

# ***Borough of Brielle***

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**MAY 8, 2018**

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July 11 2018

**May 8th, 2018**

BRIELLE PLANNING BOARD

TUESDAY, May 8th, 2018

The Regular Meeting of the Brielle Planning Board was held on Tuesday, May 8th, 2018 at 7:30 p.m. in the Brielle Borough Hall. After a moment of silent prayer and a Salute to the Flag roll call was taken:

Present — Mayor Thomas Nicol, Councilman Frank Garruzzo, Joseph Bonacci, Thomas Condon, James Langenberger, Stacey Montalto, James Stenson, Eric Lapham

Absent – Jim Madearie

Also present were David Clark, Board Attorney, Alan Hilla, Board Engineer and Board Secretary Carol McMenamy who recorded the Minutes. There were about 9 people in the audienc.

The Minutes of the April 10th, 2018 meeting were approved on a motion by Councilman Frank Garruzzo seconded by Mr.Stenson and unanimously approved by voice vote, all aye.

OLD BUSINESS:

The Board turned to a resolution for variance relief for Block 60, Lot 4.01, 7 Crescent Drive, owned by Peter & Mary Petracco, to allow construction of a detached garage, in-ground pool and hardscape improvements to the rear yard. Minimum Lot Width — 75 feet required, 60 feet provided. Building Coverage — 20% allowed, 22.45% proposed. Pool Patio — 5-foot setback required, 3-foot setback proposed (south side).

The following Resolution was then presented:

RESOLUTION OF APPROVAL OF THE BRIELLE BOROUGH PLANNING AND ZONING BOARD, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY WITH RESPECT TO THE APPLICATION OF PETER AND MARY PETRACCO FOR PROPERTY LOCATED AT 7 CRESCENT DRIVE AND IDENTIFIED ON THE TAX MAP OF THE BOROUGH OF BRIELLE AS BLOCK 60, LOT 4.01

WHEREAS, Peter and Mary Petracco (the "Applicants") have applied to the Planning and Zoning Board of the Borough of Brielle (the "Board") for a Variance Plan Approval for the property located at 7 Crescent Drive and identified on the tax map of the Borough of Brielle as Block 60, Lot 4.01 (the "Property"); and

WHEREAS, the Property is located within the Borough's Residential Zone 3 (the "R-3 Zone") and consists of a 2 ½ story frame dwelling with a one-car detached garage, and various accessories; and

WHEREAS, the Applicants are seeking variance relief for the demolition of the existing detached garage and for the construction of a two-story 24' x 21' detached garage (the "proposed garage"), an in-ground pool with patio, an expanded rear driveway, a retaining wall, and various other hardscape improvements, as shown in the site plan application submitted by the Applicants; and

WHEREAS, this Application specifically requires the following variances:

- a. Lot Width – Pursuant to §21-13.2(a)(1)(b) of the Ordinance, the minimum lot width permitted for this Property is seventy-five (75') feet; the Property has a lot width of 60.01 feet existing and proposed;
- b. Lot Coverage – Pursuant to §21-13.2(a)(1)(h) of the Ordinance, the maximum lot coverage allowable is 20%; the Property has an existing lot coverage of 19.52% and a proposed lot coverage of 22.45%;
- c. Setback of Accessory Structure – §21-13.2(a)(2)(a) of the Ordinance, requires accessory structures to be set back five (5') feet from the rear lot line and five (5') feet from the side lot line. The proposed plans show a three (3') foot setback from the property line (southern side). This variance request was withdrawn by the Applicants at the Hearing;
- d. Plumbing fixture above ground floor level of Accessory Structure – §20-3(c)(6) of Ordinance, prohibits an Accessory building from containing any plumbing fixtures or facilities above the ground floor of the structure. The proposed plans include a bathroom, therefore plumbing fixtures, on the second floor of the proposed garage; and

WHEREAS, the Board held a hearing on April 10, 2018, and considered the following documents presented at the hearing in connection with this application:

- a. Jurisdictional Packet;
- b. Exhibit A-1 - Eight Photographs;
- c. Exhibit A-1a - Two Photographs;
- d. Exhibit A-2 – Architectural Plans;
- e. Exhibit A-2a – Photographs;
- f. Exhibit A-3 – Architectural layout of the proposed garage's front perspective and rear perspective prepared by Melillo Architecture
- g. Exhibit A-4 Engineering Drawing
- h. Exhibit A-5 Tax Map of Brielle Borough with notations of lot coverages of various neighboring properties prepared by Ron Kociuba, P.E., P.P.; and

WHEREAS, the Applicants' Attorney, Michael R. Rubino, Esq., presented this Application; and

WHEREAS, the following individuals testified on behalf of the Applicants: Peter Petracco, Michael Melillo,

A.I.A., and Joseph Kociuba, P.E., P.P., all of whom were accepted as either experts in their field or fact witnesses; and

WHEREAS, the Board considered the following testimony presented at the hearing in connection with this application:

Michael R. Rubino, Esq. (Mr. Rubino) presented the Applicants' request to build the proposed garage with an upstairs cabana and porch. He stated the coverage is just under 20% and with the existing house and proposed garage, the lot coverage would be 22.45%. Mr. Rubino stated that the Applicants are no longer asking for the setback variance for the proposed pool patio. He added the fence would conform to Borough Code requirements.

Peter Petracco (Mr. Petracco) came forward and was sworn in and testified that he owned the Property. He moved into the Property in 2013. Mr. and Mrs. Petracco had the house built to conform with the characteristics of the neighborhood. At the time, they did not replace the existing garage. Mr. Petracco stated that with his family growing and the addition of the pool, they are now ready to replace the existing garage. They hope to add storage, a play area for the children, and a bathroom to be used with the pool. They currently would need to go the front of the house to use the bathroom. The Petraccos hope to have a grill area on the porch.

Chairman Condon opened the Hearing to Board questions for Mr. Petracco. Mr. Langenberger asked if the upstairs would have heat and air conditioning. Mr. Petracco answered yes. Board Engineer, Al Hilla, P.E., P.P., CME (Mr. Hilla) asked about the mechanical equipment. Mr. Petracco responded that they would be using a ductless system. Mr. Sarnasi asked Mr. Hilla about the height and setback formula. Mr. Hilla responded that he was okay with the height. Mr. Maclearie asked why the bathroom needed to be on the second floor of the proposed garage. Mr. Rubino stated that due to the flood plain requirements, the bathroom cannot be located on the first floor and must be upstairs. The Board had no further questions at this time.

Chairman Condon opened to questions of the public. As no members of the public had questions specific to Mr. Petracco's testimony, this portion of the hearing was closed.

Michael Melillo, A.I.A (Mr. Melillo), the Applicants' architect, came forward and was sworn in. He began his testimony with the requirements resulting from the Property being located in a flood zone and the requirements' effect on the placement of the bathroom. Mr. Melillo answered a question about the HVAC system by stating the Applicants would place the mechanical unit in a conforming spot.

Mr. Melillo stated that the deck coverage is most of the coverage for which Applicants are seeking variance relief. He stated that the bottom floor of the proposed garage would include a covered porch area and space for cars and the second floor would contain a recreation area, bathroom and deck. Mr. Rubino asked Mr. Hilla if a variance would be needed for the second floor bathroom. Mr. Hilla read the Ordinance and opined that a variance is needed for the second floor bathroom. Mr. Petracco agreed that if the variance was approved, that the proposed space could be restricted and would not be used as living quarters.

Chairman Condon opened the Hearing to questions from the Board. Mr. Sarnasi asked if it was necessary to have a shower in the second floor bathroom of the proposed garage. Mr. Rubino interjected and stated that if approved, the Applicants would be willing to agree to provided the Borough with access to the proposed garage for code enforcement purposes and to be subject to the issuance of a summons for a code violation if the second floor is used as living space. Chairman Condon opened the hearing to questions from the public pertaining to Mr. Melillo's testimony. No one came forward and this portion of the Hearing was closed.

Joseph Kociuba, P.E., P.P. (Mr. Kociuba) came forward and was sworn in. He stated the only variance they are seeking is for the lot coverage. He added the home is in a flood zone, so the Property does not have a basement for storage. Also, the proposed garage would be more aesthetically pleasing and would have no impact on the neighborhood. Mr. Kociuba presented Exhibit A-5 showing homes in the area with similar lot coverage.

Mr. Rubino asked Mr. Kociuba to respond to Mr. Hilla's concerns from his technical review letter. The first was about the driveway, which will be moved slightly to match the proposed garage. The second question was about the retaining wall. Mr. Kociuba explained the retaining wall is necessary for installation of the in-ground pool. Mr. Kociuba returned to Exhibit A-5 showing the neighbors that have been granted approval from this Board. He finished with repeating that the Property not having a basement for storage because it is in a flood zone constitutes a hardship.

Chairman Condon opened the hearing to questions from the Board regarding Mr. Kociuba's testimony. Mr. Langenberger asked if a driveway apron would be installed. The response was yes. Mr. Langenberger asked how the fence will protect the pool. Mr. Kociuba answered the fence will wrap around the pool. It will not affect the sight triangle. It goes back 15 feet from the curb line and will have two gates. Mr. Sarnasi asked if the roof water will drain into the drywell. Mr. Kociuba said they would work that into the plan. The rest of the Board having no questions, Chairman Condon opened the hearing for questions from the public regarding Mr. Kociuba's testimony. The public portion of the hearing was closed.

Chairman Condon opened the hearing to the Board for general comments. All agreed the proposed garage was a nice addition.

The hearing was opened for general comments from the public and the following members of the public provided comments in support of this Application: Christian Siano of 5 Crescent Drive, and Michael Farinacci of 11 Crescent Drive.; and

WHEREAS, the Board after carefully considering the evidence presented by the Applicants at the hearing and

of the adjoining property owners and general public, if any, makes the following factual findings and conclusions of law:

- a. The correct fees were paid, taxes are paid to date and the property owners within two hundred (200') feet, as well as the newspaper, were properly notified;
- b. The variances relate to a specific piece of property;
- c. The Property's lot width of 60.01 feet is an existing non-conformity.
- d. The Property is located in a flood zone, which is a topographical condition that is unique to this property and which subjects the Property to greater development restrictions;
- e. The purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirement because the variances encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare; and promotes a desirable visual environment through creative development techniques and good civic design and arrangement, which benefit the entire neighborhood by creating an enhanced aesthetic and concomitant sense of community;
- f. The variances can be granted without substantial detriment to the public good;
- g. The benefits of the deviations substantially outweigh any detriment; and
- h. The variances will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, Councilman Garruzzo made a motion to approve the Application for the Variance Plan with conditions as described herein, this was seconded by Mr. Stenson. At that time, the following roll call was taken:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Joseph Bonnacci, Chairman Thomas Condon, Stacey Montalto, James Langenberger, James Maclearie, Charles Sarnasi, James Stenson

Noes: None

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Brielle, that the Applicants' Application for Variance Approval is hereby approved and granted subject to the following conditions:

- A. The Applicants shall pay all taxes and other applicable assessments, costs and fees to date, as applicable.
- B. The Applicants shall comply with all requirements and outside approvals as may be required from the Borough of Brielle or any other governmental authority not otherwise disposed of by this application.
- C. The second floor of the proposed garage shall not be used as an apartment and/or living or sleeping quarters, but may be used for storage, bathroom, and play area uses as set forth in prior sections of this Resolution. The Applicants shall provide Borough officials with access to the proposed garage so that they may enforce this condition.
- D. The Applicants' plan shall be revised to indicate the disposition and mitigation of storm water so as to not impact adjacent properties and Green Avenue.
- E. The Applicants' plan shall be revised to indicate that the drywell will be moved to a location that is approved by the Board Engineer.
- F. The Applicants' plan shall be revised to adequately reflect that the aprons will consist of concrete rather than gravel in a manner approved by the Board Engineer.
- G. The Applicants' plan shall be revised to show the revised setback for the proposed pool patio.
- H. The Applicants' plan shall be revised so the fence surrounding the swimming pool conforms to the criteria required by the Borough Code. Further the revised fence shall be located out of the sight triangle for the driveway.
- I. The Applicants' plan shall be revised to reflect that the mechanical equipment for the accessory building and swimming pool will be placed in a location on the property in conformance with the Borough Code.
- J. The Applicants shall screen the mechanical equipment for the accessory building in a manner approved by the Board Engineer.
- K. Five (5) sets of revised plans incorporating all revisions set forth herein shall be provided by the Applicants to the Board Secretary within sixty (60) days.

Mr. Langenberger made a motion for approval of the resolution seconded by Councilman Garruzzo and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Joseph Bonacci, Thomas Condon, James Langenberger, James Stenson, Stacey Montalto

Noes: None

#### NEW BUSINESS:

The Board then turned to an application for a Minor Subdivision for Block 86, Lots 4, 5, 5.01, 6, 6.01, 301 Higgins Avenue, owned by 301 Higgins Avenue, LLC and 800 Ashley Avenue, owned by Brielle Basin, Inc., to adjust the common property line between the two properties.

The proper fees were paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were properly notified. Mr. Raymond Bogan, Esq. came forward to represent Brielle Basin Inc and Mr. Howard Bogan.

Mayor Nicol and Councilman Frank Garruzzo stepped down from the dais due to a conflict.

Mr. Bogan introduced to the Board Mr. Howard Bogan, applicant, Mr. Robert Burdick, Engineer, Mr. Bruce Jefferies, 301 Higgins Ave LLC member and Mr. Edward Liston, attorney for the resident of 802 Ashley Avenue. Mr. Bogan stated the two attorneys had been in contact with each other to resolve any issues

outstanding.

Mr. Bogan told the Board the applicant was seeking a minor subdivision of existing lots 4, 5 and 6 that are located at the intersections of Ashley and Higgins. He continued with the applicant's desire to modify the property line to accommodate the existing parking configuration. No construction is purposed. Modifying the line by deed or any other way the Board sets, if granted. Mr. Raymond Bogan stated Mr. Howard Bogan could explain use of the property and specifics to the parking. Mr. Burdick will state the encroachment agreement by the two parties. The master plan and zoning has brought the residence into the C2 zone which causes the need for a use variance.

Mr. Bogan discussed the letter from Mr. Liston which the Board was copied on. Mr. Liston and Mr. Bogan agreed the revised sub-division map should be filed with deed, should the Board grant the division. In response to # 4 of the letter, Mr. Liston's suggestion was to not reference the Flood zone in the map which does not directly affect the application.

Mr. Liston came forward to discuss the mistakes on the map he and his client had discovered. He listed the issues, the block is incorrectly listed on map, flood zone, side yard setback and her property is not divided correctly in the zoning.

Mr. Howard Bogan came forward to testify with his attorney, he was sworn in. Mr. Howard Bogan testified he is one of the owners and can represent the company in this application. Mr. R Bogan asked him to explain the reason for the application. He stated that his grandparents purchased 301 Higgins Ave and when they passed, he purchased the property from the estate. He assumed the old iron fence was the property line. As it turned out, the parking lot and some of the structures were over the property line, as a condition of the sale with Mr. Jefferies agreed to have the property line moved and some other conditions. This was necessary to keep doing business as usual at the basin. Mr. H. Bogan hopes the Board grants his application.

Mr. Condon opened for questions from the Board and hearing none, he opened to public questions. Hearing none, Mr. Condon closed that portion.

Mr. R. Bogan asked Mr. Burdick to come forward and testify. Mr. Burdick was sworn in by Mr. Clark. The Board accepted his qualifications.

Mr. Burdick explained that Bogan's has had parking on that property since 1950's. It was not an issue until the property was sold. There are several pre-existing non-conformities which are noted in Mr. Hilla's letter, those conditions will not change. Would be hardship on the applicant to eliminate or move several existing structures. Encroachment agreement between the two parties, which means as the encroaching structures become damaged, they will not be replaced. No time frame could be couple of years or months.

Mr. Burdick continued with #3 of Mr. Hilla's letter, referring to the setback of 5 feet for the parking and landscaping, they are asking for a variance because the parking lot is over the line. This would be no change to the existing condition. #5 of Mr. Hilla's letter would require them to submit the revised map and deed to the Borough before it is filled. He stated they would fix the typographical errors on the revised map.

Mr. R Bogan asked Mr. Burdick if item #3 (his client's property incorrectly separated for zoning purposes) would be corrected. Mr. Burdick responded yes. Mr. Burdick stated they did not have enough time to submit the corrected map due to the ten-day requirement.

Mr. Burdick said they were requesting the D2 variance basically to continue residential use on lot 5 and C2 variances due to the pre-existing non-conformities. The residence provides a buffer to the residential properties to the west. No disadvantages for granting the variances.

Mr. Hilla had no concerns for Mr. Burdick. Mr. Liston came forward with further typographical mistakes on the plans. Mistakes being the word block spelled incorrectly and property listed in Ocean County not Monmouth County.

The Board had no concerns for Mr. Burdick.

Mr. Condon opened the public portion for questions of the Engineer. Hearing no comments, the public portion was closed.

Mr. Condon opened the public portion for comments. Hearing no comments, the public portion was closed.

Mr. Condon opened to Board comments. The Board members each were in favor of the application.

Mr. Condon asked Mr. Hilla for any comments. Mr. Hilla asked for confirmation that the fully revised map would be filed with the deed. Mr. Bogan, Esq. confirmed.

Mr. Stenson made a motion to approve the application, seconded by Mr. Langenberger and then by the following roll call vote:

Ayes: Joseph Bonacci, Thomas Condon, Stacey Montalto, James Langenberger, James Stenson, Eric Lapham  
Noes: None

As there was no other business to come before the Board a motion to adjourn was made by Mr. Lapham seconded by Mr. Stenson and unanimously approved by the Board, all aye. The meeting was adjourned at 8:00 p.m.

Carol McMenamy, Board Secretary

Approved: June 12th, 2018