

December 19, 2012

A regular meeting of the Allendale Board of Adjustment was held in the Municipal Building on December 19, 2012. The meeting was called to order at 8:10 p.m. by Ms. Teng, Chairperson, who announced that the requirements of the Open Public Meetings Act were met by the required posting and notice to publications.

The following members answered roll call: Ms. Teng, Ms. Chamberlain, Ms. Hart, Mr. Jones, and Ms. Weidner. Mr. Manning and Mr. Redling were absent. Also present was Mr. Nestor, Board Attorney.

Mr. Jones moved, seconded by Ms. Hart, to approve the minutes of November 28, 2012 as submitted. On roll call, all Board members present voted in favor.

Resolution of memorialization was submitted by the Board Attorney with regard to the Susan and Christian Barsanti variance application. Ms. Chamberlain moved, seconded by Ms. Weidner, to approve the resolution as submitted. On roll call, all Board members present voted in favor.

Resolution of memorialization was submitted by the Board Attorney with regard to the Donald and Joanne Hochrine variance application. Mr. Jones moved, seconded by Ms. Chamberlain, to approve the resolution as submitted. On roll call, Ms. Teng was opposed. All other Board members present voted in favor.

Todd and Marianne Struyk variance application, 75A Brookside Ave., Block 1705, Lot 15.
Mr. and Mrs. Struyk were sworn. Mr. Struyk said they would like to put on a two story addition consisting of a new family room and a new master bedroom. The family room and the master bedroom would consist of about 6-7,000 sq. ft. They want to extend out of the back side of their kitchen into the back yard.

Mr. Nestor asked for the actual dimensions of the addition. Mr. Struyk said they are 16 x 18 x 24. Mr. Nestor said this is a flag lot off of Brookside Ave. and it is a little unusual because the front door faces the driveway rather than the street that is 120 to 150 ft. away. This is actually going to be put on to the rear of their house if you are looking at the front door. Applicant is deficient because the Board has to look at it as being a side yard and they are before the Board because they are deficient in their back yard which is 33.9 ft. where 50 ft. is required.

Mr. Nestor asked for the measurement from the end of the addition to the property line behind it. Mr. Struyk said because the property goes on a curve, the new addition was going to be more than 50 ft. The existing house right now is only 30 ft. from the property line. Mr. Nestor commented that the addition is going on the back of the side where the front door is located. From that to the back property line would be 62 ft. minus 18.6 so applicant will be 43.40 on the side yard because it has been determined that the other side is the front yard.

Mr. Nestor said that the Building Inspector's measurements of 24 for both the left and right side setback are off. It is actually 33 on one side and 43.4 on the other side. Tax map was marked A-

1 with today's date. Plans consisting of 6 pages was marked A-2. Survey by John Maby dated September 20, 2000 was marked A-3. Mr. Nestor commented that where the front door is located is actually the side yard. From there it is 33.1 where 23.40 is required. The other side which is where the addition is going is marked off at 62 but you have to subtract the 18.6 which he is adding on and that will bring it to 43.4 so he is still well within the side yards. The front yard set back is also fine. The rear yard is the problem which is at 33.9 but that is not changing.

Mr. Nestor asked what is the distance between applicant and the structure in front. Applicant stated it is between 70-75 ft.

The five photos submitted were viewed by the Board and marked as Exhibit A-4.

Ms. Tengi commented that this is a classic text book example of an irregular shaped lot. She opened the meeting to the public for comments and there being none, the meeting was closed to the public.

Mr. Jones said he would like an opinion on the definition of the front yard. The mailing address is obviously Brookside Avenue, but is that to be considered as a side yard. Mr. Nestor said yes because Grassick Lane is not actually a street and with that in mind you then have to see what part of the property fronts on the street and that street is Brookside Ave.

Mr. Jones said their frontage is only 15 ft. and it faces Brookside Ave. Mr. Nestor said according to the ordinance no building or paved area other than access walks or driveways shall be constructed nearer to the street front property line than 50 ft. This one is obviously much further back from the street property line than 50 ft. but lot width is what he is referring to. According to the ordinance a lot used or intended to be used for residential purposes shall not be less than 120 ft. wide measured along and parallel with the street lot line and 50 ft. therefrom. Mr. Jones said the ordinance says all front yards shall face a dedicated public street or right of way which is 35 ft. wide and is sufficiently improved. The lot width therefore needs a variance.

Mr. Nestor said Mr. Wittikind did not see that deficiency in lot width because the width is actually 125 ft. but it is not on the street.

Mr. Nestor said the application will be amended to include the front yard width. .

Mr. Jones said this application before the Board for property on Brookside Ave. is very unique. He said the exceptional shape of this property affects the development of this property. The applicant has met the burden of proof with the hardship. He believes the only reason they are here other than the variances requested are rear yard setback which is presently deficient even without the addition. They are also requesting a lot width variance. He feels that a deviation from the zoning ordinances and the Municipal Land Use Laws benefit the development of this property and any detriments are very minimal. He moved to approve the application as submitted. Motion seconded by Ms. Chamberlain. On roll call, all Board members present voted in favor.

Mark Lowry and Rebecca Ehrhart variance application – Block 508, Lot 3, 76 Knollton Rd.

Rebecca Ehrhart and Edmundo Lopez, her architect, were sworn. Ms. Ehrhart said she is the owner of the property at 76 Knollton. Mr. Lopez said he is a registered architect in the State of New Jersey since 1982. He also has licenses in New York, Texas and Pennsylvania. He has appeared before other Zoning Boards in Essex County such as Montclair, Livingston, Westfield, Ocean and Caldwell. Mr. Nestor asked if his practice is geared towards mostly commercial or residential properties. Mr. Lopez said it is geared mostly toward residential.

Mr. Lopez said this application is a request to provide a two car garage and mudroom to the current residence and in addition to increase what is now a 1 ½ story house to a two story house by elevating the front face of the house.

Mr. Nestor said he notices that only part of the second or the half story above the first story is 8 ft. high. Mr. Lopez said that is correct. The rear of the house has a second floor dormer along the back of the house that is where the master suite and one of the bedrooms is located. Mr. Nestor said Mr. Lopez is referring to two sheets of the plans, A1 and A2 with a date of September 16, 2012 which he marked as A-1 with today's date.

Mr. Lopez said the principal reason they are before the Board is because the house is non-compliant with its front yard and has been so since its inception. The survey indicates that the front yard setback is 38.77 where the front yard is actually 40 ft. There is also a covered porch that had to be renovated and was done previously not under a variance hearing. He said sheet A-1 shows a garage off to the side of the house. Applicant would like to make that a mud room and a two car garage. Currently it is a one car garage. In addition, they would like to continue the profile of the existing house to accommodate a full second floor as opposed to the current half floor.

Mr. Nestor marked the photos as A-2 with today's date.

Ms. Tengi said one of her concerns is that she does not see the square footage of what is existing and what is proposed on the floor plans. Mr. Lopez said all of the square footages are shown on the application for zoning review. Mr. Nestor said the Board does not have that information.

Mr. Lopez said the respective square footages are shown on the denial letter. The current existing square footage is 2,119 sq. ft. with the garage and the proposed is 2,514 sq. ft. which includes the additional garage.

Ms. Tengi said the only reason the applicant is before the Board is because he has a minimum front yard pre-existing non conformity by one ft. and the lot area size. She asked if the non conformity is being increased in those two areas. Mr. Lopez said the house is becoming 2 story instead of 1 ½ story and the house is not moving any further towards the street. They are just pushing up the existing wall in the front.

Mr. Nestor marked the zoning review data table as A-3 with today's date.

Mr. Lopez said there is a front entry cover to the house. When the owner purchased the house it was in bad shape and that had to be reconstructed. Mr. Nestor asked about the steps. Mr. Lopez

said there is one step and the landing. Mr. Nestor said the Board measures from the step to the property line and he doesn't know if that was included. Ms. Hart asked if the 33 ft. that is shown on the drawing goes to the front step and Mr. Lopez said that it does.

Ms. Weidner asked how the back yard is determined with the angle on the side. Mr. Nestor said it would be the closest corner to the side. Applicant stated that he and the Building Inspector determined what they thought would be the back yard line and measured from there.

Mr. Nestor said most of the rear yard is sufficient except for that corner which is 33 ft. which violates the ordinance so a rear yard variance is needed as well. He asked how the figure of 33 ft. was determined. Mr. Lopez said he comes up with 29 ft. instead of 33 ft. where 50 ft. is required by using the scale on the survey.

Mr. Nestor said we are looking at variances for lot area, front yard setback and rear yard setback. Ms. Hart said the only other question is the height of the building. Mr. Lopez said it is 25 ft. 4 ½ inches. Mr. Nestor said the height has to be measured from the point of lowest grade of the property around the perimeter of the house. Mr. Nestor said he comes up with 32 ft. from the point of lowest grade. Mr. Lopez said there is a sharp grade in the back yard.

Mr. Lopez said the attic is 5 ft. 4 ½ inches to the top of the ridge which means that the inside is going to be 4 ft. 6 inches and those are decorative dormers. It is a very shallow attic and it is not a third floor. They didn't want to use the existing roof line at the rear elevation because it was so flat it would make the architecture look terrible so they had to increase the ridge height to give it some degree of proportion.

Mr. Nestor said this is an addition of a little over 400 sq. ft. on a lot that is undersized with a deficient front yard setback by one ft. and a rear yard setback of 29 ft. in the corner where 50 ft. overall is needed.

Mr. Jones said he has a question about the change in the driveway. He asked about the locations of the other driveways in the area. Mr. Lopez said he believes the distances are so great that it will not be a problem.

The meeting was opened to the public for comments.

Alexander Chong-munoz said he is the next door neighbor. He said if this is approved he would like to know how long it will take to get the work done. Mr. Nestor said if the Board approves this application the resolution of approval will be adopted in January and at that time the applicant can get the permits and begin construction. Mr. Lopez said they could begin work the first week of February; however, it depends on the weather. If there is a hard frost they will have to wait a month or two until they begin the project. The project itself will take about 3-4 months. Mr. Nestor asked if he has any problem with the plans. Mr. Chong-munoz said he does not. He was just wondering when the construction will take place.

Ms. Tengi said she is sure the applicant will consent to minimize the impact this will have on the neighbors and the community by insuring that the contractor will stay within their property and

do a clean and efficient job. Mr. Nestor added that the work will be monitored by the Construction Official and he will make sure that all of the neighbors are adequately protected during construction.

There being no further comments, the meeting was closed to the public.

Mr. Jones said he feels that the applicant has met the burden of proof for exceptional topographical conditions on this property which is a pre-existing non-conforming lot. The applicant is requesting a small addition of a little over 400 sq. ft. and requesting variances for lot area, rear yard and a side yard that flows into the rear yard and that request is 29 ft. and there is a pre-existing 1 ft. front yard deficiency. He believes a deviation from the zoning ordinance and the Municipal Land Use Law allows for the granting of this application and he moves to approve. He added that based on the photos provided by the applicant it would appear that the other houses in the area have similar setbacks.

Mr. Nestor said there is a front yard of 33 ft. where 40 ft. is required and a rear yard at the corner of 29 ft. where 50 ft. is required.

Ms. Tengi seconded the motion and added that the rear yard of 29 ft. only applies to a very small portion of this addition. On roll call, all Board members present voted in favor.

On a motion by Ms. Tengi, seconded by Ms. Hart, the meeting adjourned at 9:09 p.m.

Respectfully submitted,

Barbara Knapp