AUGUST 20, 2013**  
**MINUTES**

Chairman Conklin called the regular meeting to order at 7:00 p.m. with the Pledge of Allegiance. The Roll was called with the following members present: Conklin, Atwell, Wood, Thompson, Blum, 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.

**Siobhan & Peter Hogan, 27 Forrest Ave.**

Chairman Conklin announced that this application will be carried to the September meeting.

**Mark & Adrian Marascio, 1 Lennox Ave.**

Mr. Thompson will not sit in on this application.

Robert Adler, architect, appeared again on behalf of this continued application, along with Mr. & Mrs. Marascio – all still under oath from the last meeting. Mr. Adler explained the revisions to their plan:

- Porch cut back to 6'4" deep from 9'5";
- Roof draining system will be connected to a dry well calculated to a 2" rain fall;
- Additional evergreen buffer proposed on the east side near the neighbor's windows on that side.

These changes are shown on their revised plan. The neighbors on the east side are present to give their statements on these revisions.

Mr. & Mrs. Mark Osmulski both expressed no objection to the plan with these changes.

There were no other questions or comments from the public. Mr. Reilly has prepared a resolution, and if everyone is in favor of the application and resolution, they can vote on both at this time.

Mr. Blum thinks they should also say they are approving a setback, and Mr. Reilly made this change to the resolution (26.42' approved).

Mr. Duddy thinks the changes are welcome, and the neighbors are satisfied. He moved to approve the application and resolution, and Mrs. Atwell seconded.

Roll Call Vote: Ayes – Conklin, Atwell, Duddy, Wood, Blum

Nays – None

Motion carried.

**Brian & Colleen Hennen, 54 Shrewsbury Drive**

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

James Daley, architect, appeared on behalf of the applicants and was still under oath from the last meeting. He explained that they have flipped the driveway and rotated the cabana, in order to accommodate the parking. Both parking spots are now behind the front line of the house. They are creating a larger setback with this plan. The height of the cabana will be 18' (single-story structure), with windows around three sides and access on the pool side.

There were no questions or comments from the public. Mr. Blum thinks they have provided what the Board asked them to do. He questioned the dimensions on the driveway, and he thinks the plan should be cleared up so that the dimension of 12' is shown on the plan. The submission of the revised plan to show this dimension could be a condition of approval. Mr. Daley said they would agree to this.

Mr. Reilly has prepared a resolution and will include the changes for the condition of the revised plan to show driveway width.

Mrs. Atwell would like to see the existing shed removed, and she also questioned the proposed landscaping along the driveway. Mr. Daley said they will be putting in some hedges, and this could also be made a condition of approval and added to the resolution. Mr. Reilly suggested the revised plan show some landscaping and be reviewed by Mr. Andre. Mr. Duddy does not think this condition should be included, and Mr. Blum noted it is a front yard, and the Board does not normally require people to screen their driveways. The general consensus of the Board was that it would be nice to provide some type of screening, but it will not be made a condition of approval.

Dr. Wood moved to approve the revised application and resolution with the changes mentioned, and Mr. Duddy seconded.

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

Motion carried.

**Resolutions**

- 1. Sean & Marion Moran, 9 North Ward Ave.** – Approval to relocate carriage house, make site improvements, and move driveway. Mr. Blum commented that they now have a lot more information as to the proposed grading, and he is satisfied with the plan, subject to the approval of the borough engineer. Dr. Wood moved to adopt the resolution, and Mrs. Atwell seconded.

Roll Call Vote: Ayes (Eligible) – Conklin, Atwell, Blum, Duddy, Wood.  
Nays: None.

Motion carried.

2. **Jeffrey Wadley, 17 Grant Ave.** – approval to raze existing dwelling and construct a new home. Mrs. Atwell moved to adopt the resolution, and Dr. Wood seconded.  
Roll Call Vote: Ayes (Eligible) – Conklin, Atwell, Blum, Duddy, Wood.  
Nays: None.  
Motion carried.

Mr. Thompson rejoined the meeting at this time.

**Ira & Lynette Zohn, 81 Navesink Ave.**

David Shaheen, attorney, appeared on behalf of the applicants. He explained that this is an application to raise the roof over an existing garage where there is an existing second floor space, and they would like to make this space more usable. The existing variances will not be increased. They have their architect, Richard Villano, and the property owners present for testimony, and they were sworn in at this time. The Board accepted Mr. Villano’s qualifications.

Mr. Villano described the proposal for an existing exercise room over the garage that has normal head room. They would like to raise the roof to make it more usable and add a guest bedroom and bath, to be used for live-in help. The plan will match the existing house in design. The second floor ceiling will be 8’ in height, with an attic for mechanicals. The siding will be cedar shakes to match the house. The property is heavily landscaped between the nearby neighbors.

Chairman Conklin noted that the floor area will not increase, because the second floor is already counted in the numbers. Mr. Andre said they are well under that allowed for floor area. The building and lot coverage numbers were revised. Chairman Conklin pointed out a discrepancy in the building coverage, and they will need to correct this on a final plan. They will speak with Mr. Andre to make sure the numbers are correct. Mr. Shaheen pointed out that they are still well below the allowed square footage.

Mr. Zohn explained that his wife has a disabling condition that will require live-in help in the near future, and that is why they are proposing this additional living area.

There were no questions or comments from the public.

Mr. Zohn has spoken to his neighbor, who expressed no objection to his plan.

The roof will be 12’ higher than the existing height (26’6”). It is a hip-roof design on all four sides. The area will be accessible from a kitchen below.

Mr. Blum questioned the usable area on the second floor, and Mr. Andre noted that this entire area was counted and included in the numbers.

Mr. Thompson thinks there is a definite hardship to be considered.

Mr. Duddy agreed, and the structure is already there and can be used for this purpose. He does not have a problem with the application.

Mr. Blum raised the issue of buffering for the new mechanicals, and Mr. Zohn said he would not be opposed to installing some screening around the generator and A/C units. Mr. Reilly suggested including this on the revised plan, and they agreed. Mr. Blum thinks some type of wall or fence would be the best for this purpose.

Chairman Conklin would be in favor of the plan with these changes, to be shown on the revised plans.

Mr. Thompson moved to approve the application, and Dr. Wood seconded.

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

Nays – None

Motion carried.

**Michael & Perry Parkes, 34 Blackpoint Horseshoe**

Eugene Molody, attorney, appeared on behalf of the applicants. He has their architect, Kathy Zuckerman, and the property owners present for testimony. Kathy Zuckerman and Perry Parkes were sworn in at this time.

Ms. Zuckerman explained that this home was damaged by Sandy, and they are proposing to rebuild the first floor, with a small part of the kitchen being new construction. The house will be raised 2' (9.5' to 11.5' elevation). The second floor will have three dormers across the front to provide better light and headroom. They will have 758 additional square feet on the second floor. The existing front setback is 50' to the existing front porch (75' required). The dormers will be within the required setback. No new nonconformities will be created with this plan. The side yard setback will not change. They will be finishing a portion of the garage for a mud and laundry room, with a master bedroom and bath above. The usable lot is restricted because of existing wetlands. They are also proposing to remove some driveway in the front yard and putting in grass.

Mrs. Parkes explained that they purchased the house after Sandy, and they were told it had 18" of water during the storm. The house has been gutted, and they look forward to bringing the house back to life. They knew they would need to raise it to avoid future flooding.

There were no questions or comments from the public.

Mr. Blum commented that this application has some extenuating circumstances. There are no variances being increased, and none being created by the new construction, except for the second floor dormer extension. Given the circumstances of the lot with the wetlands, flood plain, unusual shape, etc., he thinks the variances can be granted.

Chairman Conklin agrees.

Mr. Blum suggested a condition of approval be the submission of a grading plan for the review of the borough engineer. Ms. Zuckerman said they do not propose to change the grade with their plan, and Mr. Blum said he was referring to the right-of-way area.

Dr. Wood thinks it is a beautiful renovation.

Mr. Thompson moved to approve the application, and Dr. Wood seconded.

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

Nays: None.

Motion carried.

**Yellow Brook Property Co., LLC, 73 Rumson Road**

Mr. Thompson will not sit in on this hearing, due to a possible conflict of interest.

Robert Curley, attorney, appeared on behalf of the applicant. It was confirmed that the notice was in order. He identified their exhibits:

- A-1 Aerial map
- A-2 Survey of existing conditions
- A-3 Colored rendering of the plot plan
- A-4 Overlay transparency
- A-5 Photo exhibit of surrounding properties
- A-6 Letter from Mr. Curley confirming that trees between the properties will be maintained, except for any dead trees;
- A-7 Architectural rendering of proposed home.

The proposal is to demolish an existing residence and construct a new residence on the existing lot. They are seeking two variances:

- Floor Area (3,849 sq. ft. proposed / 3,500 sq. ft. allowed);
- Floor Area Ratio (.140 proposed / .127 permitted).

It was noted that no floor area ratio would be required, but only the floor area variance.

Brian Decina,, project engineer, was sworn in, and the Board accepted his qualifications. He located the property on the aerial map. He described the existing conditions, as shown on exhibit A-2. The zone is R-4, and the property is 27,500 sq. ft. in size, where 10,000 sq. ft. are required. The existing building is 3,085 sq. ft., set back 80' from Rumson road, with a 95' rear setback. The side yards are an existing nonconformity. They show trees on the plan, along with a wood shed in the back.

The proposed plan was shown via A-3, which shows the proposed dwelling and driveway, with a wood deck and covered porch. They have 2,395 sq. ft. of building coverage, 96' from Rumson road. The proposed rear setback is 111'. The proposed dwelling is a two-story structure (A-7), and he showed the board the transparent overlay of the proposed dwelling on the lot over the current dwelling. The proposed dwelling will eliminate the side yard setback variances. They will also be increasing the front and rear setbacks and eliminating one of the driveway legs to Rumson Road. The building coverage has been reduced by 700 sq. ft. The total lot coverage has also been reduced by 1,800 sq. ft., which provides a better situation for runoff from the lot. They do not plan to remove any trees, and all drainage patterns will be maintained.

Christine Nazzaro-Cofone, professional planner, was sworn in, and the Board accepted her qualifications. She noted that they only need a variance for the increase in the maximum habitable floor area. The lot is far in excess of the minimum lot size requirements; however, they are still restricted to the maximum 3,500 sq. ft. home. They are asking for a 349 sq. ft. variance. She stated that the bulk requirements for the zone are in their favor, and the site can handle the proposed floor area ratio.

Via exhibit A-5 (photos), Ms. Nazzaro-Cofone noted that the home to the east is in excess of 3,800 sq. ft. The home at the intersection of Avenue of Two Rivers and Rumson Road is in excess of 8,000 sq. ft., and a home on the opposite corner is also in excess of 3,500 sq. ft. She thinks the proposed 349 sq. ft. overage is consistent with the character of the area. She believes the site can handle the proposed FAR, because the existing home is not that much in excess of what exists, and they are reducing the building and lot coverage. The existing property lacks curb appeal, and the proposed building will be a superior product, with great curb appeal. She thinks they can conclude that the variances can be granted with no detriment to the public good, because they are increasing the light and air and are under the permissible limits for lot and building coverage. She pointed out the driveway area, noting that they are reducing the size while still allowing for a turnaround area, which is needed for Rumson Road homes.

Mr. Duddy noted that all the homes mentioned by Ms. Nazzaro-Cofone were in different zones than this proposed structure. Ms. Nazzaro-Cofone said that Photo #2 is immediately to the east of this property, and is in the same zone. The others she showed were in different zones, but nearby and evident of the character of the area.

Chairman Conklin asked what was located to west of this property, and Ms. Nazzaro-Cofone said this is somewhat shown on Photo #1, and it does not conform to the side yard setback requirement. If the application is approved, their home would provide a conforming setback on this side, which will provide more light and air. Most homes along the same side as this home have smaller lots in the R-4 Zone than this property.

Roger Mumford, builder, was sworn in at this time. He pointed out the location of the neighbor to the west on the plan. He thinks their plan can provide a home relative to the others along Rumson Road, but somewhat smaller. He noted that nearly 500 sq. ft. of this house is the garage. The reason they are seeking the variance is to provide more functional living space and gives them an extra room for a family's use. He thinks this will be a more modest home, and the lot can handle this size home, which provides less coverage than what exists today.

Chairman Conklin asked about the trees mentioned earlier. Mr. Mumford noted that they have several trees on the lot, and they only plan to remove some aged shrubs along the front of the home. They do not plan to touch the trees along the property line, or the ground cover that currently exists. Their plan will be on a smaller footprint than the current home. He mentioned the letter from Mr. Curley that assures the neighbor that trees would not be removed.

Jeffrey Dobkin, 75 Rumson Road, was sworn in to speak from the public. He pointed out his home that was shown on A-1 (Photo #1). He likes the plan, and asked questions about the zone. Ms. Nazzaro-Cofone consulted the aerial map and described the zones in the area, pointing out

Mr. Dobkin's home on the map. He expressed concerns regarding landscaping, drainage, etc., and he asked if the house was sold. Mr. Mumford said it is not sold at present, but he expects it will be an easy home to sell, once it is finished. Mr. Dobkin said their house is very close to the subject property.

Denise Dobkin, 75 Rumson Road, was also sworn in and explained the history of their house, which was built in 1935, with about 5-8' from their garage to the property line. Chairman Conklin asked Mr. Mumford how they could assure the neighbor that no problems will occur with drainage, etc., due to the new construction. Mrs. Dobkins said they had no water in their home previously. Mr. Decina said they are 32' from the property line, and 7' from the driveway to the property line. Mr. Mumford stated that they have never had any complaints regarding drainage in all the homes they have built. In this case, they have a lot that is extremely flat, and he pointed out that the Dobkin's property is 1' higher than their property. They are not regrading their property, so any water in the driveway area will not flow up hill to the Dobkins' home. He also noted that a significant amount of impervious surface will also be provided to effect proper drainage.

Mrs. Dobkins asked about an existing Cherry tree along the west property line, and Mr. Mumford said they will not be removing it, but it needs to be cleaned up. He again stated that the trees on the property will remain. He noted a fence between the two properties where some dead trees were found on their side. They will be replacing these trees and make the area more attractive. They do not propose any new fencing, although they will be looking at this. They are proposing a basement.

There were no other questions or comments from the public.

Mr. Duddy said that the Board tries to adhere to the zoning when they are starting with a clean slate. The statement that the house would not be livable at 3,500 sq. ft. is questionable, in his opinion. Mr. Mumford said the house is 3,350 sq. ft. without the garage. Without the extra room, the house would be 3,500 sq. ft. He explained how families today want space, and their plan is a small difference that provides an additional room that is desirable in today's market. He thinks the house will look much more attractive with this extra span. The extra 10% provides more of a home that people in Rumson want today and makes available an extra room for a nanny, etc. He thinks this size is modest for this zone and lot. They have an additional 17,000 sq. ft. over what is required, and he thinks they are asking for a small additional amount of space to make the house work in Rumson.

They did not propose a detached garage, because they wanted to maintain space in the rear yard, as well as maintain the trees, etc. He said they considered many different ways to try and comply. He thinks the house sits comfortably on the lot, and the nonconformities have been reduced.

Chairman Conklin noted that the lot is substantially larger than required, and the house is reasonably sized and not too much for the lot. He thinks it is a well-done plan.

Mr. Blum noted that the only issue is the house itself, and the argument in this case could be made for any oversized lot in this zone. The town council has given the Board direction, and he does not see any reason to make an exception. He would be opposed to the application.

Mr. Duddy thinks that because the lot is as large as it is, he agreed that they are asking for a small nonconformity. He thinks in this case, this is an improvement for the area and because the lot is so large, he would be in favor of approving the additional floor area request. The Board has done this before in this area.

Dr. Wood would not be opposed, based on the lot size. He thinks it is an attractive home.

Mrs. Atwell agrees that based on the lot size, she would be in favor and support the application.

Chairman Conklin again commented that this is a substantially bigger lot. The Board does have discretion on these applications, and he thinks this is a reasonable request.

Mr. Duddy moved to approve the application, and Mrs. Atwell seconded.

Roll Call Vote: Ayes (Eligible) – Conklin, Atwell, Duddy, Wood.

Nays: Blum

Motion carried.

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

Respectfully submitted,  
Patricia Murphy  
Clerk