

July 23, 2014

A regular meeting of the Allendale Board of Adjustment was held in the Municipal Building on July 23, 2014. The meeting was called to order at 8:10PM 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 Board members answered to roll call: Mr. Redling, Ms. Tenghi, Mr. Manning, and Ms. Weidner. Mr. Jones arrived at 8:15PM.

The minutes were discussed from last month's meeting. Mr. Nestor asked for a revision on page three under the Lang application as 5,692 being the maximum permitted. On a motion from Mr. Redling, seconded by Mr. Manning, the minutes from June 25, 2014 were approved as amended. Ms. Tenghi abstained from voting as she was not present at the meeting.

On a motion from Mr. Manning, seconded by Ms. Weidner, the Resolution of Memorialization for the Lang application was approved. Ms. Tenghi abstained from voting as she was not present at that meeting.

The Lloyd application was withdrawn according to Mr. Nestor who received an email from the applicant stating as such. Mr. Nestor will notify the Zoning Board Secretary tomorrow that the six foot fence application has been withdrawn.

The first variance application to be heard was for Abraham Haliczzer from 102 MacIntyre Lane, Block 1701.01, Lot 18. Abraham and Patricia Haliczzer were sworn in to testify. Mr. Nestor said it was his understanding that the applicants had a two car attached garage already and they were looking to place a detached garage on their property which would give them two garages. Mr. Haliczzer concurred. Mr. Nestor said that based on Borough code residents can only have one garage in Allendale. He continued that he had been on the Board a long time and that the Board had never approved two garages and more than three bays per garage. Mr. Haliczzer said that he had actually seen quite a few homes in Allendale that had detached garages. Mr. Nestor clarified that they could have a detached garage but they couldn't have both detached and attached garages as that would be more than one garage for the property. Ms. Haliczzer said she has seen a house on Oakwood Drive that has one set of attached garages and one set of detached garages. Mr. Manning said that home may have had the garages before the Zoning Code was written. Ms. Haliczzer asked when the Code was written and Mr. Nestor said between 2001 and 2003 and that it was under section 270-18 of the Code. Mr. Nestor read the Code which says no more than one garage for each dwelling unit shall be permitted. Mr. Haliczzer said they have been residents of Allendale for sixteen years and have raised their children here and they would like to stay in town. He has an open spot on his property where he parks his SUV and he would like to cover it to protect the car from the elements and for security reasons. They would also like more room for storage. They thought about putting another bay on the back of the garage but it would encroach on the backyard and pool area and adding another bay to the front of the house would

ruin the architectural elements of the home. So with the open area they thought it would be a good idea to put a structure there. He has two other cars in the garages already so this third car is right now outside. If they cannot do this they might not be able to stay in that home as this is an important thing to the family. They conform to all of the other setback requirements but this is the only one that was stated as nonconforming. They spoke to John Wittekind the Code Official. Mrs. Haliczzer reiterated that there is a spot there already and they just want to cover it. The area is nicely landscaped. Mr. Redling asked if they could put up a carport because that doesn't have the four walls and wouldn't be enclosed. Mr. Haliczzer said he thought about that but he wanted to enclose it for safety reasons and for storage and a carport wouldn't work. Mr. Nestor said that according to the Code unenclosed garages are prohibited. Drive through carports attached to a dwelling are permitted that contain an enclosed garage. From what he saw there was no way they could have a drive through carport and Ms. Haliczzer agreed. Mr. Haliczzer said that there is a home on Franklin Turnpike across from Rohsler's Nursery that has a carport.

Mr. Nestor said as the applicants they had the burden of proof. Since it was a C variance that the Haliczzer family needed, Mr. Nestor read to them that part of the Code to see if anything applied to them for the positive and negative criteria. After he heard the Code, Mr. Haliczzer responded that topographically there is no way to add a garage onto the house. Ms. Tengi said they needed a hardship. Mr. Jones said that a variance affects the land and it must be a physical condition that affects the piece of property. Mr. Jones said there were other options like closing in the two garages they had and building a three car garage. The Code is very clear about what is permissible. Mr. Haliczzer said that option is expensive and not practical as it would overprice the house for the area. He felt that was a hardship in itself. Mr. Manning said he has been on the Board for nine years and they have never ever approved a second garage. The hardship is not about where to put a vehicle but it needs to apply to the property. Ms. Haliczzer said that she knew it was out of the norm but she asked if Allendale is extremely strict with this compared to other towns and the Board said yes. Ms. Haliczzer stated that she has seen this around town and Ms. Tengi responded that they are probably grandfathered due to being built before the Code was written. Mr. Nestor declared that they needed to understand that it was not about having a detached garage as much as it was about having two separate garage structures - one as part of the house and one somewhere else. Ms. Haliczzer said that they put forward a lot of effort in the plans and she wished someone had told them in the beginning that this would never go through as they had worked with the Code Official and a few architects and were led to believe that they would get the variance. Mr. Manning asked who led them to believe that this could be done and Mr. Haliczzer said that through his conversations with Mr. Wittekind he didn't think it was a big deal and he knows the Code better than anyone. Mr. Wittekind told them the process but didn't say this would never happen. Mr. Haliczzer said that in neighboring towns it is not an issue and he will not be able to stay in Allendale. There is no room for a workshop in the basement because of the garage and he needs space. Mr. Nestor replied that he could build an accessory structure for a workshop. Mr. Jones said they follow the MLUL in terms of what a hardship is and the Ordinances of the Town which the Board doesn't write. The hardship is not a personal

one but ties to the land and those are the only types of hardships that the Board is able to accept. Mr. Redling said the Board doesn't care about economics but they do they care about Land Use. Mr. Jones suggested that they put the third garage attached to the other garages as the Code is very specific on this point. Mr. Manning said that it is their only viable option.

Ms. Tengi opened the meeting to the public, but since no one approached, she closed the meeting to the public and brought the meeting back to the Board. Mr. Nestor looked at the Code to see if he could give any suggestions. Mr. Nestor marked the Wellisch architectural plans as A-1 July 23, 2014; the survey dated April 9, 2013 as A-2 July 23, 2014; the photographs as A-3 July 23, 2014; and the tax map as A-4 July 23, 2014.

Mr. Jones said that by adding a second garage to the property the application did not follow the Municipal Land Use Laws and the Borough Ordinances. Based on those issues Mr. Jones offered a motion to deny the application, and Ms. Tengi seconded the motion as she felt there was a failure to show a hardship on the property. The Board voted five to zero in favor of denying the Haliczer variance application.

The next variance application to be heard was for Nasima Sarwar from 219 Franklin Turnpike, Block 2103, Lot 24. Ms. Sarwar and Mr. John Bleeker were sworn in to testify. Mr. Bleeker is from Bleeker Architectural Group which is located at 275 Belmont Avenue in Haledon. He is a registered architect and licensed planner in the state of New Jersey. Mr. Bleeker had testified in front of this Board many years ago. He graduated in 1983, became licensed and partnered in 1987, and has over thirty years in the field. Mr. Bleeker has testified in over 1,500 Zoning Boards and Planning Boards applications and in Superior Court cases.

Mr. Bleeker stated there is an existing home at 219 Franklin Turnpike that has a number of pre-existing conditions including a side yard variance and a coverage variance which will be reduced with this application. Mr. Bleeker said they want to construct an addition on the home but they will stay within the confines of the existing setbacks. They are not building on one side because of an existing drainage easement but they are seeking permission to build over the existing garage on the other side of the home. Mr. Bleeker asked the Board to look at the pictures of the home. Mr. Nestor marked the photographs as A-1 July 23, 2014. Mr. Nestor asked who took the photographs and Mr. Bleeker said someone from his office took them months ago. Ms. Sarwar said they applicably depict the home. She continued that the house needs updating and now is the right time. Mr. Bleeker agreed that the house needed changes and stated that the house was built about fifty years ago and is a colonial style with two garages. There will be a sizable aesthetic improvement to the home and changes with the layout. The structure will basically be the same but they will add two small porches to the front of the home, a bay window, and a balcony on the second floor. There will be a portico at the main entrance and a hip roof will be in the middle of the home which will replace the low slope gable roof which is on the home now. Mr. Bleeker continued with the addition on the second floor will be a master bedroom over the existing garage. Off the right of the home the roof line will be changed so it

will blend with the existing architecture of the house. Mr. Bleeker asked the Board to look at drawing A-1 and SP-1. Mr. Nestor marked the site plans that had a revision date of May 7, 2014 as A-2 July 23, 2014. Mr. Bleeker remarked that an addition is going on back of the home too. The patio will be covered to give an outdoor living space. As for the coverage variance, Mr. Bleeker explained that existing is 34.7% and that the paving at the back of the property especially around the pool area is not necessary. In order to get the addition in compliance, his client agreed to remove the excess pavement in the back of the home which would reduce the coverage percentage even with the addition.

Mr. Nestor asked about the variances on the property but Mr. Bleeker said they were pre-existing. Mr. Nestor stated that the property is in the A Zone and has fifteen foot setbacks. Mr. Nestor said the enhanced side yard setback is about the bulk of the house and as it presently stands the house is in violation of that setback and Mr. Bleeker agreed. Mr. Nestor continued with the Board will look at the fact that they are supposed to be at fifteen feet and now they will need twenty-eight feet on each side with eighteen or nineteen being on one side and twenty-three on the other side. But he is not actually coming from fifteen feet but other numbers and did Mr. Bleeker know what those numbers would be. Mr. Bleeker said the number would be 28.11 on both sides for the setback. The right side yard is 23.11 and the left side yard is 18.86 which will make both side yards in violation. Mr. Nestor confirmed that those would be the numbers with the addition but asked what the numbers would be without the addition. Mr. Bleeker responded that they have 3715 square feet and the total existing setback right now would be 22.29 feet. Ms. Tengi commented that the right side currently complies as it currently sits and the left side does not and Mr. Bleeker agreed. Mr. Nestor finished by saying that they are moving from 22.29 feet to twenty-eight feet not the fifteen feet to twenty-eight feet.

Mr. Bleeker summarized by saying that the coverage variance is a pre-existing condition, a side yard setback on one side because it is in violation, and one side yard setback which complies. But because of the enhanced side yard setback side yard variances will be needed even though they are not doing construction on one side at all. The only second floor construction will be on the left side of the home. They are not coming any further than the existing side yard setback. Mr. Redling stated that the property is shaped like a trapezoid and had the property been rectangular they probably wouldn't even need to be before the Board. Ms. Tengi added that there is also a drainage easement on the left side of the property. Mr. Jones asked about the specifics when it came to removing some of the concrete in the back. Mr. Bleeker said they calculated everything originally and it came to 3397.82 square feet. Mr. Redling told Mr. Jones that he was removing all of the dotted lines on the site plan drawing. Mr. Bleeker added that they are keeping the driveway the same because they need the space to turn around as Franklin Turnpike is so busy.

Ms. Tengi opened the meeting to the public, but since no one approached, she closed the meeting to the public and brought the meeting back to the Board. Mr. Nestor wanted to clarify that with all the construction being done that only 615.03 square feet was being added to the home. Mr.

Bleeker said that was for the first floor only. Mr. Manning and Ms. Tenghi told Mr. Nestor that the total for both floors would be just under 1,000 square feet. Mr. Bleeker said that 2628.31 is the existing footprint and 3243.37 is the proposed footprint. Mr. Nestor asked how he got the total number and Mr. Bleeker suggested looking at the floor area ratio for the existing and proposed calculations. He explained that there is the 600 square foot addition on the first floor and the expansion over the garage on the second floor which will be about 1,000 square feet. They are going from 3,715 square feet to 4,605 square feet. Ms. Tenghi suggested visiting the tax assessor to see how much Ms. Sarwar's taxes would increase with the addition. Ms. Tenghi stated that she visited the property and agreed that it does need updating, that the home is far back from Franklin Turnpike, and has a lot of landscaping. Ms. Weidner asked what the height would be and Mr. Bleeker replied thirty-two feet. Mr. Jones said the shape of the property and the drainage easement are the hardships on the property. Mr. Redling added that the Board appreciated the applicant reducing the impervious coverage on the property.

On a motion from Mr. Jones, seconded by Mr. Redling, the Sarwar variance application was approved.

Ms. Tenghi asked the Board members to let her know soon if they would be attending the August meeting or not as she knows some of the Board members go on vacation and she wants to make sure there are enough members for a quorum.

On a motion from Ms. Tenghi, seconded by Mr. Manning, the meeting was adjourned at 9:07PM.

Respectfully submitted,

Diane Knispel