

**TOWNSHIP OF RIVER VALE
JOINT PLANNING BOARD
July 17, 2017
REGULAR MEETING
MINUTES**

APPROVED

ADEQUATE NOTICE STATEMENT:

A Regular Meeting of the River Vale Joint Planning Board was called to order at 8:00 p.m. The following statement was read: "This is a Regular Meeting of the Joint Planning Board of the Township of River Vale. I am informed by the Clerk that adequate public notice has been provided by mailing notice to the Pascack Valley News/Post Review and The Record, by posting notice on the bulletin board in the Municipal Building, and by filing a copy of the notice to all persons who requested the same and prepaid the cost fixed by the Board".

The Planning Board saluted the flag.

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ROLL CALL:

Members Present:

Scott Lippert	Chairman
Robert Adamo	Vice-Chairman
Robert Fortsch	Secretary
Michael Beukas	
Glen Jasionowski	Class I-Mayor
Craig Plescia	
John Puccio	
Peter Wayne	

Also Present:

Marc E. Leibman, Esq.	Board Attorney
Christopher Statile	Board Engineer
Joanne Allgor	Land Use Administrator

Absent: John Donovan Councilman
Susan Vaccaro

MINUTES: A motion for approval of the Minutes of 6/7/17 as amended was made by Mr. Fortsch, seconded by Mr. Adamo and carried.

APPLICATIONS:

1. Gifford, 13 Hoiem Ct, Block 302, Lot 29.01 - Fence - Mr. Gifford continued under oath, having been previously sworn at the last meeting. The application was carried pending receipt of information about a wetlands buffer. Mr. Statile stated spoke to the NJDEP and he can install the fence within the wetland buffer. So, yes, the fence is permissible by the State if you still have a buffer in your rear yard, he stated to applicant. Mr. Gifford agreed.

Chairman Lippert stated if everyone was satisfied, he would call for a motion. A motion for approval was made by Mr. Adamo and seconded by Mr. Wayne. There was no further discussion. On roll call vote, Mr. Adamo, Mr. Beukas, Mr. Fortsch, Mayor Jasnionowski, Mr. Plescia, Mr. Wayne, and Chairman Lippert voted yes. The motion carried. The Board advised the applicant as to the memorialization and publication of the Resolution, and the 45-day appeal period.

2. Stern - 528 Alosio Dr. - Block 2201 Lot 18.14 - Fence - Applicant Beth Stern, residing at the premises, was sworn in by the Board Attorney. Ms. Stern testified she submitted an application for a fence for her very small, corner lot with three front yards and was denied. Two sides face the street, and the backyard is facing the side yard of another property. She has two small children, two and four years old, and moved in about six months ago. Her son's nickname is affectionately Nicky Monkey. She learned she's permitted to build a three foot fence in the area but since his nickname is Nicky Monkey, he could get right over that fence pretty easily. So they would like to enclose their backyard for safety, which is also a shared side yard with the neighbors, also present tonight. They want to get something higher to also have some type of privacy put in because if you look at the overall property survey if you're coming down this street your lights are shining directly into their back deck, which has French doors, which they sit across from to watch TV. So the cars' lights are essentially shining directly into their home. The Chairman asked would it stop that and how high. She responded yes and suggested six feet.

Questions from the Board followed. It was noted a fire hydrant to be considered, and the Board expressed concern about fire department access to same. Also considered was the type, material and style of fence,

(RVPB 7/17/17 Minutes)

height, trees on the property line, landscaping, utilities license easement that run behind the house, and distance to curb lines. There is also a 20' drainage easement.

Francis Sekandri, neighbor, residing at 530 Alosio Drive since 2003, was sworn in and provided photos of trees and plantings taken by him. They tried to be good neighbors and expressed concerns about their trees and plantings. It is also very important to them to still have easy access to their garages, and a six foot fence may obstruct their view of traffic coming out of their driveway. The fence would alleviate the traffic lights coming in to their home as well, and he doesn't want to cause any difficulties for his neighbor. He would be willing to discuss his concerns and come to a resolution.

After a continued discussion, it was suggested that the neighbors try to reach a meeting of the minds, and the Chairman suggested Mr. Statile visit the property to show them what can be done and where. Ms. Stern appreciated this, and they agreed and return at the next meeting. There were no further questions, comments or discussions at that time.

Accordingly, the matter was carried to the 8/7/17 meeting, with no further notice.

3. Ortiz - 555 Piermont Ave - Block 1301 Lot 8 - addition - Applicant Grisel Ortiz was sworn in by the Board Attorney and presented the application. They want to extend their home to a second level, adding a master suite at the top level. They have three young boys who they would like to give their own room. Mr. Statile reviewed his report and stated the only new variance required is for the front yard setback to the proposed covered porch, 35.3' versus 45'. So that is the only variance applicant requires. The existing home is already non-conforming, and this will be exacerbated by the covered front porch. She has two front yards - one on Mark Lane and Piermont Avenue. The second floor addition will match the line of the house. Ms. Ortiz explained they need more room and her contractor can provide additional details.

Matthew Martin, MPM Contracting, 730 Wilson Court, River Vale, was sworn in. He submitted a drawing with elevations, as discussed. There is to be a roof overhang, couple of columns and just a short guardrail, and it would be open. The drawing doesn't show the spindles on it but it would be a guardrail to conform to code. Mr. Statile

asked if this would add an architectural element to the house. Mr. Martin stated he was correct, that it is above an existing slab that is there. Chairman Lippert asked if he thought this will make the house more visually attractive, and Mr. Martin responded yes. Mr. Statile asked if Mr. Martin felt that would outweigh the fact that it would be a variance situation, as it will be about 5' in front of the existing house. Mr. Martin agreed. Mr. Adamo commented the front porch is an enhancement to the elevation. It is almost a 10' variance over 50% of the front of the house without that first level. He did not disagree that the porch is an advantage. It is quite a bit of element that encroaches 10' into the setback and is something to keep in mind when considering the application. Mr. Statile commented it appears that the existing dwelling is on a very long lot and was placed close to Piermont Avenue, so there's plenty of room in the rear yard, and the rear yard setback is 130'. Obviously the house was constructed forward in position. Board comments followed. There were no further questions and none from the public.

A motion for approval was made by Chairman Lippert, seconded by Mr. Plescia and carried unanimously on roll call vote.

4. Foster Family Trust - 721 Orange Court - Block 101 Lot 19 - legalize existing structure - Mark D. Madaio, Esq. represented the applicant. The notice and publication documents were received and found to be in order. Mr. Madaio presented the application and history. The prior owners were renovating the property for resale, and during the course of the construction, the property went into foreclosure in 2008. The foreclosure ultimately occurred in 2014, when his client, the applicant, purchased the property from the Bergen County Sheriff. Applicant has not done any of the construction that is already in place and possibly wrong. He has not added the garage extension that is now the source of one of the variances. Nor has he added the bay window, resulting in another variance. The calculations were all done by the prior owner. The house was left in a mess with rodents, garbage and debris. They are here to answer questions and set this house back on a corrective course. Mr. Madaio addressed C1 and C2 variances. His client is aggrieved, and he would like to introduce him to testify.

Eric Foster, 721 Orange Court, was sworn in by Board Attorney Leibman. Mr. Foster testified he is part of the Foster Family Trust and responsible for the purchase of the

property at the Sheriff's sale in 2014. All that exists at the house as present at the time of the Sheriff's sale, and he has not added the bay windows or did any calculations.

Mr. Beukas commented part of this application appeared before the Zoning Board prior to the Planning and Zoning Boards merging. Mr. Madaio was aware. There were concerns about the previous work done at the property and some of the Board Members had come to learn about significant structural work conducted in the backyard, including retaining walls, a pergola and patios. There was an issue with the pavers leading up to the three car garage, safety of the retaining wall, and legalizing the work done without proper inspections. He understands the property was purchased from a sheriff's sale, but the proper permits must taken out with the Building Department. Mr. Madaio commented he believed they secured the proper permits for the backyard along the way. He would comply with the Building Department. They were presenting the Board with a pool that does not require any variances, but does require a soil moving permit. Mr. Statile questioned why that was before the Board. Mr. Madaio responded he did not believe it was, other than that it's on the plans. Permits under 500 cubic yards are out of the Board's jurisdiction. Mr. Statile commented it is definitely under 500 cubic yards. Mr. Madaio continued. The relief that they are seeking is a front yard setback requirement, where 45 feet is required. The Site Plan was marked as Exhibit A-1.

Dan Hodosh, Licensed NJ Architect, 60 South Main Street, New City, NY was sworn in, qualified and accepted. Mr. Madaio questioned the witness, who was the Project Architect. Mr. Hodosh testified one of the variances they are seeking is a front yard setback to the bay window/roof overhang. The bay window's required front yard setback is 45 feet, wherein applicant proposed 41.9 feet, resulting in a 3.1 foot variance. They also require a variance for total side yard setback, where 40 feet is required and they have 36.2 feet, resulting in a variance of 3.8 feet. It was noted that the garage was put up without a permit. There was also a variance for impervious coverage, where 40% is permitted, and they have 42.06%, resulting in a variance of 2.06%. Mr. Statile stated the pool and patio are not constructed, so that would be a variance. Mr. Madaio commented the 42.06 takes into account the pool and new construction. The engineer used a product called turf stone, which is paving stone that allows grass to grow through it. This particular stone is 40% permeable so they're allowed to take 40% of the square footage covered

(RVPB 7/17/17 Minutes)

by the turf stone and cover that. They are down to 39.75%. Mr. Madaio believed turf stone was not permitted under the ordinance. However, under the negative criteria of judging impact, the fact is if it were all cement, it would be 42.06%--2.06 percentage points over. If you calculate in the turf stone it's conforming.

Mr. Plescia commented they are still short, and in theory they are building about 530 square feet over what is allowed, with the turf stone being 470 feet. Usually grass pavers are counted as a percentage factor overall. Mr. Madaio commented they are here since the ordinance does not specifically allow it, so they are here for the variance. However, they were suggesting the Board can into account the negative criteria, that even though the number is 42.06%, the actual impact is much closer to what would exist if it were conforming. Mr. Plescia commented the calculations will be checked. Mr. Puccio asked a question, whether or not the buyer assumes all responsibilities in a short sale. Mr. Madaio commented that is why they are here.

Cosmo Gazmend, applicant's General Contractor, 40 Liberty Street, Little Ferry, was sworn in by the Board Attorney. Board Attorney Leibman questioned Mr. Gazmend as to which permits were taken out for the work, and whether he took permits for the rear yard. Mr. Gazmend indicated he never gave a full set of drawings and updated permits as he went along, initially only for the front. They decreased the size of the whole driveway in the front so he could have more impervious coverage in the back. Then he took permits for the kitchen and back yard. Attorney Leibman asked if he had permits for all the work he did besides the pergola, and did he subsequently get a permit for the pergola. Mr. Gazmend's response was yes to both. It was not inspected because they had him stop working, but it will eventually be inspected. Mr. Puccio commented he believed no permits were taken out at the beginning of construction.

Mr. Madaio commented if the Board sees fit to grant the variances, they will know exactly what they need to do to complete the job. The house has been sitting in foreclosure as an eyesore. They agree with the concept of good faith. There is statutory criteria for the variance they have to meet and proof either they have a hardship or that the purposes of zoning are better and advanced by these variances and finishing this house. And also, there is the negative criteria to prove--that the granting of

(RVPB 7/17/17 Minutes)

these variances is not detrimental to the purposes of the Township's zoning ordinance which include light, air and open space, homogenous neighborhoods, getting rid of eyesores.

Chairman Lippert commented in his view of this, the Board ought to hear the proofs on the variances and then after all the proofs are done, the Board will decide whether or not the statutory criteria has been met.

Mr. Madaio stated they are trying to encompass the entirety of the project instead of pulling permits piecemeal. They want to know how many feet of coverage they are allowed because that will change how they draw the site plan, which will change how they draw the architectural plans, which will change what Mr. Sartori approves in one complete permit submission instead of hand drawings on graph paper for this small thing or that small thing. Mr. Beukas commented based on the photographs submitted, there is a significant amount of work done in the backyard irrespective of whether a pool went in, and these are very easy permits to pull, and they are trying to ask the Board legitimize same. Mr. Madaio commented you cannot legitimize steps you don't have jurisdiction over. Mr. Leibman advised we must judge the application on its own merits, but all we want to know is if permits are applied for, and asked Mr. Statile, who responded he had no knowledge. Mr. Leibman stated if the application is approved, the applicant will have to submit to inspections at applicant's expense, by Mr. Sartori and the Board Engineer and pay for every permit not paid for already. Mr. Madaio agreed. The Board moved on to the next witness and proofs.

Adnan Khan, Licensed NJ Civil Engineer, was sworn in, qualified and accepted. Mr. Madaio questioned his witness. Mr. Khan testified he prepared the plans marked A1. Further, he stated Mr. Hodash testified accurately as to the variances required as to combined side yards, front yards to measure to the eaves and the coverage variance, and there are no other variances required. The coverage as shown in the bulk ordinance or in the table is based on the ordinance requirement, and as mentioned, the ordinance doesn't take into consideration of the permeable pavers so when we did our calculations we considered them as an impervious surface. Based upon everything considered, and as the project architect testified, the total coverage with the pool is 42.06%. As for the site drainage, they follow existing terrain and just let it runoff from the property

(RVPB 7/17/17 Minutes)

the same as it is now under existing conditions. If the Township Engineer determined that a seepage pit was required in order to handle runoff that could be easily be accommodated. Mr. Madaio continued questioning. Mr. Kahn responded affirmatively that one of the purposes of having coverage that works or coverage that's not excessive is to ensure runoff is maintained and also ensures green space, which assures light, air and open space. And obviously if lots are smaller you have greater percentages of coverage and that increases population density. Finally what they're proposing meets those purposes of zoning and conforms to the Township's zoning ordinance. Mr. Madaio had nothing further for this witness.

Mr. Leibman called upon Mr. Statile to advise as to seepage pits. Mr. Statile clarified seepage pits are necessary to collect runoff. The number size would have to be calculated. Mr. Leibman advised if the applicant is comfortable saying that they will do whatever Mr. Statile recommends in terms of seepage pits we can certain include that as a condition of approval, and the Board agrees, he would be comfortable in making that stipulation. Mr. Madaio agreed.

Chairman Lippert called for any questions of the witness, Mr. Khan. Mr. Puccio and Mr. Adamo had various questions, addressed by Mr. Kahn in detail. The Chairman inquired what, if anything, could be done by applicant to make this a conforming application as far as setbacks. A brief discussion ensued, and taking out the eaves or demolition of part of the house would be necessary for same. Again, drainage and grading were discussed. The Board moved on. There were no further questions of the witness.

The matter was opened to the public for questions or comments on the application, upon motion made, seconded and carried. There being none, the matter was closed to the public on motion made, seconded and carried.

Mr. Madaio, in lieu of summing up what was said previously, stated they believe they've proven the requirements for a "C" Bulk variance. The negative criteria has been mitigated across the Board, and the affirmative criteria of the "C2" they believe they have met, citing appropriate population densities. The construction is essentially fully in conformance with zoning, except for at this point they are talking about the distance of the

(RVPB 7/17/17 Minutes)

eaves, and therefore believe that the application stands on its merits.

Board discussion followed. The Board Members commenting indicated they were comfortable with Mr. Statile being involved, and that he will be able to go and inspect the work and can advise them to repair to his satisfaction, and reviewed the justification for each variance as put forth on the record.

There were no further questions, comments or discussion, and the Chairman called for a motion voting one on a time on the variances. Board Attorney Leibman reviewed some of the conditions. The first would be that the applicant applies for and pays for any permits for work which was done to be reviewed by the Board Engineer, Township Engineer to inspect all the work that was done to the degree any invasive measures are required to fully inspect it and rectify anything that's wrong, and the applicant will bear that expense. Mr. Statile added as-built plans to be provided of the entire property upon completion prior to a Certificate of Occupancy. Mr. Madaio agreed. Mr. Leibman continued. Applicant to install seepage pits as directed by Mr. Statile and also add drainage controls, as per Mr. Statile, who may have some comments on how to scoop up the water. Applicant will install landscaping addressing the driveway South and North sides, with a minimum of five Leyland Cypresses on the South side and landscaping on the North side as directed by Mr. Statile. Code compliant aluminum fence to be installed by the pool. And those are the conditions that I have put forth. He advised the Board could vote on these variances all at once or as the Chairman suggested, vote on it in pieces. He advised they could probably do the bulk variances, the side yard and the front yard as one vote, with the only bone of contention is the impervious coverage.

Chairman Lippert called for a motion on the front and side yard setback variances. A motion for approval of the application was made by Mr. Adamo and seconded by Mr. Plescia. No further comments or discussions. On roll call vote, Mr. Adamo, Mr. Beukas, Mr. Fortsch, Mayor Jasnionowski, Mr. Plescia, Mr. Wayne, and Chairman Lippert voted yes. The motion to approve the front and side yard setback variances carried.

Next, Chairman Lippert called for a motion on impervious coverage. A motion to deny the application for

an additional 2.06% increase to the site coverage variance as made by Mr. Adamo, and seconded by Mr. Wayne. No further comments or discussions. On roll call vote, Mr. Adamo, Mr. Beukas, Mr. Fortsch, Mayor Jasionowski, Mr. Wayne, and Chairman Lippert voted yes. Mr. Plescia voted no. The motion to deny impervious coverage variance carried.

Mr. Madaio thanked the Board for its time and patience. The Chairman asked Mr. Madaio to revise the plan to make it compliant with the coverage, and then the Board would proceed under the Resolution. Mr. Madaio responded no, they haven't been granted a coverage variance. They don't have site plan approval, so whatever they submit to the Building Department cannot contain a coverage variance, period. The Board just didn't give it to them. So they will submit full working real sets but he didn't think the resolution is tied into that in any way. They were denied that. Mr. Leibman agreed. Mr. Madaio thanked the Board and departed.

RESOLUTIONS:

1. Michael & Kate Cremonese, 821 Marshall Road, Block 1904, Lot 6 - Six foot high fence - The Board reviewed and discussed the Resolution of approval with conditions. A motion for approval was made by Mr. Adamo and seconded by Mr. Puccio. There were no further questions, comments or discussion. On roll call vote, all members voted yes.

2. Hurst - 515 Brook Ave -- Block 1501.02 Lot 1.02 - Major Soil Movement - The Board reviewed and discussed the Resolution of approval with conditions. A motion for approval was made by Mr. Adamo and seconded by Mr. Puccio. There were no further questions, comments or discussion. On roll call vote, all members voted yes.

DISCUSSION:

1. Dumpster Ordinance - The Board reviewed the Ordinance and approved the ordinance. Board Attorney Leibman would issue a letter to the Governing Body that per the report of Planner Carolyn Reiter the ordinance is consistent with the Master Plan. Further, the Board recommends that Section 2m Paragraph 4D be amended to provide for a liberal extension at the discretion of the Construction Official and Governing Body to consider some

(RVPB 7/17/17 Minutes)

measures requiring covering the dumpsters with hazardous material. The Board also adopted the other recommendations concerning the location in the Code where the dumpsters should be located. A motion for approval was made, seconded and carried by voice vote.

2. Change in Meeting Start Time - The Board discussed a 7:30 start vs. continuing with an 8:00 pm start. Mr. Adamo made a motion to change the Joint Land Use Board meetings to a 7:30 start commencing in September. Mr. Beukas seconded the motion. The motion carried unanimously on voice vote.

PAYMENT OF INVOICES: A motion for payment of invoices was made by Chairman Lippert, seconded by Mr. Fortsch and carried unanimously on voice vote.

NEXT MEETING: Monday, August 7, 2017 at 8:00 pm.

ADJOURNMENT: On motion made, seconded and carried, the meeting was adjourned at approximately 10:40 p.m.

Respectfully submitted,

MARY R. VERDUCCI, PARALEGAL
Recording Secretary