March 23, 2016

A regular meeting of the Allendale Board of Adjustment was held in the Municipal building on March 23, 2016. The meeting was called to order at 8:13 PM by Ms. Tengi, Chairman, 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. Redling, Ms. Hart, Ms. Chamberlain, Ms. Tengi, Mr. Manning, Ms. Weidner. Mr. Jones arrived at 8:30 P.M. Also Present was Mr. Nestor.

Ms. Tengi requested a motion to approve the minutes for the February 24, 2016 meeting. On a motion from Mr. Redling, seconded by Mr. Manning. A roll call vote was taken and all in attendance voted in favor.

On a motion by Ms. Chamberlain, seconded by Ms. Weidner, the Resolution of Memorialization was approved for a minimum side yard setback for Matthew and Kristen Zrebiec of 191 MacIntyre Lane, Allendale, NJ Block: 1201.01 Lot: 9. All present voted in favor.

The first application to be heard for Variance by Jason and Suzanne Warzala of 53 Harreton Road, Block: 508 Lot:16 for Minimum Lot Area, Minimum Lot Width, and Front Yard Set Back. Mr. Nestor swore in to testify Tom Skrable, Professional Engineer, 65 Ramapo Valley Road, Mahwah, NJ, Tom Flint, Contractor, 34 Grove Street, Midland Park, NJ and Jason Warzala and Suzanne Warzala, home owners. Drawing by Mr. Skrable from March 9, 2016 submitted as plan W-1 of pool and patio do not require variances. Only the lot size is slightly Non-Conforming. Non-Conforming is the Minimum Lot Width of 115 feet where 130 feet is required. Non-Conforming the Minimum Lot Area at 20,700 square feet where 26,000 square feet required. Non-Conforming is the Front Yard Set Back from the existing dwelling at 38 feet where 40 feet is required. All similar lots in this neighborhood of same size and configuration. The town variance of allowable impervious area coverage is 38% and this pool is only at 31%. The hardship is this is a preexisting Non-Conforming Lot Size and Width which need Zoning Board approval for this application to install a pool. Only structures being added are pool equipment. Patio will have a pipe drain to retention basin. The current shed will be moved to the opposite corner and placed no less than 6 feet from property line. The owners will be adding plantings for privacy on the property on the side of the shed. The photos taken on March 6, 2016 by Mr. Skrable and submitted as W-2. They adequately represent the property as it is today. The plans have also been submitted to Mr. Snieckus, town engineer for approval.

In the resolution to be voted the Zoning Board is taking no positions on requirements under ordinance 2732 which govern swimming pools, and will be left up to township engineer for decision. Also, no positions with regards to the shed requirements under ordinance 2714 governing the shed placement and landscaping.

Ms. Tengi opened the meeting to the public, hearing no public comment brought the meeting back to the board for a final decision. Ms. Hart made a motion to approve the variance as requested. Mr. Manning seconded the application. A roll call was taken and all present approved.

Mr. Jones arrived at 8:30 before the final application was presented for variances by Justin "Tyler" and Lindsey Kearl of 15 Homewood Avenue, Block: 2005 Lot:2 for Minimum Side Yard Setback, Minimum Front Yard Setback, Minimum Lot Area, Minimum Rear Yard Setback, Maximum Floor Area, Minimum Lot Width and Pre-Existing Non-Conforming Structure. Mr. Nestor Sworn in to testify Mr. Peter Cooper, Architect, 14 Overbrook Road, Ramsey and home owners Tyler and Lindsey Kearl. The owners had a pipe break in the home that flooded with 3 feet of water in the basement and some damage to the first floor which prompted them to redesign the home and seek multiple variances on the residence at this time before beginning any construction to repair the property. The owners would like to stay specifically in this neighborhood, in this home they have and this location in town at this time but the current design is not optimal for the family living for 6. The architectural site plan is marked as K-1 from March 7, 2016. The survey by Lakeland Surveyors is from July 30, 2010. The 4 photos submitted which were taken by the architect on March 22, 2016 were marked K-2. The photo shows a two and a half story home. The third floor has a master bedroom and bathroom, the second floor has 3 bedrooms and a full size bathroom and the first floor has a family room, dining room, and a small kitchen which will be replaced with an open floor plan consisting of a larger eat in kitchen, family room, porch area, plus laundry and mudroom. The first floor plan was marked K-3.The third floor is not being modified only the exterior of the home will be more unified. The second floor is only being modified minimally to accommodate the first floor changes. The Property is located in Zone A. The Non-Conforming lot size is 9,000 square feet where 20,000 square feet is required. The Non-Conforming Lot Width is 75 feet where 115 is required. The Non-Conforming side yard setback is 10 feet where 16.88 feet are required. The left side yard is 31 feet between the house and property line. The Non-Conforming Front Yard setback is 14.6 feet where 35 feet is required. Nothing is being modified in the front of the home other than the siding. The addition will be on the left and back side of the house expanding the kitchen and family living room. On the second floor will enlarge the bathroom for aesthetics with window. The non-impervious coverage is 50.9%. The hardship for this applicant is the overall lot size and lot width which are both substantially Non-Conforming.

Mr. Nestor asked to summarize the application before the most important D-4 Variance is discussed. The property is a undersized lot, by a large amount, in regards to area and width. A deficient front yard setback of 14.6 feet which is not being altered. The home is not infringing on the 10 foot side any further, but will extend beyond to the back of the property staying along the 10 foot distance. The home is being built on that side of the property with the second floor addition also on that side of the home. The bulk of the home in a A-Zone which is a hardship for the applicant with the strict regulations. The height of the home is 34 feet as estimated by Mr. Cooper the architect. The home was not professionally measured to the ridge line from the lowest point of the foundation. If it was higher than 35 feet, that would require another variance. Mr. Cooper said he was conservative in his projection of 34 feet. Mr. Nestor noted there is a garage in the backyard at 314 square feet. The shed is shown on the survey and the dimensions of the shed should be included in the floor area ratio. Mr. Kearl estimated it to be about 7 feet x 7 feet which would be 49 square feet, which would only impact the number minimally. Ms. Tengi stated the concern is the current home is already over Floor Area Ratio to the property size at 27% and with the design submitted would increase to 31% Floor Area Ratio. The total addition being added to this home is 773 square feet being added to current residence of 2,470 square feet thus will increase the home to 3,197 square feet.

Mr. Nestor stated that due to the Floor Area Ratio variation which requires a super majority of five out of the 7 affirmative votes are needed for the exception to this D-4 variance. There has to be special

reasons for this vote in two categories; one that the plan would carry out the purpose of zoning which is not in this application and the failure or refusal of this project to go forward would be a undo hardship on this applicant. The applicant has to show the site will accommodate the problems associated with a larger floor area than permitted by ordinance. No defined standards in the town ordinance and the Zoning Board has to make a determination that a third of the building mass to this property, even though it is only 773 square feet increase, is enough to prove these special reasons and done without substantial impact to the zoning code or area around it. The lot size and lot width are already undersized and can not be changed. A deficient front yard set back. There will be a room expansion on the left rear portion of the house. The second floor will be modest with a small change to the size of the bathroom. Second floor plan is marked K-5. Mr. Cooper wanted to note for the record the house separation from the other properties, in photograph one the distance from the adjoining property is 57 feet on the tax map marked as K-6. Mrs. Kearl measured herself by walking the distance. On the right side the home, though the property line is 10 feet away, the neighbor's home is more of a distance of 66 feet away. The rear yard neighbor in photograph 3 is 91 feet to the neighbor on the rear right and the neighbor on the rear left corner is 99 feet away. Mr. Nestor asked if they will be infringing on the back yard setback. Mr. Cooper confirmed that the kitchen will go another 7 feet back into the backyard as noted on K-1. The rear yard set back currently is 49 feet existing and with the new addition decreasing the distance to 42.9 feet. The design will be infringing on the side yard and back yard, no height being added and violating the floor area ratio further. No other changes can be made to bring it closer to compliance because it is a small amount of savings, not enough impact to make the application in compliance. Mr. Nestor confirmed the zoning table from the construction code official and what should be in the zone versus the application as submitted. Mr. Cooper the house currently as is violates the floor area ratio already at 27% where only 25% is allowed. This is a very serious Non-Conforming lot with a huge differential. The neighborhood varies greatly with different sizes of lots and homes.

Ms. Tengi opened the meeting to the public for any questions or concerns or input. Seeing none, the meeting was brought back to the board for consideration.

Ms. Chamberlain inquired about a CO, certificate of occupancy, if they had one to inquire if the house was in or out of code at time of purchase in 2010. Mr. Kearl replied the house was listed and sold as a 4 bedroom. The dormer was approved in 1979 for the addition of the bedroom which the owners looked up before purchasing. The homeowners had to install a larger window on the third floor for approval by the fire inspector for safety when the Kearl's purchased the home. Mr. Nestor directed that all the variances be voted all at one time, because of the all the Non-Conforming applications that if the floor area was approved then all the other variances would be also in agreement.

A motion by Ms. Weidner, seconded by Ms. Chamberlain to approve this application. A roll call vote was taken on the variances. In favor were Ms. Hart, Ms. Chamberlain, Mr. Manning and Ms. Weidner. Not in favor were Mr. Jones, Mr. Redling, and Ms. Tengi. The motion did not carry with a 4-3 vote. The Kearl application did not carry and is denied.

Ms. Tengi asked if any other concerns to be discussed. Hearing none on a motion by Mr. Manning, seconded by Ms. Tengi the meeting was adjourned at 9:41 PM.

Respectfully submitted,
Christina Montanye