

**RUMSON ZONING BOARD OF ADJUSTMENT
DECEMBER 17, 2013
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, Atwell, Wood, Blum, Duddy, Brodsky, Seaman (arr. 8:25 p.m.). 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.

Brett & Nadine McGonegal, 15 Grand Ave. (Continued Application)

Michael Condouris, architect, appeared on behalf of the applicants and was still under oath from the last hearing. He reviewed that they agreed to flip the deck and move the stairs to the west side, giving them an 8' setback in the rear and maintain the setback to the side. They have also dropped the deck 16" more, so it is now proposed as 6' off the ground. The proposed first floor addition on the east side remains the same.

There were no questions or comments from the public. Chairman Conklin commented that this is exactly what the Board asked for at the last meeting. Mr. Reilly has prepared a resolution of approval for this revised plan. Mr. Duddy moved to adopt the resolution, and Mrs. Atwell seconded.

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

Motion carried.

Resolutions

- 1. Dekker & Maricarmen Buckley, 4 Robin Road** – Approval for second floor addition. Dr. Wood moved to adopt the resolution, and Mr. Duddy seconded.

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

Motion carried.

At this time, Chairman Conklin announced that this is the last meeting of the year, and Mrs. Atwell will be leaving the Board next year. The Board expressed their appreciation for her service and wished her the best of luck for the future.

Paul & Lana Frieze, 17 Warren St. (Continued Application)

Wayne Lerman, architect, again appeared on behalf of the applicants, and is still under oath from their last hearing. He reviewed the application, noting that the property shape affects the setbacks for the garage, and they considered options for moving the garage and get it off the property line. He has two scenarios to present, illustrating a two-car garage that is farther off the

property line. The garage doors would face the south, allowing them to back out of the garage on to Warren St. The positive effect about having the detached garage refers to the water problems in the area, allowing some grading to keep the water away from the house structure, which will be elevated as part of the reconstruction. The size of the garage is a little smaller than their prior proposal (20' x 20'). The addition to the family room is the same as their prior proposal.

The second scenario (1B) creates a two-car garage, pushing it back against the rear wall of the existing residence, and it would be the same size as their original plan. The doors would also face the south side, but the architectural concept would be changed. Mr. Lerman feels the first option is better, based on the water issues in the area.

Chairman Conklin asked why the third curb cut is remaining on both plans. Mrs. Frieze said that they need the different ingress and egress areas, due to the occasional water problems on the lot, which happens a few times a year and not just during storms. Mrs. Frieze said they prefer the first option, which allows them better circulation.

James Sylvester, 22 Washington Ave., was sworn in and asked how high they plan to elevate the residence, and Mr. Lerman said approximately 4-5'. The garage will also be elevated by about 1'. Mr. Sylvester feels the house will look better detached.

Thomas Harman, 87 S. Ward Ave., was sworn in and confirmed that this lot floods, and he supports the three curb cuts.

There were no other questions or comments from the public.

Mr. Blum asked about the evergreen trees along the front of the property, and why they were there. Mrs. Frieze said they planted the trees for privacy. Mr. Blum noted that these were in the borough right-of-way, and Mr. & Mrs. Frieze said they did not know this and did not consult with the borough at the time. Their intent now is to remove some of the trees, but keep some closer to the corner of the curb cut. They would like to keep some type of screening in this area for continued privacy. Mr. Blum noted the history of the streets in this area that were raised several years ago, so that they would not flood in ordinary circumstances. Abnormal tides still cause flooding in the area. He thinks it is simpler construction to flood proof the house and have a detached garage. Access to the house would be extremely difficult with an attached garage. He noted there is also a building coverage variance, and he thinks they need to consider how this will affect the street scape of the neighborhood. Mr. Lerman thinks their plan addresses this in a better way than the original plan.

Mrs. Frieze said they will be adding landscaping to provide additional buffer. They have picked up 5', and they will no longer be backing up to the right-of-way.

Mr. Blum suggested having the garage face southwest, and Mrs. Frieze said that would not allow them to grade up slightly to help the water situation, which is the biggest concern for them.

Mr. Duddy said he understood their hardship in this case. He does not think they can propose anything that will make everybody happy. The property is low and needs to be raised. He thinks Option 1-A is the better of the two.

Dr. Wood agrees and also noted that this plan will allow for more green space on the corner, which will be a more attractive plan.

Mrs. Atwell also likes Option 1-A, although she asked if they could eliminate the third curb cut and make it green. Mrs. Frieze again noted that they use this curb cut when there is water on the lot, and Mr. Lerman pointed this out on their plan.

Chairman Conklin thinks the only way they can get the numbers closer is to allow for only a one-car garage, but he understands their need for a two-car garage that will be somewhat raised to prevent damage from flooding. He does not think the plan is perfect, but he agrees that 1-A is the better option. This is a unique situation, and he thinks the plan is reasonable.

Mr. Reilly asked about the allowable width for a driveway, and Mr. Andre said 17' is the allowable width. Mr. Lerman said their plan is within this width. The ingress and egress for Option 1-A was shown by Mr. Lerman, including the existing plantings and the curb cuts. Mr. Andre clarified that an attached garage allows for a 17' width, plus 2' for a curb cut. Detached garages allow for a 12' width plus the 2' for the curb cut. In this case, their plan would require approval for the extra width.

Mr. Duddy said he is comfortable with Plan 1-A.

Mr. Reilly stated that they need to include a waiver regarding the right-of-way, since this is an exceptional property.

Mr. Blum asked if the curb cut is 40' long, and Mr. Lerman stated this is not correct.

Dr. Wood thinks the north curb cut is obsolete and should be removed and landscaped.

Mr. Duddy noted they will be removing the concrete pad, and the only thing you would see is the depression at the curb area.

Mr. Blum clarified that the property line along the borough right-of-way will be landscaped down to the curb cut, and Mr. Lerman confirmed this, except for the additional access area that would be used for emergency purposes in case of flooding.

Chairman Conklin does not think the difference in grade that could be accomplished warrants the additional curb cut. Mr. Lerman said they would be willing to give up the third curb cut, and will submit revised plans to show this change.

Mr. Duddy moved to approve the application, subject to the submission of revised plans showing the removal of the north curb cut on South Ward Ave. and additional landscaping from the north corner to the curb cut. Dr. Wood seconded.

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

Motion carried.

Mrs. Seaman joined the meeting at this time.

Donald & Kerry Devine, 10 tuxedo Road

Brooks Von Arx, attorney, appeared on behalf of the applicants. The proposal is for an addition to the existing house. They would like to eliminate a flooding situation and provide additional living space for the family and improve the architecture of the building. The existing conditions will not change:

- Lot shape requirement – 115’ required / 85’ provided;
- Front yard setback – 100’ required / 72’ existing;

These are common throughout this neighborhood.

Mrs. Devine was sworn in at this time. She said they have owned the property for ten years. They are not able to use the garage, which flooded during Sandy. A photo of the garage was shown to the Board (A-1). The garage is under the main house at the basement level.

Robert Gorski, architect, was sworn in, and the Board accepted his qualifications. He explained the problems with the property, noting the need for additional space for the family. The house is fairly small, and they would like to add to the living and bedroom areas. The current garage only has a 7’ high ceiling, and they cannot get larger vehicles in this space. Photos of the existing home were shown to the Board and marked into the record. The style is a 1960’s style house, which could use some significant improvement.

A colored rendering of the proposed additions were shown, with Mr. Gorski noting the change in the dormer and roof areas. He thinks this is a preferable design for the house and the neighborhood.

They proposed the addition for the north side to provide a more practical circulation for the family. Putting it on the south side would also affect existing trees in the area, as well as adding to the total lot coverage. The proposed addition would be approximately 150’ from the nearest house. Mr. Gorski has spoken to the neighbor on this side, who expressed no objection to the plan. There is also a line of trees between these two homes, which the applicant has agreed to enhance with this application. Photos of this area were also shown to the Board, with Mr. Gorski commenting that these types of lots are not uncommon in this area and most do not comply with the 100’ setback requirement. Many also sit on one side of the property or the other, similar to the Divine property.

Mr. Gorski believes this would be a benefit to the neighborhood, with no detrimental effect, providing substantial light and air between structures.

Chairman Conklin asked to see what currently exists, and Mr. Gorski pointed this out on the plan provided. He noted that the existing coverage numbers are not shown, and Chairman Conklin thinks these should be included.

Mr. Brodsky thinks this vastly improves the aesthetics of the home within the neighborhood. They encroach on one side, but have more than the required room on the other side yard. He thinks this is a beneficial application.

There were no comments or questions from the public.

Chairman Conklin asked about the regrading, and Mr. Gorski noted elevations on the right side of the property, which will go from 10 or 11' to 13' and will slope away down the driveway. Chairman Conklin noted that the area is noted for water problems, and he wanted to make sure that this does not affect the neighbors adversely with additional water issues. Mr. Gorski said their plan proposes drainage down the driveway out toward the road.

The proposed height for the addition is 30'. The screening discussed straddles both property lines.

Chairman Conklin asked if they explored the option of elevating the garage in its present location and relocating the addition. Mr. Gorski again mentioned the layout of the floor plan, noting that the best functional location caused them to locate the garage where it is proposed. Also, moving the garage to the front would bring the driveway closer to the neighbor's property line and also compromise existing trees in the area.

Mr. Von Arx said they could provide the existing dimensions if the Board required. Mrs. Seaman agrees that she would like to know the existing numbers as they relate to the proposed addition. It was decided to carry the application to later in the meeting to allow the applicant to calculate the existing numbers for the application to be provided for the Board's information.

Kevin & Melissa Lane, 13 North St.

Kevin Lane was sworn in and explained his proposal to add a new master bedroom and bath to the home. Matthew Cronin, architect, was sworn in, and the Board accepted his qualifications. Mr. Lane further explained they would also like to extend the existing front porch. They currently have four bedrooms upstairs, and they will be taking one of those bedrooms and making it a master bath and closet. They would like to widen the front porch across the front of the house and move it farther toward the west.

Mr. Cronin noted that the existing front yard setback is 23.8' where 30' are required. He described the interior layout, noting their plan to create a master bath and walk-in closet and add a master suite over the living room. They intend to make the front porch wider and relocate the front door. The accessory structure on the side of the house is a patio, which is where the A/C and recycle units are located.

Chairman Conklin asked why they could not go out the back, and Mr. Cronin said this would increase the building coverage and add a second floor over an existing deck. Extending the

second floor over the existing first floor made more sense to them. The new steps will go toward the east, and the porch is being extended to the west.

Joe Novak, next-door neighbor, was sworn in and expressed support for the application, which he thinks will benefit the neighborhood.

There were no other questions or comments from the public.

Mr. Cronin noted that many of the houses on the street are mostly in line with his home.

Mrs. Seaman thinks it is a reasonable request and moved to approve the application. Mrs. Atwell seconded.

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

Nays – None

Motion carried.

LeeAnne Rizzotto, 62 Waterman Ave.

Ms. Rizzotto was sworn in, along with her architect, Matthew Cronin, whose qualifications were accepted by the Board. Ms. Rizzotto explained her plan to raze the house and construct a new house, due to the damage from Sandy. Mr. Cronin showed the Board photos of the damaged house. The lot is nonconforming as to frontage. Their home is 20' wide and is similar to the existing home. It is a one bedroom house on the first floor with one bathroom. There are 913 sq. ft. on the first floor, with a porch on the front. The proposed home will be raised to allow parking underneath. The first floor will be elevated to 13.5' (11' minimum is required). They have a 12' wide curb cut and 17' driveway. They will be adhering to all FEMA regulations. They will have an overhead door in the rear. There are stairs from the side to a deck in the rear. There is a pre-existing garage in the rear that they intend to maintain (263 sq. ft. in size). This contributes to the overage on the building coverage. They tried to trim down the building coverage so that they can keep the shed, which is important to the applicant. The second floor of the new home is inconclusive at present, but could accommodate a second bedroom or possibly only storage space for now. All second floor area has been included in their calculations. The garage is not included, due to the flood zone area.

Thomas Harmon was sworn in and asked how high the deck will be. Mr. Cronin said they intend a patio in the rear with stairs up to the living space. Mr. Harmon would like to make sure that they maintain the privet hedges on the sides. He thinks it will be an improvement to the neighborhood.

James Sylvester was sworn in and questioned the FAR, which is under the maximum, according to Mr. Cronin. The house is 48' long with a 7' front porch. Ms. Rizzotto has lived in the house for ten years and has used the shed. Mr. Sylvester is in favor of the application and thinks it will enhance the neighborhood.

There were no other comments or questions from the public.

Mrs. Seaman moved to approve the application, and Dr. Wood seconded.

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

Nays – None

Motion carried.

Donald & Kerry Devine, 10 Tuxedo Road (Continued)

Mr. Von Arx explained that Mr. Gorski has made some calculations, as requested earlier:

- 2,500 sq. ft. on ground floor; 1,500 sq. ft. on top floor = 4,000 total sq. ft.;
- Total floor area is 7,200 sq. ft.;
- Lot coverage is 12,043 sq. ft., and addition adds approximately 3,000 sq. ft.

Mr. Von Arx pointed out that they did consult an engineer regarding the drainage; however, there is an existing swale on the property that points drainage to the rear yard area.

Mr. Blum asked where the garage was located that is being replaced by the addition, and Mr. Gorski stated it was under the dining room area. After the addition, the first floor elevation, as shown on sheet #1, will be on the same elevation, except for a mud room and garage.

Mr. Duddy asked about raising the garage, and Mr. Gorski said they will be raising it to 13' – 4' higher than the existing garage.

Mr. Brodsky thinks this is a reasonable proposal and an aesthetic improvement to the neighborhood.

The height of the house is 35'.

Mrs. Seaman appreciates the clarification of the numbers and thinks it will be an improvement. She hopes there will be no impact on the neighbors.

Mr. Blum asked Mr. Andre about the grading, and Mr. Andre said this will be a requirement of any approval.

Chairman Conklin thinks the question is whether there has been justification by the applicant to approve this request, with 80' of an addition on the side yard setback.

Mr. Duddy thinks they need the garage in proximity to the mud room and kitchen. Also, the house is placed on a difficult location on the lot. It is 50 yards from the house to the north, so the impact is diminimus, in his opinion.

Dr. Wood thinks they have done a good job, and the house is very attractive and makes sense.

Mrs. Seaman agrees that 80' is huge, but there are trees between the lots, it has a nice look, and the neighbors do not object.

Mrs. Atwell thinks the north side is the right place for the addition, and the neighbor is not objecting.

Mr. Blum would have liked to have seen an attempt to comply with the setback requirements; however, he understands the layout with regard to the kitchen. The adjacent lot is also off set on the lot, as were some others, and since it is not an issue for the neighbor, he could approve it.

Dr. Wood moved to approve the application, with the condition that additional landscaping be provided, and they will amend the plan to incorporate this. Mrs. Seaman seconded.

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

Nays – None

Motion carried.

Ms. Heard joined the meeting at this time, and Dr. Wood left the meeting.

JNM Enterprises, Inc., 2 Shrewsbury Drive

Michael Leckstein, attorney, appeared on behalf of the applicant. They have submitted the necessary information in the T&M letter, and he stated there are no easements on the property.

Ms. Heard said all information has now been submitted as required. They will need completeness waivers for some items, for which she has no objections. Mrs. Seaman moved to grant the necessary completeness waivers as listed in the T&M letter, and Mr. Duddy seconded.

Roll Call Vote: Ayes – Conklin, Atwell, Seaman, Brodsky, Duddy, Blum

Nays – None

Motion carried.

Mr. Leckstein explained that they would like to raze the building within the same footprint, due to damage from Sandy. This would provide a much more attractive building and be an improvement to the area.

Michael Condouris, architect, was sworn in, and the Board accepted his qualifications. He described their plan to take down the old building and rebuild it on the same foundation area, but high enough to adhere to FEMA standards. There will be a four-unit structure. Each unit is a one-bedroom unit, which is what exists at present. They propose modular construction, and they will be adding some architectural enhancements. They are also adding two porches on either side of the building with stairs. There are entrances on the front and rear. They propose a 14' elevation for the first floor – overall height from grade is 27.9', which meets the height requirements. No other changes are proposed for the site. A single-family building in the rear will remain, as will the parking lot, which will remain asphalt. The A/C units will remain in the same location but be raised to the required flood elevation.

Chairman Conklin questioned the numbers for what currently exist, and Mr. Condouris said they have not provided the current numbers. Chairman Conklin would like to know this information, and he does not think it is unreasonable to request this.

David G. Roberts, professional planner, was sworn in at this time. The Board accepted his qualifications. He distributed a presentation (A-1), which offers a background of the property. The lot has some unusual characteristics, due to its shape and the curve of the street. The front yard has a nonconforming setback due to the curve of the street, and this is an existing condition. Also, the nonconforming condition of two principal uses on the lot has existed for decades. The

house is about 90 years old. The use pre-dates the zoning and has been maintained in its current state. The pre-existing nonconforming setbacks go with the property.

Mr. Roberts also listed other existing conditions, which will still occur with the new construction. He noted that the property has flooded in the past, and is in a flood prone area. Many homes in this area are being elevated. The existing house is at grade, with no elevation. The next door homes are also shown in his report. He stated that the reconstruction of the nonconforming use is suitable for the property, as it has existed for many years. This maintains the character of the neighborhood. The advantage of new construction will provide a much more attractive solution. The character of the neighborhood is changing, based on the impact of the storm. This would also reduce the vulnerability to storm damage and promote a desirable visual environment. This is a unique situation in that it has been in existence for so long and been maintained consistent with the rest of the neighborhood. Requiring a one-family home would result in the loss of four family units that are relatively affordable. The lot shape and angle of the street creates an irregular front yard and a hardship in trying to conform to the zoning setback requirements. Allowing this use to continue in a newer building that is elevated and preventing future flood damage will not cause a substantial detriment to the public good or the intent of the zoning ordinance. Mr. Roberts thinks the application can be supported by the Board.

Mr. Condouris has been able to calculate the existing conditions for the Board's information, and he reported at this time:

- 130 sq. ft. increase in floor area (current 2,870 sq. ft. / 3,000 sq. ft. proposed);
- Building coverage increased by 60 sq. ft. because of the additional landings and porch;
- Lot coverage increased by 60 sq. ft.

Chairman Conklin asked if the applicant would have a problem maintaining these as four separate units, and Mr. Leckstein said they would agree to this.

James Sylvester, 22 Washington Ave., was sworn in and asked about the construction and whether they attempted to make it look like a single-family residence. Mr. Condouris said this was not their intention, but since it has one front door, it does appear as a single-family residence. Mr. Sylvester also questioned the proposed materials for siding, etc., and the A/C units. The brick for the foundation will be a façade, with flood vents. All units will be constructed to code. He also asked about the statement regarding the existing building, and Mr. Leckstein said it was not destroyed, but substantially damaged. Mr. Sylvester thinks this is a large lot, and he asked if they considered reducing the lot coverage or eliminating the second building. Mr. Condouris said they did not consider changing the building orientation. Mr. Sylvester said he would have liked to have seen improvements in the lot coverage and setbacks.

Megan Collard, 3 Shrewsbury Dr., was sworn in and expressed concern with the building being maintained as a multi-family residence. She would like to know if they considered building a single-family home on the property. Mr. Leckstein said they did not consider this. Ms. Collard thinks this would have been a positive change to the neighborhood. She asked why they are not being made to comply with the ordinance regarding setbacks, since they are starting from scratch. Mr. Leckstein responded that they are allowed to continue this use, which existed when Ms. Collard moved into the neighborhood. He noted that they could raise the building with no

problem; however, they are trying to provide something more attractive for the neighborhood. Ms. Collard said she is concerned with the proposed height, and Mr. Leckstein said they are complying with the FEMA requirements (14' about sea level and not from existing grade). The property has nine existing parking spaces.

Alexander Mulhern, Manager for JNM Enterprises, Inc., was sworn in and explained the asphalt area, some of which will be removed, providing a slight improvement over what currently exists, resulting in 8 total parking spaces.

Mrs. Seaman understands the concerns of the neighbors, but she thinks it will be a definite improvement and will look a lot better than what is currently there. The modular construction will benefit the neighborhood, also.

Mr. Leckstein said they will agree to four separate rental units that cannot be combined, and they would also agree to make this a condition of approval.

Mr. Duddy noted that they are starting from scratch, but in this case, this is the best of both worlds, in his opinion, as it is essentially the same thing, but better. He would approve it.

Mrs. Atwell asked about the landscape plans, and she was told that additional plantings are proposed.

Mr. Duddy moved to approve the application, with the condition that four separate units are maintained, along with eight parking spaces and revised plans showing updated numbers. Mrs. Seaman seconded.

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

Motion carried.

Approval of Minutes

Mrs. Atwell moved to approve the minutes from the November, 2013, meeting, with corrections, and Mrs. Seaman seconded. 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 11:00 p.m. The next meeting will be **January 21, 2014.**

Respectfully Submitted,

Patricia Murphy
Clerk