

**RUMSON ZONING BOARD OF ADJUSTMENT  
FEBRUARY 17, 2015  
MINUTES**

Vice-Chairman Brodsky 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: Brodsky, Wood, Cottrell, Seaman, Thompson, Torcivia. 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. Reilly announced that Mr. Brodsky will be taking over the Chairman position, as the current Chairman, John Conklin, will be joining the Borough Council. Mr. Brodsky will serve as Chairman for the remainder of the unexpired term – 12/31/17. Mr. Brodsky was sworn in at this time.

Mr. Reilly also introduced a new member of the Zoning Board, Ben Torcivia, who will be serving as Alternate #1. He was also sworn in at this time for the unexpired term until 12/31/16.

At this time, Tom Rogers, Borough Administrator, presented a plaque to John Conklin, former Chairman of the Zoning Board of Adjustment, who has served on the Board for 18 years – 12 as Chairman. Mr. Brodsky also presented a letter to Mr. Conklin, signed by all members, acknowledging his commendable term of service to the Board. Mr. Conklin expressed his thanks for the honor of helping the residents of the town in this position, and he looks forward to his new position as a member of the Borough Council. He commented on the opportunities created in the aftermath of the destruction caused by Super Storm Sandy and the town's ability to take advantage of grants available to them.

Mr. Rogers noted that the total damage to the borough was \$6.4 million, which is an enormous number for the town. The state decided that towns need help going forward to address situations they experienced after the storm. They have hired T&M Assoc. to provide a report with recommendations to enable the town to be more resilient if they ever faced another storm of this magnitude. They were awarded \$295,000 to develop the plans for the improvements suggested. Many of the improvements deal with the Master Plan and the permitting process, striving for more efficiency. He explained the money awarded to the town in several categories, including:

- GIS Development
- Digitalizing tax maps
- Permit application process
- Flood plane management
- Hazardous mitigation plan
- Community resilience plan
- Redesign of the Master Plan, to be adopted in April or May
- Research as to where they can put debris that accumulates from this type of disaster.

Once these plans are completed, they can apply to FEMA, which will allow for discounts on flood insurance premiums.

There are some other ongoing projects that they are pursuing, including additional generators at pump stations, flood doors at pump stations and public garages, flood valves at West Park, and

some other small grant items. He feels they have taken advantage of everything available to them to help the borough going forward.

At this time, Chairman Brodsky welcomed Ben Torcivia as the new member of the board.

**Ryan & Hilary Muldoon, 36 Warren St.**

Brooks Von Arx, attorney, appeared on behalf of the applicants. He explained that this property was seriously damaged after Sandy, and the house was demolished and reconstructed. Mr. Robert Adler, architect, designed the new home, and the house is now completed; however, there was an error in the construction.

Robert Adler, architect, was sworn in at this time. He confirmed that he designed the house for the applicants, which was to fit on the property in accordance with the zoning ordinance. There was an error on his part in that he designed the home wider than what was allowed on the site, since the lot was slightly wider than the number for the zone, requiring an increase in the side yard setback. They redesigned the home to reduce the width, and the permits were issued on this revision. The site plan needed to be revised, and when that occurred, an error was made in the setting of the pins for the proper width home.

Mr. Von Arx showed a blow up of the survey of the property, which shows the property as it currently exists. He also pointed out another area that shows what would be allowed for the setbacks. The home is constructed in the proper width; however, its location on the lot is consistent with the minimum requirements for the zone and not when there is a slightly wider lot.

Christine Nazzaro-Cofone, Professional Planner, was sworn in, and the Board accepted her qualifications. She has examined the property and is familiar with the zoning requirements. She noted the bulk variance requirements, stating that their combined setbacks are greater than what is required. Despite the mistake, the Board could have still granted the variance for the house to sit on the lot as it is. They looked at the area, and she presented an aerial map, which was distributed to the Board (A-1). Another blow up (A-2) shows other dwellings that also appear to be nonconforming, and they believe there are 6-7 other properties along this area that have similar setbacks to this proposal. Ms. Nazzaro-Cofone reviewed the requirements for the grant of a bulk variance, and she proceeded to report on the criteria she believes apply to this application, which would allow the Board to grant the variances requested.

The distance between the current house and the neighbor to the south is 18.7' to the structure, which is amenable to the continuance of the light and air on the property. The development on the property is consistent with the established lots in the area. The Land Use Law does not hold the Board to a standard of no detriment, but only that the detriments do not outweigh the positives. She thinks the Board can grant the variances with no adverse effect to the town.

Mr. Adler explained how the error was discovered, noting that the house was well under way with the construction, and the zoning officer discovered the error. Mr. Andre stated that he received the final foundation location plan on 12/1/14, and this is when the error was discovered. The house conforms in all other respects and was approved as a conforming structure.

Nancy Haaren, 34 Warren St., was sworn in and stated she is the neighbor to the north, and they are happy with the plan and the placement of the house. They have no objections.

There were no other questions or comments from the public.

Mr. Von Arx also feels there would be no detriment to the zone plan or the neighborhood, and he asked the Board to approve the application.

Mr. Andre was asked if this is approved, would this property always be considered nonconforming, and Mr. Andre said the setback would always be considered nonconforming.

Mrs. Seaman thinks it was an unfortunate error caught too late, and the neighbors do not oppose the plan.

Mr. Thompson said he appreciated the neighbor's input.

Chairman Brodsky thinks the property looks good, and the error was found after construction occurred. He asked if the resolution should contain any condition that any future owner would need to come back to the Board, due to the nonconforming setback. Mr. Von Arx said it was very unlikely that this would occur.

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

Roll Call Vote: Ayes – Brodsky, Cottrell, Torcivia, Seaman, Thompson, Wood  
Nays – None

Motion carried.

**Michael & Yanira Teitelbaum, 76 Waterman Ave**

Mrs. Teitelbaum was sworn in and explained that they bought their house in June, 2014. The house was partially remediated by the prior owner. They are now asking to raze the home and construct a new home. They are proposing a modular home, and she showed the Board elevations via drawings provided. She described the layout of the first, second, and third levels, noting four bedrooms proposed. The attic will not be finished at present and will be used for storage. The total square footage is 2,640 sq. ft., which conforms to the ordinance.

James Alburtus, builder, was sworn in and noted the plot plan which shows the new home, including setbacks, grading, etc. He offered his background as a modular home builder, which he has been doing since 1985, including several in Rumson. He gave an overview of the plan, noting that they comply with most requirements, including lot coverage, lot area, building coverage, floor area, height, and FAR.

Mr. Reilly said he found some irregularities in the numbers, although all were under that allowed. It was noted that the floor area is different, since it was not updated by the surveyor. This number is also under that required.

They are taking down the garage in the rear of the property and putting it under the house. It has a single door that will hold three cars back to back.

Mr. Albertus addressed the variances:

- Existing lot shape is nonconforming;
- Front yard setback – 35' required / 33.5' proposed / 31.5' existing. They would like to keep the existing setback at 31.5', if possible. The existing setback to the front porch is 21.1' as it now exists. The 8' porch will provide a 23.5' setback to the new front porch where 21.1' currently exists, providing 2' additional.
- Right side setback: 15.5' required / 10.8' existing / 15.6' proposed.
- Rear setback: 29' existing / 15.6' proposed.

Mr. Cottrell noted that this is a pie-shaped lot; however, Mr. Andre said the numbers are based on a normal-sized lot, so this shaped lot provides a hardship. They are proposing to move the house forward to provide a bigger back yard and a greater separation between the houses in the rear.

There is a proposed wall on the left side of the property (12" block wall), which is a retaining wall to help with drainage. The wall on the right side belongs to the neighbor, and the Teitelbaum's would like to raise the grade on this side to match the grade on the neighbor's side of this wall. If this was not approved, they could put in another wall next to the existing wall. Their property grading is equal or less than that to the left and right. They are proposing to raise the grade on the property in any case.

Mr. Albertus asked if the variance could be conditioned upon the neighbor agreeing to allow them to raise the grade to the same level. It was noted that the configuration of the wall was not an issue for this Board. The grading was explained by Mr. Albertus, who noted that they are not creating an issue with their grading proposal, which is similar to the surrounding lots.

Mr. Thompson feels they are impacting five properties surrounding this property. Mr. Albertus said they would not be affecting the neighbors, whose properties are all higher than their plan.

Mr. Cottrell reviewed their front setback proposal, asking if the steps setback will be 15.5', and Mr. Albertus said they would, which would also require a variance.

Chairman Brodsky noted that the step design seems to be different on the plans, and Mr. Albertus identified the correct design.

Mr. Andre was asked about the distance from the curb to the property line, and he stated there is 11' from the curb to the property line, and this additional distance helps with the aesthetics of this reduced setback.

Chairman Brodsky would rather see the larger setbacks, but he realizes it is a difficult lot to deal with. Mr. Albertus said the extra 2' setback is still farther back than the existing house. The steps and garage designs were further explained.

Mr. Cottrell thinks it is better to have the extra 2' in the rear than in the front, since they have the additional space from the curb to the property line, which has less of an impact on the aesthetics.

Mrs. Seaman thinks the house is much bigger than what currently exists, and it is close to the street. It was noted that the neighbors were notified regarding the variances, and none appeared to object.

Mr. Albertus suggested an alternate design for the steps, which would keep it 8' in depth off the front of the porch.

Mr. Thompson likes the compromise, agreeing there is a hardship in this area, which gets water.

Dr. Wood questioned the setback for the steps, and he was informed it was 15.5', plus the additional distance to the curb.

It was noted that the houses along Ward to the north look consistent as to what currently exists on this lot. The new house will be the same setback, and the porch comes out 8', plus the steps.

Mr. Torcivia agrees with the additional 2' in the rear, giving it more space between the homes in this area. He thinks this will be a significant improvement over what exists.

Mrs. Seaman agrees that it will be an improvement, and none of the neighbors appeared to object.

Dr. Wood agrees that this looks best for the lot.

Mr. Andre said they will need a revised plan to show the correct setbacks and numbers, and he reviewed what these should be, based on the testimony heard.

The deck in the rear was discussed, and Chairman Brodsky asked if they could find a way to improve the setback for this structure. Mr. Albertus asked if they would approve them moving the deck over 1', which would allow them to keep the two decks balanced. This was agreeable to the Board.

Mrs. Seaman moved to approve the application, conditioned upon the change in the front and rear steps, and the submission of revised plans to be submitted for review. Mr. Cottrell seconded.

Roll Call Vote: Ayes – Brodsky, Cottrell, Torcivia, Seaman, Thompson, Wood  
Nays – None

Motion carried.

The resolution will be presented at the next meeting.

**Approval of Minutes**

Mr. Cottrell moved to approve the minutes from the January meeting, and Mr. Thompson seconded.

Roll Call Vote: Ayes – Unanimous.  
Nays – None

Motion carried.

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.

The next meeting will be **March 17, 2015.**

Respectfully submitted,

Patricia Murphy  
Clerk