

**RUMSON ZONING BOARD OF ADJUSTMENT  
NOVEMBER 19, 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, Seaman, Brodsky (arr. 7:45 p.m.), Duddy, Thompson. 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.

**Robert & Lynda Mellow, 35 Oakes Road (Continued Application)**

Brooks Von Arx, attorney, appeared on behalf of the applicants. Messrs. Thompson, Brodsky, and Duddy will not sit in on this continued application.

Chairman Conklin asked for testimony regarding the numbers discrepancy that was discovered at the last meeting. Mr. Von Arx noted a number of changes to the application, which bring it in conformity with the ordinance:

- Pool house has been reduced in size;
- 30% rule can now be applied.

There are three variance requests:

- Garage is 3.5' off the property line (5' required);
- Pool will remain on property with no principal residence during construction;
- Number of garage bays.

Mr. Susser, builder, who is still under oath from the last meeting, described the numbers changes since the last meeting:

1. Porch was increased by 3';
2. Space was added to billiard room;
3. They reduced the size of the proposed cabana to 697 sq. ft.

They calculated the actual building coverage as 5,676.74 sq. ft., resulting in an allowable accessory building coverage of 1,702 sq. ft. They no longer need a variance for the accessory structure. Mr. Andre confirmed that the numbers are now correct.

The six bays for the garage were mentioned, and Chairman Conklin stated that the board did not have a problem with the bays, but mostly with the issue of the size of the cabana and the conformity with the numbers, which have now been addressed.

There were no questions or comments from the public. Mr. Von Arx summarized the application, stating his opinion that this is a reasonable application and is an improvement over their last proposal.

Chairman Conklin thinks the main issues have been addressed with the reduction in size of the cabana and the correction of the numbers. He believes it is a strong application. He asked Mr. Von Arx if they had spoken to the Rumson Shade Tree Commission. Mr. Susser said he met with Mr. Brooks from the Shade Tree Commission, who has provided a report to the town regarding trees on the site. The trees proposed for removal were not specimen trees, and Mr. Brooks expressed no problems with their plan.

Mr. Blum moved to approve the application and adopt the approval resolution prepared by Mr. Reilly. Mrs. Atwell seconded.

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

Nays – None

Motion carried.

Mr. Brodsky arrived at this time, and Messrs. Thompson and Duddy rejoined the meeting.

**Brett & Nadine McGonegal, 15 Grant Ave.**

Mr. & Mrs. Joseph Gallo, parents of the applicant, appeared on their behalf and were sworn in, along with the architect, Anthony Condouris. The Board accepted Mr. Condouris' qualifications. Mrs. Gallo explained that they are the occupants of the home, which is owned by their daughter. Mr. Reilly stated there is no problem with their representation.

Mr. Condouris explained that the house was damaged during Sandy, and they would like to raise the house to comply with FEMA standards and create some modifications:

- Addition over an existing porch roof to create a half bath and closet (side yard variance);
- Addition of a rear deck to provide better egress (6.2' rear setback).

All other variances are pre-existing and will not be increased with this plan. The inside will also be reconfigured within the existing walls. The house will be raised 6' (34' from grade to ridge). The rear deck is proposed as 8' deep x 18'. Currently there is a patio at this location with steps from the house to access the area. The deck is proposed at 8' off the ground with steps off the side.

There were no questions or comments from the public.

Mrs. Seaman noted that the deck will only be 6.2' from the property line – 8' off the ground. Mr. Gallo said that the existing patio extends almost to the property line, and there are plantings between this property and the property to the rear. Mr. Condouris noted that the east corner setback from the deck will be 12'. The laurel bushes are on the applicant's property and are 12' tall. Mr. & Mrs. Gallo said they would not have a problem maintaining these plantings, which were planted in order to provide a buffer between the two properties.

Chairman Conklin noted that the applicant is being forced to raise the house, and a deck structure for access is understandable; however, 6'2" from the setback is very close.

Mr. Duddy would like to have seen the other houses around this yard to see how they affect this proposal for the deck. Mrs. Gallo said there is only one home behind this area, and it is the side of this house that will face the deck.

Mr. Thompson agrees with Mr. Duddy and would like to see some photos for them to see the balance with the neighbors. He also has a problem with multiple decks, but he understands their proposal as explained by Chairman Conklin earlier. He pointed out the several areas that require a variance. It was noted that the porch area is existing and will incorporate the same roof and footprint.

Chairman Conklin noted that the house behind them comes in at an angle, and Mr. Condouris said that the applicants would agree to lower the rear deck to 6', if required. They would also agree to move the steps to the other side to bring the mass farther away from the neighbor.

Mr. Blum asked how far away the house to the east was, and Mr. Gallo noted that the neighbor's driveway is on this side. They have spoken to this neighbor, who has no objections. Mr. Blum noted that the Board approved an application to the west of this property that is 1' higher than this proposal. The deck area faces the rear yard of the house next door, so he thinks the house to the east is will be buffered by the hedges and the driveway, and the house on the west is being raised higher than this plan. He thinks the plan poses a minimal impact. The deck is not very large, and the kitchen door will be 8' off the ground.

Mr. Condouris said he can provide an 8' rear setback if they flip the deck to the other side of the house. The Board thought this would be a good solution, and the applicants agreed.

Mrs. Seaman likes the improvements and agrees with the flipping suggestion.

Mr. Duddy does not think it is necessary to lower the deck 2', and Mr. Condouris noted that it is safer to have it level with the entrance door.

Mr. Brodsky thinks it should be lowered. Mr. Condouris suggested they lower it 16" (2 risers), and the Board agreed this was a good compromise. A condition of the resolution will include maintaining the screening in the rear. Mr. Thompson moved to approve the application, and Dr. Wood seconded.

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

Nays – None

Motion carried.

### **Dekker & Maricarmen Buckley, 4 Robin Road**

Ms. Buckley was sworn in, along with her architect, James Daley. The Board accepted Mr. Daley's qualifications. Ms. Buckley said she would like more room for her family, and Mr. Daley explained their proposal via a plot plan provided, which depicted a second story addition for this 1950's ranch-style home. The existing footprint will be maintained, except for the removal of a family room so they can add space on the second floor. They are also proposing an open porch. The variances include:

- Setback variance (existing and will be increased);

- Building coverage – they will be reducing the existing nonconformity by 4 sq. ft..

There is a lot of roof to the house, and Mr. Daley showed the Board front and rear elevations. There are currently three bedrooms, and they are proposing four new bedrooms on the second floor. The front porch will be open and comply with the setbacks. The 9' setback on the garage side to the north will remain, and this elevation was also shown to the Board. The space over the garage will have no living space and no heat. It will be accessible via a pull-down stair. All the setbacks will remain the same.

There is an existing shed, which was included in their calculations, but the applicants are not opposed to removing this shed.

There were no questions or comments from the public.

Mr. Thompson thinks the plan looks nice, and they are not changing the setbacks. There is a non-accessible deck on the second floor, and this will be made a condition of approval and included in the resolution.

Mr. Thompson moved to approve the application, with the condition of no access to the second floor deck, and Mrs. Seaman seconded.

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

Nays – None

Motion carried.

**Paul & Lana Frieze, 17 Warren St.**

Mr. & Mrs. Frieze were sworn in, along with their architect, Wayne Lerman. The Board accepted Mr. Lerman's qualifications. He showed the board photos of the existing site, including a one-story residence that was substantially damaged by Sandy. The detached garage in the rear of the property is existing. Via the site plan provided, Mr. Lerman described their plan for small front and rear additions and the replacement of the existing garage with a new, two-car detached garage. Their front yard setback will not change (6.8" where 35' are required). He described other lot conditions as to side and rear yard setbacks, lot coverage, building coverage, floor area, and building area.

The garage will be raised 2' to provide an acceptable grade. The garage doors currently face the street, and the new doors will face the south.

The east corner of the proposed garage touches the property line, as does the existing garage. Chairman Conklin asked how they got a car into the bay without going off the property. Mr. Lerman demonstrated the garage access via the photos shown to the board, noting the existence of a borough right-of-way next to the driveway area. Mr. Reilly explained that this right-of-way being used remains with the property owner, and the town retains the right to expand the street, if necessary. Chairman Conklin wants to make sure that the Board is aware of this situation, and Mr. Reilly said it is generally not a good idea to approve something that is potentially in a town right-of-way. The Board understands that this condition has existed for quite a while.

Mr. Brodsky noted that they will be building a brand new garage that is larger than the original garage, directly on the property line. He asked why they could not build the garage in an

alternate location. Mrs. Frieze noted that they are trying to work within the property line, but they have an issue with the water in this location. She noted that farther back on their property the flooding is worse than where the existing garage is located. Building farther down would pose a much worse water issue for them. Mr. Brodsky noted that they will be razing the building, and he would rather see them not building something bigger directly on the property line.

Mr. Duddy suggested attaching the garage to the house; however, Mrs. Frieze noted that the house will be raised and this would create a much higher and larger retaining wall.

Mr. Blum asked about the Warren St. frontage, and Mr. Lerman explained the floor plan on this side, noting a reconstruction of the existing foyer to conform to the base flood elevation. They are hoping to rebuild the garage and raise it about 2'. Mr. Blum thinks the suggestions to either move the garage or attach it could be accomplished. He has a problem with the placement of the garage as it is proposed.

Chairman Conklin thinks they could change the plan so that the garage is attached and provide a better setback to the street.

Mr. Lerman offered a suggestion to change the plan somewhat, so that they can keep the proposed addition to the home but possibly re-evaluate the two-car garage plan.

Mr. Thompson thinks there are more options than what is being presented that will address their issue regarding light and air and make the application work better. He is not comfortable with the placement of the garage as it is proposed.

Mr. Brodsky agrees that they are basically starting from scratch on the garage, and he thinks there are other options available.

Mr. Duddy asked if the garage could be pushed against the house with the doors facing South Ward Ave. Mr. Lerman stated that the applicants would prefer not to have the garage attached to the house.

Mr. Brodsky would prefer to see the garage pushed back toward the house so that the doors are not on the property line. Mr. Duddy also thinks this would be a better plan. Mr. Lerman said they would be willing to do this.

Mr. Blum noted that they are talking about two issues – garage location and building coverage nonconformity. They are expanding the floor area, which causes them to push the garage farther out. He does not have a problem with the plan for the house, as it is a vary unusual lot; however, they have too much building coverage, mainly due to the garage. He thinks they need to make adjustments so the plan fits better on the lot.

Chairman Conklin suggested making a 1 ½ car garage, instead of a two-car garage.

After discussion, various alternatives were mentioned on how to reconfigure the garage. Chairman Conklin again noted that this is a brand new structure, which is affected by the new space in the house. He stated it is very hard for the board to approve something like this that is directly on the property line.

Mrs. Seaman would like to see it moved closer to the house.

Mr. Lerman suggested an “L” shaped, two-car garage, which he has seen done before.

Chairman Conklin reviewed that the applicants want to add on to the family room and have a larger garage, and this might not fit on this property. Mr. Lerman said that the addition is the most important part of the application.

Mr. Blum would prefer to see the garage farther back from the street and the family room closer to the street.

Chairman Conklin stated that there have been a lot of suggestions heard this evening, and he would like them to come back to the next meeting with a possible compromise, based on the discussion this evening.

The application will be carried to the next meeting (12/17/13), with no further notice required, unless more variances are created or the plans changed substantially.

**Approval of Minutes**

Mrs. Seaman moved to approve the November Zoning Board minutes, with corrections, and Mrs. Atwell seconded. Voice Vote: Ayes, unanimous.

**Resolutions**

1. **Dennis & Sarah Devine, 7 Evergreen Drive** – Approval to reconfigure driveway approved in October, 2012;
2. **6 Pond, LLC, 6 Pond Road** – Approval to covert existing attached garage to living space and add second floor above; construct new two-car attached garage, and construct new one-story rear addition and screened porch. A landscape plan has been submitted, as required;

Dr. Wood moved to adopt the resolutions, and Mrs. Seaman seconded.

Roll Call Vote:

**(Devine)** Ayes (Eligible) – Conklin, Atwell, Seaman, Brodsky, Blum  
Nays – None

**(6 Pond LLC)** Ayes (Eligible) – Conklin, Atwell, Seaman, Brodsky

Nays - None

Motion carried.

3. **Siobhan & Peter Hogan, 27 Forrest Ave.** – Dismissal of application, without prejudice, giving the applicants the option to reapply in the future

Mrs. Atwell moved to adopt the resolution, and Dr. Wood seconded.

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

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 9:45 p.m. The next meeting will be **December 17, 2013.**

Respectfully Submitted,

Patricia Murphy  
Clerk