

**RUMSON ZONING BOARD OF ADJUSTMENT
SEPTEMBER 16, 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, Brodsky, Wood, Blum, Thompson, Duddy, Cottrell. Also present: Bernard Reilly (Board Attorney), Fred Andre (Zoning Officer), Tom Neff (T&M Assoc.), State Shorthand.

The requirements of the Open Public Meetings Act were stated as met.

Mr. Andre was sworn in at this time.

Prestige Equities LLC, 59-62 Carton St.

It was announced that this application will be carried to the October 21, 2014, meeting. No further public notice will be required.

Chelsea Building & Development Co., 1 Wilson Circle (Continued Application)

Mr. Cottrell will not sit in on this application.

Scott A. Eskwitt, attorney, appeared on behalf of the applicants. Charles Surmonte, engineer, was also present for testimony and was still under oath from the last meeting. Mr. Surmonte addressed the changes to the landscaping plan:

- Evergreen buffer along property line;
- Also providing evergreen buffer along the north property line, 2/3 of the way down the property line;
- The house is shifted 2 ½' to the left;
- Proposed drainage to take all roof runoff into the existing creek on the west property line.

The height of the driveway was questioned, and Mr. Surmonte said it will be close to the original proposal. There is a slight apron introduced to slightly change the grade. They elevated the garage about 4-5" with this revised plan.

Mr. Eadon, speaking from the public and still under oath, said they appreciated the plans for the continued buffer.

Mr. Conte, principal in Chelsea Building and Development Co., was sworn in and said he will take care of the bamboo on the property.

A neighbor from 15 Wilson Circle was sworn in and expressed concern regarding any added water problems with this construction. She was told there will be a retaining wall and silt fence provided during construction. She said that water comes up from the creek during a rain storm, and she is worried about runoff from this property.

There were no other questions or comments from the public.

Mr. Thompson thinks it is good that they have come together to agree on modifications.

Mr. Reilly said a standard approval resolution could be prepared, along with another condition to say that all bamboo plants on both sides of the property line with Lot #2 will be removed. The owner of Lot #2 will take up and replace the fence along the boundary lines to allow this removal.

Mr. Brodsky moved to approve the resolution, and Mr. Thompson seconded.

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

Motion carried.

Mr. Cottrell rejoined the meeting at this time.

Oceanic Free Library, 109 Avenue of Two Rivers

William Hyatt, President of the Board of Trustees of the library, and also a lawyer, appeared representing the Trust. He explained their plan to improve the property, which requires several variances. The building is owned by the Oceanic Public Library Trust, which is a 501C3 organization. The Oceanic Free Library Association operates the library and is another 501C3 plan. The building has been there since the 1950's, when it took over Hintelman's General Store.

Thomas Neff, T&M Assoc., was sworn in at this time. He explained that the proposed work qualifies as an expansion of the nonconforming use. There are a number of pre-existing nonconformities due to lot size, etc. They have also requested a waiver of site plan improvements, and he has no objections to this waiver. They are not expanding the footprint of the building. The proposed roof gables will improve the existing flat design, and they are getting a new A/C system, which will be hidden by this new gable design.

Carol Miller, 111 Avenue of Two Rivers, was sworn in and said she is the next-door neighbor to the library and has no problem with the application. They love the library and want to see it keep operating.

There were no other questions or comments from the public.

Chairman Conklin said it seem like a reasonable request.

Mr. Brodsky said it does not seem to be intrusive to any surrounding homes, and he sees no negative impact.

Mr. Blum thinks this will be more appealing, architecturally, and this will be an alteration of the existing nonconforming use.

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

Roll Call Vote: Ayes – Conklin, Thompson, Blum, Duddy, Wood, Brodsky, Cottrell
Nays – None

Motion carried.

Jennifer Scandariato, 10 Church St.

Ms. Scandariato was sworn in and said she purchased the home three years ago. She has two children, and they need additional space for the family. She would like to extend the east side of the house on the second floor to where the existing structure and front wall exists. They are adding a master bedroom and bath above the garage. This will make it a four bedroom home.

Chairman Conklin asked how long the current home is along the rear, and Ms. Scandariato said she did not have the exact figure. She is adding 482 sq. ft. (1,600 sq. ft. existing / 2,082 sq. ft. proposed). By bringing the garage forward, they can create an eat-in kitchen area. There is a deck across the back, which will be removed, along with the existing steps. There will be no patio or deck. The house will not be longer or wider than what exists, but it will be higher by adding the room over the garage.

Chairman Conklin said he drove around the area and thinks the proposed second story will impact the light and air, as the area is currently very tight. He would like to know the size of the proposed addition, so he can try and envision what it will look like. The structure is 12' off the property line, and they will be making this structure longer. He thinks it looks very tight as it exists. He would like a better sense of how big the proposal will be.

Mr. Blum asked if there would be a change in the footprint on the first floor, and Ms. Scandariato said they would be extending the front of the garage on the first floor by a total of 3 ½' x 6 ½'.

Tess Leopold, 22 Allen St., was sworn in and said they live on the garage side of this property. She has pictures of the view from her yard for the Board's information. She was shown the plan by Ms. Scandariato. Ms. Leopold is curious as to whether the existing building is conforming, and she was told it was not. She noted that they will now be extending this area, making it longer and higher by adding the second floor on this side.

Peter Burton was sworn in and said that the wall that hangs over their yard has no windows and asked if the new plan would provide windows on that side. He was told it would. He is not overly concerned, but thinks it will change the nature of the area if they add windows, which will be looking over his yard. Ms. Scandariato explained the plan to him.

Mr. Thompson thinks it would be helpful if the Board could see the adjoining properties on the plan, since the area is very tight, as mentioned by Chairman Conklin.

There were no other questions or comments from the public.

Mr. Blum noted that the west part of the house is not changing, and the addition is proposed for the east side. He did not see a survey, and Ms. Scandariato said she has one, which was presented as a part of the application.

Mr. Burton was asked how far his house is from the property line, and he said he did not know. Ms. Scandariato said her setback is 26' on his side.

Chairman Conklin noted that the house is only 12.5' off the rear property line, and they are now proposing a second floor that will make it bigger. Ms. Scandariato said she is adding 482 sq. ft.

Chairman Conklin asked the Board members if they thought they had enough information at this time to make a decision. The Board members agreed that more information may be needed, in order for them to understand the exact proposal.

Mr. Duddy agrees with Mr. Brodsky that it seems like a reasonable request; however, he has not had a chance to visit the site, and he would like to do this so he can make a better decision.

Chairman Conklin thinks that, on paper, it looks reasonable; however, after you look at the area the perception may change. He would like to know the percentage increase on the second floor, since it is already tight, and they are making it tighter. He mentioned that this is the size of the house they purchased three years ago.

Ms. Scandariato will meet with Mr. Andre to further discuss the additional information the Board is requesting.

Mr. Duddy thinks he will probably be in favor of the application, but he needs more information.

The application will be carried to the next meeting, so that Ms. Scandariato can provide the information requested. No further notice will be required. Any revisions must be submitted at least 10 days prior to that meeting.

Denis & Trista Higgins, 20 Meadowbrook Ave.

Mr. Higgins was sworn in, along with his architect, Mr. Aradnatinos, whose qualifications were accepted by the Board. Mr. Higgins said they would like to raise the house and expand it to a three-bedroom structure. They will be bumping out the house 12' and putting a garage underneath. The stairs will be on the inside to the second floor. The addition will be a one-story, 250 sq. ft. addition.

Mr. Andre was asked if they would be creating another side yard setback variance on the west side, and Mr. Andre said they would. The only conforming setback is on the back corner on the west side. The original setback on the one side will go from 17' to 7'. Mr. Higgins was asked why they could not conform on the west side to the 6' setback. The lot tapers on this side, providing an 8' rear setback and 5.2' in the front. They were trying to keep the house on a straight line with the existing house.

Chairman Conklin suggested they move this in somewhat on this side, but Mr. Aradnatinos said they were trying to get a decent size bedroom on this side. Chairman Conklin thinks this could become a template going forward for others in this area that will be asking to raise their homes.

Mr. Aradnatinos said they were trying to keep with the fabric of the block and create an aesthetic that made it look attractive. The first floor elevation is going from 3' to 9'10".

Chairman Conklin likes the idea of putting the stairs inside, which creates a soft landscape in the front yard and an attractive street front.

Mr. Blum asked why they held the present line of the house, which is not parallel to the side line. Mr. Aradnatinos said it continues the existing line. The foundation will be new, but realigning it would still create a variance on the east side. They considered the option of straightening out the line, but in order to get it to a similar layout to what they are proposing, they ended up encroaching on the ordinance. The ordinance calls for a smaller house that is taller, and they are asking for a shorter house that is wider, according to Mr. Blum.

Mr. Aradnatinos said they are still keeping +/- within 1' of the next-door neighbor's side yards, according to the survey. It was noted that since they are putting in a new foundation, they could straighten out the line. Mr. Blum noted they are not exceeding the floor area, and the solution would be a smaller house. There will be a new driveway in the front, facing the new garage.

There were no questions or comments from the public.

Mr. Blum said he has not heard anything to justify granting the nonconformity. Mr. Higgins explained why they proposed the house as they did, noting that it would not be as massive a look as what they could be proposing. They could consider straightening the house out, providing 6' on one side and 10' on the other. They were trying to make it a more aesthetically-pleasing plan.

Mr. Thompson knows they are in a tough spot, and this area will probably see more of this type of expansion and raising of the homes, which presents a challenge in the area to try and make it work in this tight area.

Mr. Duddy likes the idea of straightening it on the lot, which he thinks makes sense. He likes their plan, which he thinks is reasonable and would present less of a huge structure than what could be presented. He thinks it will be nice for the area. He would like to see it straightened on the lot and have 4' on the left and 6' on the right, as suggested by Mr. Brodsky.

Mr. Blum thinks putting a 30' wide house on a 40' lot is not what the ordinance call for. The ordinance would contemplate a two-story house and the borough permits the house to be raised to elevation 13' or 14', which is narrow and high. He would not be in favor of a 30' wide house on a 40' lot in this zone. He thinks they may see a repeat of this pattern in the future. He does not see a justification for this. He does not see justification to allow the building coverage to be increased or the side area to be decreased. He thinks the house could be 24' wide. The present house is only 17' wide. The 24' width allows for 12' wide rooms, which he thinks is workable.

Mr. Duddy thinks 40' is a narrow lot, and this house is only 1,050 sq. ft. in size. He thinks this is better, although it may set a precedent for the neighborhood. Lower and wider is better for the neighbors, in his opinion, and will not block out as much light. His opinion is this is a better solution, although he would prefer the lines be parallel.

Chairman Conklin thinks Mr. Blum's comments are valid, and the narrow side yard will make maintenance difficult.

Dr. Wood noted that the houses in this area are not high, and he would like to see it kept low and maybe made smaller by a foot or two.

Mr. Brodsky would prefer the house to look like a normal two-story house and to go narrower and taller would not accomplish this.

Mr. Aradnatinos said he could pull the first floor in 1'. They would still have a garage, but would be increasing the side yard by 1 – 1 ½'. He asked the board if this would be something they would entertain. The house would be 28' wide, instead of 30' on the ground floor. He would also center the garage doors. This would make yard maintenance easier, also.

The Board discussed this suggestion, after which it was decided that they would prefer to support the current application, with the straightening out of the setback lot lines (4' / 6'), and possibly explore the suggestion of cantilevering the first floor living space.

Mr. Cottrell moved to approve the application as presented, with the straightening out of the lot line and the setbacks being 4' and 6'. Mr. Thompson seconded.

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

Nays – Blum

Motion carried.

Mikhail & Michelle Kutsak, 27 North Ward Ave

Mark Aikens, attorney, appeared on behalf of the applicants. He described their plan to raze the existing house and construct a new home, in ground pool, cabana, storage building, and recreation facility. He introduced the applicants' team of experts:

- James Monteforte – architect
- Steven Krog –landscape architect
- Michael Lamana – tree expert
- James Fichter – engineer.

All were sworn in at this time, and the Board accepted their qualifications.

Mr. Monteforte described the property as a flag-shaped lot, with a long portion to the river. He tried to lay out the home so that there is a view of the water from the front. The house is setback far from the street to create a beautiful driveway area, leading to a car port and four garages that are not visible from the street. The south portion of the house is lower than the main house and tapers down away from the lawn. The home is a beaux-art style made out of concrete, which is very efficient. The house is stuccoed over that with limestone accents. They will also have a parapet area, and the mechanical equipment will be on the roof and not seen. The materials of the roof will be slate. The view of the front of the house was shown, including the entrance way and arcaded area.

Mr. Andre noted that an area of accessory structures with no roof has been seen before by the Board. They are in compliance with their plan, although it is much larger than others the Board has seen in the past. This area is covered under lot coverage, but not in building coverage or floor area. This area provides natural light to the basement area. The setback from the side yard is 17.3', according to Mr. Fichter (15' required). There is an exterior access in the rear from the back yard. There are railings that match the house, according to code. The perimeter follows the line of the house. Mr. Andre said this is according to code.

Steven Krog, landscape architect, came forward to describe the landscaping. The west and north perimeters are lined with privet, and they have relocated the existing driveway access (25' to the south) and evaluated the impact on the existing trees. In addition to the privets, there is an array of existing shade trees and ornamental flowering and evergreen trees along the front of the house in varying states of decline, due to the lack of maintenance and storm damage over the years. They have retained all of the large shade trees within 100' of Ward and Hartshorne, and they will be removing the damaged trees. In conjunction with Bill Brooks, borough arborist, they have developed a tree removal and mitigation plan, as well as construction techniques to protect the existing trees that they want to save. The house has been positioned in such a way as to maximize the views to the river, which means that there are some trees that do need to be removed, including significant specimen trees. There are 58 trees on the site, and the ordinance allows removal of those within the footprint. The removal will affect 13% of the existing trees, which is within the ordinance threshold. Also, they are planning on installing more than 100% of the caliper inches of trees that they will be removing. He has had three site visits with Bill Brooks, to put together these mitigation and removal plans. Seven red oak, copper beech, dogwood, etc., will be replaced on the site. They believe that this tree plan is consistent with the tree ordinance in Rumson and in accordance with Mr. Brooks' instructions.

Mr. Lamana, tree expert, said that the trees to be removed that are considered significant specimen trees include three horse chestnuts (photos were shown and marked A-2 & A-3). He proceeded to explain the state of these trees, noting that two are of an unhealthy nature, which poses a risk. The other trees proposed for removal are also in a state of decline. It is his opinion that their approach is reasonable, as they are making restitution for the trees they will be removing to approximate the type of landscape that occurs today. It is his opinion that the mitigation plan is consistent with the ordinance in Rumson, and the removal is consistent with the tree ordinance, based on their condition.

Jason Fichter, project engineer, presented an exhibit (A-5), which shows an overlay of Mr. Krog's plan over an aerial view of the property. He described the property as 3.2 acres in the R-2 zone, which is oversized for this zone. He stated that the property is very deep and gets narrow as it goes toward the river. There is also a drop from the house to the river. It is subject to a prior subdivision (lot line adjustment). The storm water management design falls under the jurisdiction of the DEP, for which permits are required. This is considered a major development and goes through an enhanced level of performance once constructed. This is a water front property on a titled water lot. They have spoken with the DEP and are waiting for approval, which they expect shortly. He does not think there will be any changes to their storm water management plan. The ordinance requires off street parking, and this project exceeds that required. The architectural design is very high end, as is the landscape design, providing a very attractive property, which is the objective of the applicant, as well as the borough and the DEP.

They require variances for:

- Lot frontage (200' required / 173.4' exists). 200' frontage is provided along the Ward Ave. side. This condition was approved by the Board in 2005 when the lot line shift was accomplished;
- Corner lot condition – It makes sense to have the front along the water, and this provides a technical variance;
- Residential recreational facility – 40' rear yard setback required / 25' proposed.

Mr. Fichter thinks it meets the variance criteria, based on the amount of frontage on the corner lot, which creates a technical rear yard variance. They are sensitive to the existing trees and the proposed setbacks. The proposed playground is for the kids and provides a safe area close to the house, away from the river. He thinks this is the only place to put the playground. There is no building or roof, no lights, and only a play area with water spouts, etc.

All these variance conditions are affected by the corner lot conditions. Several purposes of planning will be advanced by this plan:

- Use of the land;
- Prior house on the property;
- Development is just shy of a fully-compliant condition;
- Secures safety by building to code;
- Provides adequate light, air and open space;
- House is fully compliant;
- Appropriate density is being continued;
- Provides space and residential recreation use;
- Desirable visual environment;
- Conserves property values in the neighborhood.

Mr. Fichter pointed out that two existing nonconformities will be eliminated with their plan:

- Side setback for main house;
- Accessory structure setback will now conform.

Mr. Fichter addressed the negative criteria, stating he does not think the proposed development will cause any substantial detriment to the public good. The recreational facility rear yard setback is, in essence, a side yard, in his opinion, since you have two properties that are side by side. The neighbor's view of the water or street is not affected by this small recreational facility. The nonconforming setback meets the intent of the zoning plan. He does not think this application will substantially cause any detriment to the zone plan. Any approval would be subject to DEP approval, and the applicant would agree to this.

Upon questioning by Mr. Thompson, Mr. Fichter further described the play area. No structure is proposed. The size of this area is approximately 25' x 40' (27' to the side yard / 25' to the rear). The applicant would agree to no lighting for this area. Mr. Andre was asked about limitations to this type of facility, and he reported on the requirements for these facilities. Mr. Thompson asked if they thought this area would ever become a basketball court, and the Mr. Fichter said it would not.

The pool and cabana were described:

- Cabana height is 16'10";
- Boat storage proposed toward the water;
- There is no heat in the cabana, but there is a kitchen and dressing room.

A condition of approval would be that no living space occur in this structure, and the applicant agreed.

There were no questions or comments from the public.

Additional discussion regarding the trees occurred, with Mr. Krog describing specific trees as questioned by Mr. Thompson.

There being no further discussion, Mr. Thompson moved to approve the application, with the condition that there be no living space in the cabana and no lights on the recreation facility. Mr. Duddy seconded.

Roll Call Vote: Ayes – Conklin, Thompson, Duddy, Wood, Brodsky, Cottrell, Blum
Nays – None

Motion carried.

Resolutions

Mr. Thompson moved to adopt the following resolutions, and Mr. Cottrell seconded:

1. Peter & Lauren Carras, 30 Lafayette St.
2. H. Stevens Developers, LLC, 9 Sailers Way;
3. Sean & Marion Moran, 9 North Ward Ave.

Roll Call Vote: Ayes – Conklin, Thompson, Blum, Duddy, Wood, Brodsky, Cottrell
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 9:50 p.m.

Respectfully submitted,

Patricia Murphy
Clerk