

January 22, 2014

A regular meeting of the Allendale Board of Adjustment was held in the Municipal Building on January 22, 2014. The meeting was called to order at 8:10 PM by Ms. Tenghi 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 to roll call: Mr. Jones, Ms. Hart, Ms. Chamberlain, Ms. Tenghi, Mr. Manning, and Ms. Weidner. Mr. Redling was absent.

On a motion from Ms. Hart, seconded by Ms. Tenghi, the minutes from December 18, 2013 were approved.

On a motion from Ms. Tenghi, seconded by Ms. Chamberlain, Mr. Nestor was nominated as Zoning Board attorney for another year. He has been the attorney for the Board for over ten years. On motion from Ms. Chamberlain, seconded by Ms. Weidner, the officers nominated for the Zoning Board for the year 2014 were Stephanie Tenghi as Chairman and Joanne Hart as Vice-Chairman.

On a motion from Ms. Chamberlain, seconded by Mr. Manning, the Resolution for Memorialization for Glen and Catherine Shaw was approved.

The application to be heard that evening was for Mark Distaulo and Ondrea Bertie from 59 Stonefence Road Block 1405, Lot 18. Mr. Distaulo, the homeowner, and Mr. David Hals from 9 Post Road, Suite 11, Oakland, New Jersey were sworn in. Mr. Hals is an engineer and licensed professional in New Jersey. He has appeared before the Zoning Board many times before. Mr. Hals said they were before the Board to put an addition on the home at the end of the cul-de-sac on the left-hand side. The home is an existing one story ranch. The lot size is 40,571 square feet or 0.931 acres. The existing floor area of the home is 2,665 square feet or 6.56 % is the floor area ratio. The existing impervious coverage on the property is 12.92% with a single driveway on the side, a small walkway in the front, and a small patio in the back. The last revision of the plans was dated January 12, 2014. There was some confusion as to whether the Board members had the right plans or not. The Board determined they had the right plans but they did not get them in advance. Mr. Hals said they revised the garage addition in the back where they showed the roof line rather than the building line and that was the only thing that was changed on the plans. Mr. Hals continued with the plans included an addition to the middle part of the building, a front covered porch, a two story addition to the back part of the building, and an additional car garage to the right-hand side of the home to the rear of the existing garage. The only reason why they were there in front of the Board was because the garage did not meet the guidelines for the forty foot setback requirement. Mr. Hals gave some information about the property to the Board including the existing front portion of the garage is 27.41 feet to the property line; from the rear corner of the property to the existing garage is 35.02 feet; and from the rear line of the garage with the addition will be 38.8 feet. They are infringing on the forty foot setback on the right-

hand side. The addition is in line with the current existing building and actually infringing less on the adjoining properties than currently exists. The existing buildings have setbacks of 27.1 feet on the left side and 27.41 on the right side. It is an existing conforming building but once the owners add square footage to the building, then it is no longer conforming. He told the Board members that he was referring to Ordinance 270-37. Mr. Hals explained that an owner can add an addition to a conforming building and meet the ordinance. Mr. Hals continued with nonconforming buildings are allowed to have additions as long as the property owners put additions where they are fully conforming. At that point the owners would not have to come before the Board. The oddity is that adding an addition to a building that will be fully conforming to building setbacks creates the rest of the building that is existing conforming to be nonconforming. Mr. Hals said that his clients would be asking for a variance no matter what they did to the home and will render the existing home nonconforming. The home is a long ranch that goes from minimum setback to minimum setback and as soon as the square footage is added to the house the existing home will become nonconforming. Mr. Hals felt that it was a hardship on the property owner and on the property.

Mr. Nestor asked if the plan was the same as last month's and Mr. Hals said that it was the same plan except for the change with the roof line on the garage and that they added some calculations. Mr. Nestor said to mark the plans from January 12, 2014 as A-1 January 22, 2014. Mr. Nestor asked about the side elevation and Mr. Hals passed out the information to the Board members. Mr. Nestor asked for the height of the structure from the point of the lowest grade. Mr. Hals responded that it was under note number three. Mr. Nestor marked the side elevation plans dated November 15, 2013 as A-2 January 22, 2014. Mr. Nestor asked if the proposed height was 33.4 feet from the point of lowest grade on the property. Mr. Hals said the site plan had 33.6 feet. Mr. Nestor asked if there were pictures of the existing house and Mr. Hals passed out pictures. Mr. Nestor asked who took the pictures and Mr. Hals answered that they were taken by someone in his office. Mr. Nestor marked the pictures as A-3 January 22, 2014.

Mr. Hals continued to explain the changes his client wanted to make to the home. They want to change the roof line on the ends of the home by making it a hip roof on either side of the house. This will make the house seem further from the property line. Mr. Hals said that his clients wanted to make the garage a three car garage in line with the existing home and further away from the adjoining properties. Granting the variance won't impinge on the existing properties and that visually it will be hidden from the street and adjoining properties. There is also no change in the setback from the adjoining properties. The only part of the proposed addition that is nonconforming is the garage and a C-variance will be needed.

Ms. Tengi commented that the addition doubles the size of the existing house, and that there is a lot of mass being added which is increasing the side-yard setback making it nonconforming. Ms. Tengi said that is where she was struggling with the application because it is not a small addition. Mr. Hals said that the ordinance is not looking at the mass but the floor area. Ms. Tengi said that it is looking at the mass because of the side-yard setback. Mr. Hals disagreed. He had some

issues with how the ordinance was written in terms of the floor area ratio. He felt that there should be a graduated scale that you would have to increase your side-yard setback to the property line rather than having an arbitrary number for floor area. Mr. Nestor asked which ordinance he was referring to with his comments; was it the floor area ratio, enhanced side-yard setback ordinance, or additions to nonconforming structures Ordinance 270.37. Mr. Hals felt that 270.37 didn't apply as it was not an existing nonconforming structure. Ms. Tengi said that he was making it one. Mr. Hals said that this was the only time he had come across a location which has an existing home that is fully conforming but once an addition is added into an area within the area that is conforming, you now make an existing setback that was conforming nonconforming. Ms. Tengi said the Board sees this every month. Mr. Nestor said he was trying to be clear that Mr. Hals didn't think 270.37 A or B applied. Mr. Hals said he was only using it as a reference that the nonconforming structures will allow someone to build additions as long as they are conforming. Mr. Nestor said the Town Council acknowledged that in the amendment to 270.37, Section A, but the addition has to be no larger than 200 square feet. Mr. Hals didn't know about that amendment as it was not published. Ms. Tengi said that because he is adding so much more than 200 square feet that is why he is in front of the Board.

Mr. Jones and Mr. Hals had a discussion on floor area ratio, mass, and the Ordinance. Ms. Tengi said she appreciated his critique on the ordinance and respected his professional opinion but she was still struggling with the current ordinance, the side yard setback, and doubling the size of the home that they just purchased. Mr. Hals said they could tear the house down and build the exact same structure and they wouldn't need to come in front of the Board. He felt the Ordinance was asking for people to tear down existing structures and build newer structures. Ms. Tengi said the homes on the street were mostly ranches and that they were building a two story home which wouldn't adhere to that section of the street. Mr. Distaulo said the houses on the cul-de-sac were two stories and that they all had received variances to build the second stories. Ms. Tengi said the Board does variances case by case. Mr. Hals pointed to the houses in the photographs which showed that the homes next door on both sides were two stories.

Mr. Manning asked if they were going to have an open garage or not and Mr. Hals said it would be an open garage. The garage will be 48.5 square feet to the house on the right and 62 square feet to the house on the left. This is the current figures and they are not going any closer to the properties. Mr. Nestor said there would be a thirteen foot deficiency on each side. Mr. Hals agreed and added that the floor area ratio is 12.8% where the permitted is 19%; the impervious coverage of the property is 12.9% which will be going to 14.9% with the addition and the permitted is 27.5%. If they tore down the house the impervious coverage would increase and mature trees would be torn down. Mr. Manning asked how many feet away the house was on the right and Mr. Hals said about thirty feet. Ms. Tengi opened the meeting to the public, and since no one approached, closed the meeting to the public and brought the meeting back to the Board.

Mr. Jones asked what the square footage would be on the new garage that was nonconforming and he was told by Mr. Hals that it was about 30 square feet. The height from the existing wings

of the house to the proposed roof lines would rise about 8 feet higher in elevation on right side of the house. Mr. Manning asked about the depth of the garage and was told it was about 22 feet. He asked if they thought about bringing the garage in at all and Mr. Hals said that stairs were in the way. Ms. Tenghi asked about the hardship. Mr. Hals said the hardship was utilizing the existing structure.

Mr. Jones said that the front of the property is 140 feet and the required is 120. The location of the house creates an exceptional situation uniquely affecting this piece of property location of the single story structure that is within the setbacks. Tearing down the house and building a similar size is a possibility but given the depth of the property that would create a hardship in relation to the setbacks of a previous structure. He was struggling a little bit with the enhanced side-yard setback which is there to protect the entire neighborhood. But, the applicant has intended to minimize the impact by maintaining the wings and putting the addition in the back of the home. The benefits outweigh any of the detriments from building a larger structure. The proposed second floor is conforming and is in the rear and wouldn't impact properties on either side of the home.

On a motion from Mr. Jones, seconded by Ms. Weidner, the variance application for Distaulo/Bertie was approved. Ms. Tenghi voted no as she saw no hardship with the application.

On a motion from Ms. Tenghi, seconded by Mr. Manning, the meeting was adjourned at 9PM.

Respectfully submitted,

Diane Knispel