

May 25, 2011

A regular meeting of the Allendale Board of Adjustment was held in the Municipal Building on May 25, 2011. The meeting was called to order at 8:09 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, Mr. Manning, Mr. Redling and Ms. Weidner. Also present was Mr. Nestor, Board Attorney.

On a motion by Ms. Teng, seconded by Mr. Jones, the minutes of the meeting of April 26, 2011 were approved as submitted. On roll call, all Board members voted in favor.

Concrete Construction Corp., 36 Heights Rd., Block 404, Lot 4

Donald Hoyt was present as attorney for applicant. Joseph Farrell, President of Concrete Construction Co. and Charles Dandeneau, Vice President of Concrete Construction Corp. were also present. Mr. Farrell and Mr. Dandeneau were both sworn.

Mr. Farrell said they are present on behalf of their variance application concerning the property at 36 Heights Rd. dealing with two deficiencies. The lot is undersized at 19,000 sq. ft. whereas 20,000 sq. ft. is required and the lot is deficient in width at 100 ft. versus the required 115. The lot is consistent with the lots in the neighborhood. His clients' plans are to remove the existing structure and replace it with a one family colonial style home.

Mr. Nestor explained that because of the bulk of the size of this house the sidelines have increased to 22.88 rather than the 15 that is usually required in the A zone and the applicant has 23 ft. so they do not need a variance for that. Because they are razing the house and the structure in the back, they are putting a new house on this undersized lot. According to the Construction Official's review of the plans it is all in conformity with the code except for the pre-existing non-conforming lot area and lot width.

Ms. Teng asked what is the square footage of the existing house. Mr. Farrell stated it is 1000-1200 sq. ft. She said the Board needs to see a survey of the existing property and existing home as well as the measurements and dimensions of the new home and architectural plans.

Mr. Farrell said the rectangular area on the survey is the existing dwelling which is to be razed. The larger shaded area which shows a finished floor area of 352.3 is the proposed new dwelling which will be modular construction with the garage in the back. The new driveway will be located on the east side of the property. The new home is basically centered on the lot and pushed more forward. Survey was marked exhibit A-1. The overall height of the home is listed as 30 ft. and the zoning requirement is no higher than 35 ft.

Ms. Weidner asked if there is a reason why the driveway is on the right because there are a lot of trees in that area. Mr. Farrell said they do not plan on removing trees to put in the driveway. The Board suggested that it would be helpful to have a plan showing the existing vegetation. Mr. Farrell said the trees 8 inches or larger are shown on the survey. Mr. Jones indicated that the

copies are not clear. Ms. Tengi asked if any trees on the property will be removed. Mr. Farrell said a tree right at the area of the front door will be removed.

Ms. Chamberlain commented that this lot is fairly flat and level. There are a lot of new homes that have been built recently where there has been fill brought in. She asked if that is planned for this house. Mr. Farrell said he has a plan that shows the finished floors 2 inches higher than the existing grade. Mr. Chamberlain said it is a fairly good sized lot and it is within the setback requirements for the area but it will be much bigger than the original homes on the street. She asked if applicant would consider moving it back a little bit on the lot. Applicant stated that he kept it in line with the homes to the left and the right. Ms. Chamberlain asked if the present house is in line with the homes. Mr. Farrell said the existing home is at 41.4 ft. and the proposed home will be 40 ft. but he could make it 41 ft. It will be consistent with the other homes.

Mr. Jones asked if it is applicant's testimony that the plan is consistent with the entire neighborhood. Mr. Farrell said it is not consistent with the entire neighborhood but it is within 2-3 lots to the left or right. He does not know beyond that. Mr. Jones asked if applicant is before the Board for only two variances – 1000 sq. ft. deficiency in lot area and 15 in lot width. Mr. Farrell said that is correct and he would not have a problem in placing it in line with the homes on each side.

The meeting was opened to the public for comments.

David Hyland, 26 Heights Rd. asked about the square footage of the proposed new dwelling. Applicant stated it is 3,800 s.f. The driveway width will be 12 ft. and 3 ft. from Mr. Hyland's property line. Mr. Hyland said his concern is that the general pattern down the street is driveways on one side and now we have one where the driveway is moved to the other side of the property close to his home and the proposed house will be one of the largest on the street. He understands that the trend is that people want larger homes but when you add onto that a garage and the driveway on one side of the property like this he believes it creates an unreasonable burden on his property. He does not see any reason why it cannot stay a detached garage because they are already putting a large house there. He asked, "Why attach the garage to the house particularly when you are building such a large house in a neighborhood where most of the homes are much smaller?" Mr. Hyland said his home is a little over 2,000 sq. ft. and he thinks it is typical of many of the homes up and down the street. He said he is glad to see the property being improved because it has been in disrepair for many years. He said, "I don't see why you need to burden me with the attached garage to the extent that it creates a visual detriment to me and the use of my property." Mr. Nestor asked, "Is your objection two-fold – one that the driveway is on your side and that the garage is not detached and in the back?" Mr. Hyland replied affirmatively.

Mr. Farrell said he does not understand what having a detached or attached garage has to do with the driveway. There still has to be a driveway going to the back of the house. Mr. Nestor said he understands Mr. Hyland's concern is that he will be looking at more of a structure if the garage is attached rather than in the back. Mr. Farrell said it is consistent with the newer homes on the street.

Ms. Hart said the street has a lot of 1-1/2 story smaller homes with lots of character and this is a bigger boxier one although it fits within the requirements.

Ms. Tengi said although it is a modular home, is there any tweaking that can be done and could the garage be repositioned. Mr. Manning asked how difficult would it be to put a detached garage in the rear of the house. Ms. Tengi suggested planting more vegetation between the properties. Mr. Hyland said he just planted 8-10 arborvitae along the property but the height of the proposed construction will still exceed the height of the plantings.

The Board asked about the height of the current house. Mr. Farrell said it is 2-1/2 story as noted on the survey and the existing house sits closer to the Hyland house now than the new proposed house. The new house is being moved 8 ft. from his property. If the house is pushed back the garage door will be sort of in line with Mr. Hyland's detached garage. Mr. Hyland said he does not know if that will resolve the problem. He said applicant is changing the pattern of the driveways on the street. Ms. Chamberlain said there is a pattern in the neighborhood of having detached garages. She would like to see an accurate site plan before the Board makes a decision. She would like to see exactly where the house is going to be on the property with exact measurements. She said she does not feel a detached garage would be out of the question in this situation. Mr. Jones added that he would like to see an accurate landscape plan as well as photographs. He would like to see what is being planted and what is being removed. Mr. Manning suggested grading plans as well. Ms. Tengi said the Board is accustomed to seeing architectural plans.

Ms. Tengi asked if there were any more questions from the public.

James Carroll, 23 Heights Rd. said he understands this is a hardship case. He asked what is the hardship. Mr. Nestor advised that the hardship is that there is a pre-existing non-conformity of the lot.

Mr. Carroll said the setbacks, etc. that are listed are completely wrong. He lives across the street and has a certified copy of his survey. The figures on this survey are not accurate. Mr. Nestor asked who took the measurements that are placed on the map that was submitted. Mr. Farrell said he took the measurements but he did not know where all of the property lines are on the neighbor's property. Mr. Carroll said if it is incorrect as far as his property is concerned the others may be wrong.

Mr. Nestor said he understands Mr. Carroll's concern with regard to the measurement; however, he asked if he is for or against the application and if so, why? Mr. Carroll said nobody has given him the dimensions of the house. He thinks it is about 54 x 53. He asked if a modular comes in sections and is it shipped in. Mr. Farrell said that is correct. Mr. Carroll asked what kind of siding will be used. Mr. Farrell said they will probably use vinyl siding that looks like cedar shakes. They plan to put stone or brick around the front door and stone around the picture window in the front.

Ms. Tengi said she believes Mr. Carroll's point is well taken that more definition in the plans is needed. Mr. Jones agreed and said complete plans and specifics are needed. A pre-existing

nonconforming lot area and lot width are serious concerns. When the ordinance was adopted in the A zone this particular lot was undersized and he is looking for hardship. He also wants to see how this is going to look.

Mr. Nestor said the Board has an obligation to make a determination based on plans that it has in front of them so it knows exactly what it is agreeing to so that the Code Official can make sure that what the Board approved is what is built. The Board does not have the authority to tell the applicant we don't like the color of the house or that there is some stone work. What has been submitted to the Board is not really clear on intent. This Board wants to know exactly what they are approving. He suggested that information be provided to the Board for the next meeting. There will be no need to re-advertise. He added that a zoning table should be provided on the plans which should be certified by an architect. Mr. Nestor said there were comments from the neighbors that some of the numbers are off not only on the zoning map but also on what was presented here.

Ms. Tengi commented that the Board needs an accurate plan. Mr. Nestor said the Board usually has site plans submitted to them with more clear information than what was presented here. He suggested taking photos of the house and also to bring a picture of the modular house so that not only the Board members but the neighbors will know what they can expect to see. Ms. Hart added that the Board also needs to see where the house is really going to be located. Mr. Nestor said applicant is razing the existing house and putting a new structure on a pre-existing nonconforming lot that impacts the neighbors. The board needs exact dimensions so it knows what it is approving. Mr. Jones added that he would like to see photos of what is there and he would like to see photos of what exists between the lots. He said the topographic/boundary survey that he has is vague and unclear. Ms. Hart added that the Board also has to know whether the proposed house will fit in with the character of the neighborhood.

Ms. Tengi asked when the applicant purchased the house and the reply was six weeks ago.

Ms. Tengi said the application will be carried to next month's meeting.

Lori and Charles Massie variance application, 200 Franklin Turnpike, Block 2006, Lot 14
Charles Massie and Mark Brown from We Are Pools, 135 Hopper Ave., Waldwick were both sworn.

Mr. Brown said property is on a corner lot. They are putting the pool in the side yard with a small deck around it. The problem seems to be that two front yard setbacks are required of 35 ft. He believes it is 28 ft. to where the pool is going to be located on that side property. He secured measurements from the neighbors' houses which he submitted as well. He believes it was 130 ft. from the water's edge to the house to the south and something like 140 ft. from the water's edge to the house to the east.

Mr. Nestor said the numbers that he sees from a document that was submitted with handwriting on it is 125 ft. to the southerly structure, 22 ft. between the proposed pool and the house on Mr. Massie's property and 97 ft. from the pool to the next structure going down Elmwood. Mr. Nestor asked where is the equipment for this pool going to be located. Mr. Brown said the Code

Official told him the equipment has to be within a certain distance from the house and a certain distance from the property line. He said the equipment emits less noise than a home air conditioner. He said he was told there are some underground utility lines in the area that need to be located before they go ahead further. Mr. Nestor said that equipment cannot be closer than 4 ft. to the property line. Mr. Brown said the equipment will most likely be placed somewhere in the area where the shed that is to be razed is located.

Ms. Chamberlain said she is concerned about approving something if we do not know where it is going to be built. Mr. Brown said the pool is going to be built in that structure shown on the plan and the equipment will be put in according to code.

Mr. Jones said he wants to know exactly where the equipment is going to be stored. He wants to know the distances between that equipment. Mr. Massie said there is a wooded area behind him and right now there is a fence around the property. Mr. Jones asked if there is a photo showing that. He said the variance application is for a corner lot and a corner lot has two front yards. Those front yards are going to require that anything be built 35 ft. back in A zone. He added, "You are asking us to say it is okay to put it in the front yard and it looks to me to be about 10 ft. from the street." Mr. Jones said in order for him to make a determination on this application for a variance he needs to know exactly where it is going to be placed and he needs to see it on a drawing. He would like to be aware of how it is going to impact Elmwood Avenue.

Mr. Massie said he had an above ground pool there before and he had equipment almost exactly where this equipment is going to be located. He said there is a 15 ft. forsythia wall across the whole side of the property with a fence. Mr. Jones said he would like to see a photo to show the forsythia wall and what the impact is going to be to anybody on that street. He also wants to see where the equipment is going to be located. Mr. Brown said the equipment will never be seen because even if it is put on the far side of the pool it will be encased with some shrubbery.

Mr. Manning asked if there is going to be a fence around the pool and Mr. Brown replied affirmatively. He said it will be a metal fence of some sort. The whole yard is fenced in already, but the fence will be replaced around the pool area. It will meet the code for pools.

The question was asked whether there will be an enclosure around the pumps and filters. Mr. Nestor said there is no requirement for that. Mr. Brown said only in commercial facilities is that required for safety. The Board asked how does the forsythia look in the winter. Mr. Massie said it is very thick and you still can't see the street. The whole property is encased with trees. On one side of the property it is all bamboo. Behind him there are woods going to his other neighbor. He has shrubs and trees all along the front of the fence so you cannot see in the backyard in the summertime and you really have to look in the winter to see anything. He had an above-ground pool there for four years but he took it down.

A Board member asked if there will be an enclosure surrounding the pool itself if approval is given. Mr. Brown said the pool has to be built according to specific codes. He said if he was told to put a fence around the pool that is what would be done. Mr. Nestor said the code says the pool area should be completely enclosed.

Mr. Nestor said what he is hearing from the Board is should we allow you to have a pool in your side yard which is really a front yard given the language in the ordinance. If the Board is persuaded to do that it wants to know exactly where you are going to put this pool in relation to the fence, the house and everything else. The Board appreciates that it was stated that it will be in conformance with the Code, but they want to have some idea of exactly where it is going to be located.

Mr. Massie said he will remove the shed.

Ms. Tengi asked if applicant has considered putting the pool directly behind the house where the deck is located. Mr. Massie said he doesn't have enough space there because of all of the shrubbery and trees and it would be a tremendous expense to have all of those trees removed.

Mr. Brown said he can put together the requested photos and submit an accurate drawing.

The meeting was opened to the public for comments.

Thomas Sullivan, 1 Midwood Avenue, was sworn. He said his property is at the corner of Midwood Ave. and Franklin Tpk. He asked where the runoff from the pool is going. If it rains and the pool overflows, where is the water going to go. Mr. Brown said he does not know that he has ever seen a pool that is full to the top where there is going to be a runoff. Mr. Brown said it is his recollection that the dimension from water's edge to his back door is over 120 ft. so he can't see any great concern. He said there is no way that water is going towards that house because of the elevation and if he does have a concern about it he is sure he can address it without a problem by just having a slight berm in that area so that any water will go into the wooded area and out to the road.

Mr. Massie said on his side of the property there is a berm. Mr. Sullivan said that the water from the Massie property comes on his property now because of the natural grade of the land. Mr. Massie said there is a gravel area where the water collects and that is probably why the water is going down into the Sullivan property. Mr. Massie said he will correct the situation.

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

Ms. Tengi said she drove by to observe the property recently and visually it looked like a back yard. It did not look like a front yard. She feels that with a main street such as Franklin Turnpike the Board needs to set a precedent that this is a back yard so that people can enjoy the use and value of their property.

Mr. Nestor said this application will be carried to the next meeting.

On a motion by Mr. Jones, seconded by Mr. Manning, the meeting adjourned at 9:39 p.m.

Respectfully submitted,

Barbara Knapp

