

**RUMSON ZONING BOARD OF ADJUSTMENT  
MARCH 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, Duddy, Brodsky, Wood, Cottrell, Seaman, Sylvester. 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 swore in the following members at this time:

- Rita Seaman (current term)
- James Sylvester (new alternate member)

**Roger & Nicole McLaughlin, 42 Blackpoint Horseshoe**

Mr. McLaughlin was sworn in and described his proposal to cover an existing porch that is 7' long and will be 13' wide. It will cover an entryway. They are not changing anything else on the exterior of the house. The proposal is for aesthetics and also protection from the elements.

There were no questions or comments from the public. Mr. Sylvester agreed that the house could use some aesthetic updating and thinks this is a reasonable application.

Mrs. Seaman questioned the Belgian block work, and Mr. McLaughlin said they will be removing some of this.

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

Roll Call Vote: Ayes – Conklin, Duddy, Brodsky, Wood, Cottrell, Seaman, Sylvester.

Nays – None

Motion carried.

**Vasili & Manioucha Krishnamurti, 41 Bellevue Ave. (Continued Application)**

Brooks Von Arx, attorney, appeared again on behalf of the applicants. Mr. Sylvester, and Mrs. Seaman will not sit in on this application.

Mr. Von Arx reviewed their prior proposal, explaining their revised plan to now reduce the height of the proposed wall and pool. The wall is now proposed as 6' high, and the pool will now be 41.17' long. Also, the pergola proposed for the north wall area has been eliminated. They will substitute this with a free-standing ornamental bench.

Stephen Krog, landscape architect, was sworn in and the Board again accepted his qualifications. He explained the change to the wall on the north side of the pool, which will now be 6' high, with a free-standing bench, instead of a pergola. The purpose of the wall is to provide privacy in the rear yard and also provide screening for the yard. The plan includes some orchard trees and a woodland walk on the property. The existing trees will be north of the proposed wall, and the size of the pool has been reduced.

The specimen and deed-restricted trees on the property were discussed, with Mr. Krog showing the Board an illustration locating the English oak and the encroachment into the canopy of the tree area. He noted that the applicants do not propose any paving around the pool area at this time. It is his opinion that an 8% encroachment, as shown, would not affect the trees longevity. There is also a Sequoia on the lot which is not as impacted by the new construction. It is his opinion that if the Board approves the application there will not be any long-term adverse affect on these trees.

The wall was located on the plan for the Board's information. If the board approves the plan, Mr. Krog does not feel any adverse affect would be felt by the neighborhood, which he thinks will be enhanced by this project.

Chairman Conklin asked if the feeder roots will be addressed, as mentioned by Mr. Brooks at the last meeting, and Mr. Krog said they will be addressing these. At this time, Mr. William Brooks was sworn in and said he worked with the applicants regarding the feeder roots of the trees. He gave his recommendations, which Mrs. Krishnamurti had previously said she would agree to follow. They will provide remediation during construction, and he feels a minimal impact will be felt. The Sequoia should be not affected by this construction. The applicants have agreed to comply with the recommendations and conditions set forth in the Board's resolution. He will write a plan to be a part of the resolution for the steps to follow to mitigate any potential damage to the trees.

There were not questions or comments from the public.

Mr. Cottrell commented that he thinks their revisions were in line with the Board's comments, and he thinks they are amendable to doing the right thing for the trees.

Chairman Conklin agrees and stated his opinion that there be only grass around the pool, which will also be made a part of the resolution.

Mr. Cottrell moved to approve the revised application, and Mr. Duddy seconded.

Roll Call Vote: Ayes – Conklin, Duddy, Brodsky, Wood, Cottrell

Nays – None

Motion carried.

**Edward & Kaye Wise, 54 East River Road (Continued Application)**

Mr. Sylvester and Mrs. Seaman will not sit in on this continued application.

Michael Bruno, attorney, appeared on behalf of the applicants. He reviewed their last appearance before the Board in February, recalling the comments heard. He stated that the plan has been revised, and the lot coverage and building coverage variances have now been eliminated.

Michael Monroe, architect, was sworn in, and the Board again accepted his credentials. He described their changes:

- Building coverage variance has now been eliminated, removing 237 sq. ft. of coverage, giving the neighbor to the east a better view;
- Lot coverage now complies;
- They added 100 sq. ft. of Floor Area. All bulk requirements now comply;
- The detached garage has been moved to the left, closer to its existing location, farther away from the neighbor to the east.

Mr. Bruno summarized that the building and lot coverage variances have been removed, and the side yard setback has been improved over the current condition.

Chairman Conklin asked about the garage, and Mr. Monroe said it is proposed as a one-car garage – 20' x 12'8" in size, 22' high, which conforms. The second floor will be storage space. There is no living space proposed, and they have no problem including this in the resolution.

Gary Boyd, next door neighbor, was sworn in at this time. He distributed a written statement to the Board and the applicant in which he stated his appreciation for their moving the garage to the west, improving his view. He questioned the change to the house, and Mr. Monroe again explained their changes proposed. Mr. Boyd asked about the proposed fill, and Mr. Monroe said they are lowering the crawl space, which will lower the amount of fill needed. Mr. Boyd questioned the drainage, and Mr. Monroe said they will be leaving the shallow swale to the water. They added a pipe on the other side, and all drainage plans will be subject to T&M review and approval. They have reduced the water runoff with their application. Mr. Duddy noted that, by law, the rain water must be recharged into the ground and cannot be piped directly to the river.

The A/C units were located on the plan for Mr. Boyd's information. Mr. Monroe said they will be screening these units. Mr. Boyd said he is concerned with the noise from these units, since it is on the side of his deck, which faces north. Chairman Conklin noted that the units appear to be on the walkway on the south side, so they should not impact Mr. Boyd. The pool equipment is on his side, but is quiet and should not affect him. The hot water tank will vent toward the roof.

Mr. Boyd appreciates their efforts with the changes; however, he still thinks the house is too big and excessive in size for the property. Mr. Monroe said the house will be 5,160 sq. ft., which he does not think is too big for the lot.

Chairman Conklin pointed out that Mr. Boyd's house is 100 years old, and the current zoning allows for a certain standard of home and design, as has been seen in the area. Mr. Boyd showed the Board photos of other homes in the area, and stated his preference for a small home.

There were no other questions or comments from the public.

Mr. Bruno summarized that the applicant has made a good-faith effort to eliminate the building and lot coverage variances. He asked that the Board approve the application.

Chairman Conklin asked Mr. Monroe to review the width of the lot, which he did via the site plan provided, stating it was 90' wide at the area of the house.

Mr. Brodsky thinks the solutions addressed the concerns of the neighbor, and he is comfortable with the application.

Chairman Conklin noted that the contours of the house allow for a less massive look. He thinks they did a good job with the numbers and the presentation, although he thinks it is a large house.

Mr. Cottrell agrees with the comments and applauds what the applicant has done with the repositioning of the garage and the other changes.

Mr. Brodsky moved to approve the revised application, and Mr. Duddy seconded.

Roll Call Vote: Ayes – Conklin, Duddy, Brodsky, Wood, Cottrell

Nays – None

Motion carried.

**Richard & Josephine Donovan, 9 Oak Tree Lane**

Mr. Andre noted that a resolution was approved in June, 2013, for this application to raze the existing house and construct a new home. Mr. Monroe, architect, would now like to add dormers for aesthetic purposes. They are not increasing the size of the house, which is conforming. The dormers make it more interesting and do not face the neighbors.

The Board expressed no objections to this change. Mr. Cottrell moved to approve the change, and Dr. Wood seconded.

Roll Call Vote: Ayes – Conklin, Duddy, Brodsky, Wood, Cottrell

Nays – None

Motion carried.

Mr. Sylvester and Mrs. Seaman rejoined the meeting at this time.

**Dennis & Marshall Lynch, 8 Navesink Ave.**

Mark Aikens, attorney, appeared on behalf of the applicants, who would like to redevelop the existing site by razing the existing home and constructing a new residence and cabana.

Michael Mahns, architect, was sworn in, along with Jason Fichter, planner, and Stephen Krog, landscape architect. The Board accepted their qualifications. Mr. Fichter clarified the accessory structure, and Michael Mahns presented the following exhibits:

- A-1 Filed sheets
- A-2 Site plan detail
- A-3 Drawing of comparison of existing and proposed structures
- A-4 Rendering of proposed residence and elevation of carriage house
- A-5 Packet of photos of existing conditions, dated 3/16/14.

Mr. Mahns explained the site as to what currently exists. It is a flag lot with a carriage house in the southwest corner and a small shed. There is also a large existing three-story structure and existing pool house with trellis to the south of the pool, which is in the northwest corner of the property. There is also an existing dock and bulkhead on the property. There are wetlands on the property, which resulted in a slight reduction of their proposal. They propose to remove the

existing structure and provide a smaller two-story structure, relocating the cabana and pool. They considered reusing the existing structure; however, they discovered that they structure would be too difficult to modify, and they decided to raze it and rebuild, which they feel will

better suit the applicant's use for the property. They also tried to reduce and correct as many of the nonconformities on the property as possible.

Exhibit A-4 shows the colored rendering of the proposed house and carriage house, with Mr. Mahns noting they will be reducing the overall height of the carriage house to conform to the ordinance and compliment the proposed new colonial structure. Also, the house was placed more to the east and south to provide better views from the east and north properties.

Mr. Mahns noted the issues with the property that they addressed to help reduce a number of setback nonconformities, as well as building coverage and lot coverage and reduce the mass from the existing house to the proposed house. The height will comply with the ordinance and also comply with the FEMA flood regulations.

Stephen Krog, landscape architect, explained the existing landscape condition, noting that the property contains some natural landscaping along the perimeter. All the construction will have minimal impact on the existing trees. The foundation plantings and holly trees will be transplanted to provide additional screening around the perimeter. There is a large existing Tulip tree, which will not be impacted by their plan. They will add screening in selected locations for additional privacy. The only tree impacted is an existing Weeping Beech tree, which is in a state of decline and will probably be removed. Also, a 9" Magnolia will be relocated on the property. A single 18" California Norway Spruce will be removed, because it is in an unstable condition. An existing Maple in the driveway area will be transplanted, also.

Mr. Fichter presented an aerial view of the property (A-6), which is 86,573 sq. ft. in the R-2 Zone. It is a flag lot, which is significant to the development of the property. He described a large, oversized home on the property with no damage from Sandy, along with an existing carriage house, which will be modified. There is a long, winding driveway and circular court, concrete patio, walkway, and pool. They are seeking approval to demolish the existing home and rebuild a new, smaller home, which will be one third smaller than the existing home. The carriage house will be maintained, but decreased in size. The new pool will be conforming, and the patio and driveway area will be reduced. He noted that Mr. Lynch is a life-long resident of Rumson, and they purchased this property in November, 2013. It had been on the market for several years and fell into a state of disrepair during that time. The existing house exceeds the size requirements needed by the family, and they would like to create a home to be a long-term residence for them. They came up with a plan with their architect to provide the best plan for them. Mr. Fichter noted that the existing home could have been modified with permits; however, they felt their best interest would be to build a new home that fits in with the borough's history and the character of the neighborhood. He thinks the architect was mindful of the zone plan to help bring them into closer conformance with what the ordinance required.

The variances requested include:

- Accessory structure on property without main building (This will go away when the new home is built);
- Lot width – 150' required / 81.46' existing;
- Lot Shape - 100' required / 32.33' existing (due to narrow lot);
- Accessory building with heat (carriage house exists since 1991 and has always had heat);
- Accessory building floor area (half that of ground floor of main residence – existing, and is being reduced);
- Lot coverage – 17,777 sq. ft. permitted / 22,085 sq. ft. proposed (24% reduction with their plan, affected by the length of the driveway);
- Building Coverage – 9,866.37 sq. ft. existing / 8,509.02 sq. ft. proposed / 6,455.7 sq. ft. permitted (14% reduction);
- Maximum building height of accessory structure (1 ½ stories permitted / 2 stories existing – no change proposed. They will be reducing the height of the carriage house to conform to the ordinance)
- Side yard set back for pool (25' required / 17' existing / 25.17' proposed);
- Rear yard setback to pool (25' required / 24.17' existing / 43.29' proposed);
- Side yard to accessory shed (shed will be eliminated);
- Maximum height of principal structure (2 stories proposed);
- Maximum height of accessory structure (25.19' existing / 23.92' proposed). Square feet of accessory structure conforms.

Their design is sensitive to DEP regulations. Flood zone is not an issue with this lot. This is a unique application because the existing home and carriage house are oversized. They would like to continue the use of the carriage house, but reduce the size, as well as reduce the size of the main home. They are looking to be in this home for a long time. It is Mr. Fichter's opinion that this is an appropriate use of the land, and the nonconforming nature of the lot will be reduced. Adequate light, air, and open space will occur, providing appropriate density and preserve the environment. The landscape design is spectacular for this waterfront home. It also improves property values in the neighborhood and puts a homeowner back on to the property.

The negative criteria include:

- Property only visible to two to three neighbors;
- Development has existed since 1991 and will be reduced in density.

Mr. Fichter does not think the proposed development will cause a substantial detriment to the public good and will be an improvement to the neighborhood. The application reduces the nonconforming nature of the property. The Master Plan objectives will be met, since they are decreasing the size of the project. He thinks the benefits outweigh any detriments with this application and he hopes the Board approves the application.

Mr. Reilly asked what is in the carriage house, and Mr. Aikens said he is not aware of any restrictions for this structure as to rental potential. Mr. Andre said in 1988 there was a resolution to allow the property owner at the time to reside in the carriage house during construction of the new home.

Mr. Sylvester asked if they are asking to continue the use, and Mr. Aikens said they were and a variance would not be required. The intention of the property owner is to use the carriage house for family and guests, but he is not precluding the rental nature of the property. The pool house would not have any dwelling status, and there is no kitchen proposed for this structure. There is a bathroom, but no heat.

Chairman Conklin asked Mr. Andre about the carriage house, and Mr. Andre said that the carriage house is two years older than the residence, and was built 25 years ago, according to borough records. Mr. Reilly explained that some years ago, accessory structures were allowed to be built on larger lots. Chairman Conklin noted that the Board has been consistent in that they ask that the applicants conform to the ordinance when new construction is involved. Mr. Aikens thinks this application is not typical, due to the accessory structure, which is basically a second residence, although they want it to be a carriage house.

Chairman Conklin noted that the other nonconformity with the main house may be reduced; however, they are not conforming to the ordinance. Mr. Aikens thinks they are taking many existing nonconformities and making them better, meeting the intent of the ordinance, in his opinion. Chairman Conklin does not think 30% over in building coverage is meeting the intent of the ordinance, in his opinion.

Mr. Sylvester asked about the motor court, and Mr. Fichter explained that the parking area does not require a variance, and Mr. Andre confirmed this.

The carriage house was discussed, and Mr. Fichter explained that the first floor is for parking, and the second floor will be living space. Chairman Conklin pointed out that a covered porch on the first floor could be an expansion of a nonconforming use, although Mr. Aikens does not think this is correct. Chairman Conklin thinks they are taking space away from the existing garage and putting a porch on the first floor, which Mr. Reilly said would not be expanding the building; however, Chairman Conklin thinks they are changing the dynamics of what currently exists. Mr. Reilly consulted the prior resolution, which allowed the property owner to live in the carriage house while construction occurred for the main house. There were some conditions included in the resolution:

- No more than two autos in the carriage house;
- Carriage house can only be used for a residence or domestic help.

Mr. Aikens said they would agree to continue these conditions. It was noted there are still two garage bays. Mr. Reilly does not think it is an expansion of a nonconforming use, in his opinion.

Dr. Wood asked about the pass-through, and Mr. Fichter said this allows for a play space for the children. The pool cabana size was clarified (306.63 sq. ft.).

Mrs. Seaman asked about the proposed garage doors, and Mr. Fichter said it is a function of the proposed motor court.

Mr. Aikens stated he knows this is a series of compromises, but he thinks the lot is unique in the borough, and he does not think this will set any precedents.

Mr. André confirmed the numbers for the building coverage and cabana.

Mr. Brodsky questioned the building coverage for the carriage house and Mr. Aikens said it was 1,589.51 sq. ft., which is less than what exists.

Chairman Conklin asked if the driveway between the carriage house and the residence was larger than what exists (907 sq. ft.). Mr. Sylvester asked if they need the parking area, which would serve to reduce the lot coverage somewhat if it could be reduced.

There were no questions or comments from the public.

Mr. Sylvester asked about the fence for the pool, and Mr. Fichter said this complies with the ordinance. Mr. Sylvester said he appreciates the work that went into the application, but he thinks the building coverage could be made to fit, since it is new construction.

Mr. Cottrell knows that the property has a large brick building which will be replaced with an aesthetically-pleasing facility, smaller in size. He thinks this is a rare event that could be considered an eye sore for some people, and they will be improving what exists. He questions the size of the parking area, but thinks it is reasonable.

Chairman Conklin thinks they can do better with the percentages they are proposing. He agrees that there is a trade off, but still thinks they can do better.

Mr. Duddy said the applicant has an oversized structure that they want to replace with a brand new house. They are proposing a structure that will be smaller and more pleasing, taking away a number of nonconformities. He thinks they may be able to reduce the motor court in size to reduce some of the lot coverage, but he would be in favor of the plan and thinks it is an improvement.

Dr. Wood would be open to see if they can come back with a somewhat smaller plan.

Mr. Brodsky said the coverage is 7%, and could possibly be changed to closer meet the requirements of the ordinance. He thinks there is some room to come back with a revised application, noting that once they take down the house, the hardship becomes less of a factor, in his opinion.

The consensus of the Board regarding the carriage house is that it is existing and would be acceptable.

Mrs. Seaman thinks this is better than what exists. She agrees with the comments regarding the motor court and thinks they can try to get it closer to conformity.

Mr. Aikens asked that the application be carried to the next meeting, so they can consider the comments heard this evening.

Chairman Conklin asked the Board if they thought the application should be made totally conforming. Most Board members thought the carriage house was acceptable, but some changes could be made to the overall plan to come closer to making it less nonconforming.

The application will be carried to the April 29<sup>th</sup> meeting. No further notice will be required.

**Approval of Minutes**

Mr. Duddy moved to approve the February minutes, with corrections, and Mr. Cottrell seconded. Voice Vote: Ayes, unanimous.

**Resolutions**

1. **Gerard & Nancy Tighe, 7 Oyster Bay Drive** – Approval to raze existing residence and build new home.

Dr. Wood moved to adopt the resolution and Mr. Brodsky seconded.

Roll Call Vote: Ayes (Eligible) – Conklin, Cottrell, Brodsky, Duddy, Wood  
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 10:05 p.m. The next meeting will be **April 29, 2014.**

Respectfully submitted,

Patricia Murphy  
Clerk