

October 28, 2015

A regular meeting of the Allendale Board of Adjustment was held in the Municipal building on October 28, 2015. The meeting was called to order at 8:15 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, Ms. Weidner.

On a motion from Ms. Hart, seconded by Mr. Jones, the minutes from September 16<sup>th</sup>, 2015 meeting was approved.

On a motion from Mr. Manning, seconded by Mr. Jones, the minutes from the special meeting on October 6<sup>th</sup>, 2015 were approved. Ms. Chamberlain and Ms. Weidner abstained from voting.

The notice for the borough 2016 meeting schedule was presented for the fourth Wednesday of every month except for the last two months of the year due to the holidays.

The next item on the agenda was for the continuation from 9/16/2015 of the variance application of Mr. Chin for 199 West Crescent Avenue, block 908 Lot 18. James Chin and Vincent Graziano from P.O. Box 8106, Paramus, NJ were both sworn in for the meeting. Mr. Graziano is a licensed architecture in New Jersey 2003, New York 2009, and Pennsylvania 2015. He graduated from Virginia Tech with a Bachelor of Architecture. He has appeared in front of boards in Bergen county; Ridgewood, Ho-Ho-Kus, and Teaneck. Never in Allendale. Mr. Graziano stated they are applying for a variance to the covered front porch. The current measurement is 30.6 feet for the new plan and required is 35 feet from the bottom step to the curb. Mr. Graziano would like to create a more residential feel on a busier street in town which would be an aesthetic improvement. Ms. Tenghi noted they do have preexisting non-conforming lot deficit area which is already short on the front yard setback, which is assisting the hardship application. Mr. Nestor then noted the photos submitted of the home, from this past summer by Mr. Chin, adequately presented the home as it currently exists. Mr. Chin then stated that the summer it becomes very hot in the front room and the porch would assist in keeping the home cooler plus the added benefit of protection of the family when entering and exiting the home to have a place to prepare for entering and exiting the home. The dimensions of the porch proposed are 7 feet deep by 27.6 feet wide. The Existing stair platform is 31 feet from the the curb which is currently deficient. Mr. Nestor noted in the photograph Chin 1, the stairs are 2 feet and the platform 1 foot for a total of 3 feet. All will be removed, existing stairs and platform. The new front porch will make the new measurement 26.6 feet. Mr. Nestor stated that the ordinance is for 35 feet and the current status of the stairs is 31 feet and the new distance will be at 26.6 feet. Mr. Nestor asked about the walk way and Mr. Graziano said it will be one foot pass the where the current walkway is located, along with the tree and shrubbery to be removed. Ms. Tenghi noted the original design of the divisions would not center the property on the parcel which makes verifying the distances within always in question and would avoid any non-conforming variances. She also noted that on that street every home is different therefore this minor renovation for aesthetic improvements to the home, also to shield the sunlight plus a buffer from the busy main street. Ms. Tenghi noted there was no reason to not grant this request variance. It is a minor request and the property already has nonconformity and the covered porch and step is very minimal.

Mr. Nestor marked the architect drawing dated 7/30/2015 as Chin 2.

Ms. Tengi opened the meeting to the public, but since no one approached, she then closed the meeting to the public and brought the meeting back to the Board for the decision. Ms. Chamberlain stated the precedent any time someone comes forward to do an addition into the front yard with a protrusion into the front yard this board is very strict about keeping true to the code. But she does not see the minor intrusion of the new porch, that there would not be any detriment to the neighborhood or zoning ordinance because it is very minor change. It is not excessive and it is busy street plus it updates the house, and as such and she feels inclined to approve the ordination. Mr. Manning asked if Mr. Chin had any children, which he stated yes, Mr. Manning continued that the buffer of a front porch on a busy street would be an added safety provision on a busy street such as Crescent. Mr. Jones then stated that in regards to Mr. James and Heather Chin's application for a deviation for a front yard setback variance would increase their preexisting non conformity by 4 1/2 feet. Bringing the front step to 26.6 feet from the curb line. That a deviation of the zoning ordinance requirements would benefit the homeowner and the intent of the zoning ordinance and any detriment would be outweighed by the safety aspect and the C-2 Variance area of aesthetically enhancing property for the community. On a motion from Mr. Jones to approve, Ms. Hart seconded the motion, the Chin variance application was approved.

The second application before the Board was for the Ruffalo variance carried over from 9/16/16 meeting, 43 Midwood Avenue, Block 2006, Lot 5. Sworn is was Matt and Elizabeth Ruffalo of 43 Midwood Avenue. John Musinski of 215 Mahwah Road, Mahwah, NJ. Educated with a Bachelor of Architecture from New York Institute of Technology. He was licensed in New Jersey 1989, New York 1993. He has appeared in front of the boards in Bergen County; Ridgewood, Mahwah and Ramsey. Never in Allendale. Mr. Nestor then Admitted Mr. Musinski as an expert witness, then Mr. Nestor stated the plans were already marked A2, photograph A1, and the survey A3 at the last meeting. Ms. Tengi stated they tabled the plans from the last meeting because they did not have enough information about the measurements for the plans and the totality of the application and actual measurements. Mr. Musinski stated that there are 3 nonconforming preexisting condition issues; lot size, lot width and rear yard setback. Also Mr. Musinski has updated the plans accordingly. The main concern is the rear yard setback because they currently nonconforming and have a distance of 37.7 feet the requirement is 50 feet. The design change will demolish the roof and extend the roof height. The house is a 2 story home. They will stay within the current foot print and the existing walls in the rear of the house. Mr. Nestor clarified they are increasing the floor size area from 1812 square feet to 2752 square feet. This also takes into consideration of the 2 existing rooms in front of house 292 square feet. Mr. Nestor stated the bulk of the house in the A zone with the side yards have increased under the enhanced setback ordinance to 54 feet in the A zone. And even though the calculation by Mr. Mursinski submitted 15.52 Mr. Nestor has his calculation at 16.5 they are still well within the side yards of 30 feet and 40 feet on the side yards. Mr. Nestor then asked Mr. Mursinski to state the changes in the plan from the last meeting. The differences are Mr. Musinski stated he further developed the design on the front without impacting the rear yard setback. Mostly interior changes and they did introduce small addition at the side of the house and increase 3 feet 8 inches for a dining room on the side of the house because the foot print is very small. Mr. Nestor commented on the east/west orientation that there are now step-outs and a covered area that were not on the original plan for the back of the house but are on the new design. Mr. Musinski agreed there is a new 2 foot roof overhang and 2 steps to grade and that Mr. Nestor stated for the record they were not there on the first plan and that they are on the second plan which would increase the rear yard setback. The proposal is for 37.7 feet and the steps are not included because it is near the rear yard.

This is now any additional 5 feet to change the proposed resolution to 32.7 feet variance for the rear yard setback.

Mr. Nestor noted the height of the building is now 30.4 feet in the drawing which is taken from the point of lowest grade. Mr. Musinski said the new plan would increase it 5 feet from the current height. Ms. Weidner noted the changes on the exterior from the first design. Ms. Tengi asked when the house was purchased which Ms. Ruffalo stated May this year. The existing porch is also a existing non conformity which Mr. Nestor noted for the the variance application. The family is keeping the existing garage and shed on the property.

Ms. Tengi opened to the meeting to the public, then closed and brought it back to the board. Mr. Nestor asked What is the hardship here, with the multiple nonconforming on the property and it is not squarely centered on the property. The lot area required area is 20,000 and they have 4000 feet and lot size and the lot width.

Mr. Jones asked Mr. Nestor about the current tax map which was marked with distances as A4 and new tax plan as A5. Mr. Jones clarified 30 feet to the property line and 6 feet to the adjacent property's garage, which Mr. Musinski confirmed based on the property survey. The other side is 15 feet. Most of the lots on Midwood are small but this is larger than the other lots. Also noted from driving by the property all the houses are the same distance from the street and there are no sidewalks in that neighborhood. Ms. Hart commented how the plan on the existing foot print was excellent job keeping it within that restriction of the original footprint. Mr. Jones commented about the height of the structure and ridge line which appears to be 5 feet. The reason is the house is deeper than wider, it will be an attic space only at the center of the attic 7 or 8 feet. The roof slope is very steep. Mr. Manning asked if electric will be up there, only a small single light, smoke detector. The top is only attic storage with a pull down. The window is only aesthetic purpose, not functional.

Mr. Nestor verified the resolution to be voted on is the following; front yard setback of 31.2 feet as per the measurement on the plan and backyard setback of approximately 32.7 feet where 37.7 feet is in existence and 50 is needed to be in compliance, and finally the attic space only for storage with a pull down egress, no living space, not a habitable space on the apparent 3<sup>rd</sup> floor. Mr. Jones added there are no issues with the left and right side setbacks. Mr. Nestor confirmed with a no. Ms. Tengi asked about the hardship and Mr. Nestor stated that the house is not squarely centered, lot area and lot width of the yard.

Mr. Jones made a motion in the matter of Mr. And Mrs. Ruffalo of 43 Midwood Avenue requesting a relief of lot area preexisting nonconforming lot area of 12,000 sq feet and lot width preexisting non conforming of 100 feet where 115 is required, a slight change in preexisting nonconforming rear yard setback from 37. 7 feet to 32.7 feet of land, not on the plan but applicant has testified there is a platform and step on the rear to have a safer egress from to the rear of the structure, side yard setbacks are fine, front yard setback is previously nonconforming at 31.2 feet, the applicant has met the burden of proof in this matter for a few reasons, they testified that the hardship in this matter is the preexisting nonconforming and location of the property and the location of the structure on the property was at one time conforming but has not fell out of conformity the enhancements aesthetically will match the neighborhood and a few properties have been modified the last fifteen years. Ms. Weidner seconded the motion. The board all approved.

Last on the agenda is the Henderson variance application of 4 Michelle Court, block 406, Lot 28. Sworn in by Mr. Nestor was Jennifer Henderson of 4 Michelle Court and Mary Scro. Mr. Nestor stated she is to be accepted as expert. Ms. Scro noted the applicant has applied for a pool permit since the drawings of the variance application were submitted. The impervious coverage does not trigger a variance because the maximum is 43.7% and now at 23.7%. The pool will be installed in the next few weeks. Ms. Scro felt it was important to note the impervious coverage which does not impact any of the variances tonight or any other variances in the future. The proposed variance is for a portico which is 37 feet and not changing that for safety and aesthetic concern. The corner of cul du sac so it is a very irregular shape lot. Mr. Nestor noted for the record he marked the 7 page plans submitted Henderson 1, he marked Henderson 2 the survey with the red lettering where things will go. Mr. Nestor then asked is there any way to move the deck 5 feet to avoid any need for a variance. Ms. Scro noted there is a sliding door out the back that is accommodated by this deck and another conflict is a window. The pool limits their options with the deck. The deck is 18 square feet. The deck could be moved a few feet on both sides but then the windows come into consideration. There is also a patio area that they are not wanting to disrupt with major changes to the design. Ms. Weidner commented on all the angles being removed and more symmetry to the house and overall design. Ms. Scro said there are no plans showing the pool and deck as of yet. Side yard to rear yard issue, the tax map will be marked Henderson 3 per Mr. Nestor. The side yard setback is 20 feet which is still within the variance for AA zoned property.

Mr. Nestor then marked as Henderson 4 the pool plan submitted at the beginning of the session. Mr. Jones asked for a summary of the resolution which Mr. Nestor stated as minimum side yard setback variance which is deficient according to Henderson 2. The corner of the proposed deck is 16.5 and needed is 20 feet. The other item is a front yard setback and should be 40 feet in the zone and will be going to 37 which Mrs. Scro clarified 39.5 is the landing and 37 is the stairs and needed is 2 1/2 feet with the new stairs.

Ms. Tengri opened the meeting and noted she had the receipts that were mailed to notify the neighbors of the variance. A neighbor did show up at last month's meeting regarding the application but the Henderson application was delayed to this date in October. No one was present so the meeting was brought back to the board. Mr. Jones noted that they are not reviewing the pool application though it was presented tonight. Mr. Manning noted that the pool is within code and does not need any variance. Mr. Jones went on to state, as presented tonight by the testimony by Jennifer Henderson and Mary Scro of Z+ Architecture the applicant has demonstrated to the board by reason of exceptional physical features including but not limited to irregular shape lot, the property houses 2 water and sanitary sewer lines that restrict the applications ability to move things around, the location of the dwelling on the irregular shape lot are requesting a deviation on the with minimal impact to the zone ordinance and zoning planning. Deviation is minimal and the applicant side yard setback of 16.5 where 20 is required and front yard setback of 37 feet where 40 is required, given the location on Michelle court which is quite large and the unique irregular shape lot Mr. Jones moves to approve the application. Mr. Manning moved to second the approval. The Henderson variance application was approved.

On a motion by Ms. Tengri, seconded by Mr. Manning the meeting was adjourned at 9:20 PM.

Respectfully submitted,  
Christina Montanye