

# ***Borough of Brielle***

---

**NOVEMBER 27, 2018**

---

January 09 2019

**November 27th, 2018**

BRIELLE PLANNING BOARD

Tuesday, November 27, 2018

The Regular Meeting of the Brielle Planning Board was held on Tuesday, November 27, 2018 at 7:30 p.m. in the Brielle Borough Hall, 601 Union Lane. After a moment of silent prayer and a Salute to the Flag, new Board member Corrine McCann Trainor was sworn in as Alternate Planning Board Member #1, through 12/31/19.

Roll call was then taken:

Present – Mayor Thomas Nicol, Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, Stacey Montalto, James Stenson, Corinne Trainor

Absent - Councilman Frank Garruzzo

Also present were Board Engineer Alan Hilla, Jr., David Clark, Board Attorney and Board Secretary Karen Brisben who recorded the Minutes. There were 8 people in the audience.

A motion was made by Mr. Maclearie to approve the Minutes of October 9, 2018, this seconded by Mr. Lapham and approved all aye, except for Mrs. Trainor who abstained.

## **CORRESPONDENCE:**

The Board received notice to the NJDEP regarding Block 64.06, Lot 18, 619 Rankin Road, owned by 619 Rankin Road, LLC for a Letter of Interpretation verifying on-site wetland resources. Also received was a notice to the NJDEP regarding the Route 35 Manasquan River Bridge crossing, Waterfront & CAFRA permit information for NJ Natural Gas Co.

## **OLD BUSINESS:**

The first item for consideration was a Resolution of approval for Block 47.01, Lot 22, 332 Woodland Avenue, owned by Andrew & Caitlyn Marcus (Applicant – Robert Dooley) to allow construction of a detached garage. As all Board members, as well as the applicants, had received a draft copy and there were no changes, the following was presented for approval:

WHEREAS, Robert G. Dooley, Jr., R.A. (the "Applicant") has applied to the Planning Board of the Borough of Brielle (the "Board") for variance relief for the property located at 332 Woodland Avenue and identified on the tax map of the Borough of Brielle as Block 47.01, Lot 22 (the "Property"); and

WHEREAS, the Property is owned by Andrew and Caitlyn Marcus (the "Property Owners"); and

WHEREAS, the Property is located within the Borough's Residential Zone 3 (the "R-3 Zone") and contains a two (2) story residential dwelling; and

WHEREAS, the Applicant is seeking approval to construct a detached two (2) car garage in accordance with plans submitted in support of the Application (the "Plans"); and

WHEREAS, the Property's existing and proposed use conforms to the R-3 Zone, however portions of the Plans are non-conforming to the R-3 Zone; and

WHEREAS, the Property contains the following pre-existing nonconforming conditions:

a. Minimum Lot Size – Pursuant to §21-13.2(a)(1)(a) of the Ordinance, a property in the R-3 Zone must consist of a minimum lot size of 11,250 square feet. The Property has an existing and proposed square footage of 6,825 square feet;

b. Minimum Lot Width – Pursuant to §21-13.2(a)(1)(b) of the Ordinance, a property in the R-3 Zone must have a minimum lot width of 75 feet. The Property has an existing and proposed lot width of 45.5 feet.

WHEREAS, this Application specifically requires the following variances for the Property:

a. Side Yard Setback for Accessory Structures greater than 15 feet in height – Pursuant to §21-13.2(a)(2)(a) of the Ordinance, the side yard setback for detached accessory structure greater than fifteen (15') feet in height shall be one-third (1/3) of the height from the side lot line. The Applicant's Plans proposed structure requires a side yard setback of 5.7 feet, where a five (5') foot side setback is proposed.

b. Rear Yard Setback for Accessory Structures greater than 15 feet in height – Pursuant to §21-13.2(a)(2)(a)

of the Ordinance, the rear yard setback for detached accessory structure greater than fifteen (15') feet in height shall be two-thirds (2/3) of the height from the rear lot line. The Applicant's Plans proposed structure requires a rear yard setback of 11.4 feet, where a five (5') foot rear setback is proposed.

c. Lot Coverage – Pursuant to §21-13.2(a)(1)(h) of the Ordinance, the maximum allowable lot coverage for a property in the R-3 Zone is twenty (20) percent. The existing lot coverage is 16.34%, and the proposed lot coverage is 24.1%. This variance request was withdrawn by the Applicant at the Hearing;

d. Impervious Coverage – Pursuant to the Ordinance, the maximum allowable impervious coverage is fifty (50) percent. The existing impervious coverage is 23.7% and the impervious coverage that would result from the Plans is 56.4%. This variance request was withdrawn by the Applicant;

e. Setback of Driveway Paving - Pursuant to §21-31.22 of the Ordinance, paving for parking shall not be permitted within five (5') feet of the Property line. The Plans propose paving within two (2') feet of the Property line.

WHEREAS, the Board held a hearing on October 9, 2018, and considered the following documents presented at the hearing in connection with this Application:

a. Application Packet;

b. Exhibit Marcus 1: Site Plans and Coverages revised 10-1-18 prepared by Robert G. Dooley, Jr., R.A.

WHEREAS, the following individuals were sworn in and testified on behalf of the Applicant: Andrew Marcus and Robert G. Dooley, Jr., R.A; and

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

Andrew Marcus came forward and provided a general statement regarding the nature of the Application. He stated that they had built a modest home and needed this proposed garage for additional room for storage.

Robert G. Dooley, Jr., R.A. then came forward and was sworn in. He is the architect and applicant for this plan. The Board accepted him as an expert witness.

Exhibit Marcus-1, the plan, was marked and Mr. Dooley went over the variances requested for this undersized lot.

When the existing home was built, a concrete driveway was installed. Applicant seeks to convert the driveway to gravel and slide the driveway over to connect to a proposed garage.

The gravel driveway will reduce the Impervious Coverage to 45.11%. (which is within the 50% requirement) There will be a building coverage of 24.1% (which exceeds the 20% limit) as the Property Owners want a two-car garage. The Marcus family needs this as there is no basement. The garage will be five (5') feet from the property line. The ridge of the proposed garage is at eighteen (18') feet measured from the crown of the road. Mr. Dooley referred to Exhibit Marcus-1 where there is a yellow area on top of the garage, marking the area of the overage. The rear of the garage will be eleven (11') feet from the property line. Mr. Dooley opined that the setback and height of the garage variances are within reason.

The hearing was opened to the public for questions regarding Mr. Dooley's testimony. As there were none, that portion was closed.

Mr. Langenberger asked why they couldn't downsize the garage to 1.5 cars, and move it forward. Mr. Dooley said this is an undersized lot and the Property Owners need the backyard space for a patio. Mr. Dooley can make the garage conform, but Mr. Marcus wants a two-car garage. Mr. Langenberger noted this is the only garage on that side of the street. The Marcus home is not enclosed under the raised area, as other homes are. Mr. Dooley said they tried to minimize this impact and then showed another yellow area on Exhibit Marcus-1, where the gravel driveway will be. Mr. Langenberger still felt if the garage were trimmed down it would eliminate some variances. He then asked if a screened-in porch is part of lot coverage, and Mr. Dooley said it is included in his calculations and Mr. Hilla agreed.

Mr. Lapham questioned the location of the driveway for access stating, "It might be okay to pull into the garage, but how about backing out?" Mr. Marcus answered and said they will use the garage for storage only. Mr. Maclearie asked about considering a different slope on the garage and Mr. Dooley said yes they could consider a different slope, but the Applicant wanted to make the garage match the home with an 8 on 12 pitch; the porch is 4 on 12.

Mr. Maclearie asked about changing the roof pitch to 4 on 12 or 6 on 12, and Mr. Dooley said they can do that but it won't match the home. Mr. Lapham commented the garage is not seen from the street so they can do this and bring it closer to the street. Mr. Dooley said he can reduce the roof height by a foot, the garage can be dropped back without lowering the pitch and asked if that would be okay.

Mr. Hilla commented that, for an accessory structure, the building height is measured from the average

grade, not the crown of the road. Mr. Dooley felt there can be adjustments made.

As there were no more questions from the Board, the hearing was opened to the public for general comments and, as there were none, that portion was closed and the Board went into discussion.

Mr. Langenberger said they are working with a clean slate and felt they can make the garage smaller, maybe put in a shed. He was not comfortable with the size of the garage. Mr. Stenson & Ms. Montalto agreed that making these changes would make the application more palatable. Ms. Montalto added that she also lives on an undersized lot and can understand the problem the Property Owners are having. Mr. Miller also was okay with the changes and agreed storage is needed. Mr. Lapham agreed with the comments made and would support approval with changes. Mr. Maclearie asked if the gravel area driveway will be free flowing, and Mr. Marcus said they plan on putting in a fence. Councilman Garruzzo noted no neighbors were here to object or have concerns, and he did not think this was overly dramatic and was okay with the application. Mayor Nicol felt there was no problem.

WHEREAS, the Board after carefully considering the evidence presented by the Applicant 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 Property is located in the R-3 Zone;
- c. The variances relate to a specific piece of property;
- d. The nonconforming lot size and nonconforming lot width are pre-existing conditions on the property;
- e. The Applicant has agreed to amend the Plans so that the lot coverage does not exceed 20% in conformance with the Ordinance;
- f. The proposed height for the garage in the Plans was 18.41 feet, but the Applicant has agreed to reduce the proposed height by one foot, thus 17.41 feet.
- g. The undersized lot creates a hardship as the house is built on piles and there is no basement, thus requiring relief to provide storage on the Property while maintaining backyard space.
- h. The purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements 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;
- i. The variances can be granted without substantial detriment to the public good;
- j. The benefits of the deviations substantially outweigh any detriment; and
- k. The variance relief 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 with the changes to the garage of reducing the height by one foot and the conditions as described herein. This motion was seconded by Mr. Lapham. At that time, the following roll call was taken:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Thomas Condon, Eric Lapham, James Maclearie, Glenn Miller, Stacey Montalto, James Stenson

Noes: James Langenberger

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

- A. The Applicant shall pay all taxes and other applicable assessments, costs and fees to date, as applicable.
- B. The Applicant 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 Resolution.
- C. The Applicant shall amend the Plans to reflect that the Property's lot coverage does not exceed 20% in conformance with the Ordinance, in a manner to be approved by the Board Engineer.
- D. The Applicant shall amend the Plans to reflect that the height of the structure is reduced by one (1') foot, in a manner to be approved by the Board Engineer.
- E. All required amendments to the Plans must be submitted to the Board Engineer for approval.

On November 27, 2018, a motion to approve the above Resolution was made by Mr. Stenson, seconded by Ms. Montalto and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Thomas Condon, Eric Lapham, James Maclearie, Glenn Miller, Stacey Montalto, James Stenson

Noes: None

Not Eligible to Vote: James Langenberger, Corinne Trainor  
Absent: Councilman Frank Garruzzo

The next item for consideration was a Resolution for denial of Block 22.01, Lot 7, 635 Agnes Avenue, owned by Joseph Carannante, for construction of a single-family dwelling with variances. As all Board members & the Board Engineer had received a draft copy and there were no changes or recommendations, the following was presented for approval:

WHEREAS, Joseph Carannante (the "Applicant") applied to the Brielle Planning Board (the "Board") seeking variance relief for the property located at 635 Agnes Avenue and identified on the tax map of the Borough of Brielle as Block 22.01, Lot 7 (the "Property"); and

WHEREAS, the Property is located within the Borough's Residential Zone 3 (the "R-3 Zone") and consists of a 7,500 square foot lot containing a two (2) story frame dwelling; and

WHEREAS, the Applicant is seeking variance relief for the demolition of the existing dwelling and the construction of a new 2 ½ story dwelling; and

WHEREAS, the existing and proposed uses are conforming to the R-3 Zone, but the proposed principal structure is non-conforming for the R-3 Zone; and

WHEREAS, the Property contains the following pre-existing nonconforming conditions:

c. Minimum Lot Size – Pursuant to §21-13.2(a)(1)(a) of the Ordinance, a property in the R-3 Zone must have a minimum lot size of 11,250 square feet. The Property has an existing and proposed square footage of 7,500 square feet;

d. Minimum Lot Width – Pursuant to §21-13.2(a)(1)(b) of the Ordinance, a property in the R-3 Zone must have a minimum lot width of 75 feet. The Property has an existing and proposed lot width of 50 feet.

WHEREAS, this Application specifically requires the following variances:

a. Side Yard Setback– Pursuant to §21-13.2(a)(1)(3) of the Ordinance, the side yard setback shall be no greater than ten (10') feet; the westerly side of the Property has an existing side yard setback of 7.3 feet and a proposed setback of nine (9') feet;

b. Side Yard Setback– Pursuant to §21-13.2(a)(1)(3) of the Ordinance, the side yard setback shall be no greater than ten (10') feet; the easterly side of the Property has an existing side yard setback of thirteen (13') feet and a proposed setback of nine (9') feet;

c. Building Height – Pursuant to §21-13.2(a)(1)(3) of the Ordinance, the maximum height for the Property can be thirty-five (35') feet; the Property has a proposed height of 36.17 feet.

WHEREAS, the Board held a hearing on October 9, 2018, and considered the following documents presented at the hearing in connection with this Application:

a. Jurisdictional Packet;

b. Exhibit A-1 Seven (7) photos;

c. Exhibit A-2 Architectural Plans;

d. Exhibit A-3 Engineering Plans prepared by Burdick Engineering; and

WHEREAS, Michael R. Rubino, Esq., attorney for Applicant Joseph Carannante presented this Application; and WHEREAS, the following individuals testified on behalf of the Applicant: Joseph Carannante, Joseph Primiano, Architect, and RC Burdick, P.E., P.P., PC; and

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

Mr. Michael Rubino, Esq. came forward to present this Application and advised the Board that Joseph Carannante is now the owner of record for the Property. Mr. Rubino then had seven (7) photographs marked as Exhibit A-1, the architectural plans marked as Exhibit A-2, and the engineering plans marked as Exhibit A-3.

Mr. Rubino explained this is an application for variance relief. The Applicant is seeking to demolish the existing structure and build a new one. The Property is on an undersized, irregular lot that measures 50 x 150 feet. The Applicant needs variances for side yard setbacks on both sides and for height. He noted that the lot slopes up toward the back of the Property so a height variance is required for the roof constructed at the pitch desired by the Applicant.

The Applicant, Joseph Carannante, came forward and was sworn in. He testified that he has built homes in Brielle on Homestead Road and this one will be similar; he has also built homes in Brick, Point Pleasant Beach and Point Pleasant Borough. Mr. Carannante said this is an older home and not much can be done with the current foundation. A new home will look better, but he needs a side yard variance with an extra foot on either side so he won't have a long, skinny home. The new home will be thirty-two (32') feet wide. The Property slopes upward about five (5') feet toward the back so he is seeking an extra foot of height. Mr. Carannante stated this improvement is for curb appeal, and so that the roof pitch will be pleasing to the eye.

At this time the hearing was opened to the public for questions to Mr. Carannante.

Sean Wohltman of 639 Agnes Avenue came forward and was sworn in. He asked about the proposed drainage on the Property. Mr. Rubino responded that the Engineer will address this question.

Marjorie Cho of 619 Agnes Avenue came forward and was sworn in. She noted that her in-laws own 633 Agnes Avenue. She stated that the lots here are unique, some are small and some are big. Ms. Cho asked if Mr. Carannante felt the homes here are ugly, as he keeps saying he wanted to make the block better. When she built her home, she had it done to code and opined that a home can be built within the parameters of the code requirements. Mr. Carannante said if a home is skinny and narrow it will not look as nice. Ms. Cho then asked about the telephone pole in front of this Property and whether it will be moved; Mr. Rubino answered that the pole on the property line; Applicant will put sod there but will not be touching the pole.

Michael Bonk of 637 Agnes Avenue was sworn in and asked Mr. Carannante why the home has to be made wider. He stated making a very tall home with a large dormer will be overlooking 637 Agnes Avenue. Mr. Carannante said he is only asking for 12 inches on each side, but Mr. Bonk said that open area is a premium. The Ordinance provides 10 feet for a setback and this should be adhered to. He also asked about water runoff. Mr. Rubino responded that this question will be addressed by the Engineer.

Mr. Lapham asked about the existing side yard setback, noting that it looks like only 7.3 existing on one side. Mr. Carannante responded yes, this is to the right of the home as you are looking at it. As they are proposing a 9 foot setback on that side, they are actually improving the setback from the existing condition on that side.

As there were no other questions to Mr. Carannante, that portion of the hearing was closed.

Architect, Joseph Primiano, came forward. He is a graduate of NJIT and has been licensed in NJ since 2007. While he has been before numerous Boards throughout the State, this is his first time before this Board. He was accepted as an expert witness.

Mr. Primiano referred to Exhibit A-2, the architectural drawing showing a 1 ½ story dwelling. The first sheet is the floor plan for 1,137 square feet and the second floor will have 1,330 square feet. The lower level will have a single car garage, kitchen, dining room and great room that will be all one space. Bedrooms will be on the second floor with one bedroom in the third floor attic space. The proposed ceiling height is nine (9') feet for the first floor, eight (8') feet for the second floor and the attic is seven (7') feet in the center with sloped ceilings.

Mr. Primiano noted that the home itself is 31 feet tall. The intent here is to make something elegant for this street. There are a variety of dwellings from 1 story to 2 ½ stories with all kinds of roofs. They want a triple gable and tower element for a seashore look, and there will be a stone veneer front and architectural shingles. The roof slope is a 7 ½ pitch for space in the attic, noting that it's nice to keep all of the roof pitches matching. They do not want a flat roof look, and anything lower than 7 ½ would be detrimental to the look. Mr. Rubino asked if this can be reduced, and Mr. Primiano said that while it could be reduced, they want to make it look nice and a steeper roof looks better.

At this time the hearing was opened to the public for questions for Mr. Primiano's testimony:

Mr. Wohltman came forward and asked if the width of the proposed home were to be consistent with the Ordinance, would not that be proportional? Mr. Primiano said yes, the peak would come down and the 7 ½ pitch would become 7, and the house would become narrower on each side of the home.

Michael McGowan of 637 Agnes Avenue, questioned the proposed dormer and stated that someone could look down into his 8-year old daughter's bedroom. Mr. Primiano showed, on Exhibit A-2, the stairwell that comes up from the basement to the attic. A higher headroom is needed for the attic, and the dormer is added for this use. The bedroom itself is in the middle, and the dormer window is very high and above the stairs. Mr. McGowan also commented it was said every house on this street is different and, if this home is built, it would be a castle as no other home looks like this.

Michael Bonk came forward again and stated the dormer was obscene and also could not see any reason for the extra width. Mr. Primiano said even if they pull the house in and make it compliant with the zoning code, the dormer could still stay. Mr. Bonk then asked why the house couldn't be moved in to keep within the Ordinance? If the roof height is lowered, there will be plenty of room and there will be no problem with the width with no variances needed. He did not see any hardship, so his question was, "Why can't you move the house in"? Mr. Condon said that question was already answered, and the response was he thinks it will be more aesthetically pleasing.

As there were no other questions from the public, that portion of the hearing was closed. The Hearing was opened to the Board for questions to Mr. Primiano.

Mr. Stenson asked about the Plans showing the attic, which is marked as Bedroom No. 4 and has a bathroom. Mr. Primiano said that is an error. It is a loft space and not a bedroom and is sloped to four (4') feet. It is more like a bonus room. Mr. Miller said he was trying to get a handle on the new home as opposed to the old home, and Mr. Primiano said the Engineer's testimony may address this. Mayor Nicol asked if the window can be taken out and a skylight be put in, and the answer was yes.

As there were no more questions from the Board to Mr. Primiano, the Engineer, Robert Burdick, came forward and was sworn in. He was accepted as both an expert Engineer and Planner. Mr. Burdick stated they are increasing the side yard setback line from 7.3 to 9 feet on the westerly side; the east side will be decreased from a 13 foot to 9 foot side yard setback.

The driveway will be on the western side and the power pole that is on the Property will remain. The existing building coverage is 14%, but the Plans increase the building coverage to 20%. This is an R-3 Zone and is all single family, however, this is an undersized lot for this Zone and the Applicant cannot buy more land. He noted that this lot is steeper than most lots in this area. He stated he would only be able to put in a 30-foot wide home if they follow the setback requirements for this zone and commented that in the R-4 Zone, the requirement is for an 8-foot sideline setback.

Mr. Burdick then addressed the comments made in Mr. Hilla's Technical Review letter. He stated the Applicant will be using the existing water/sewer line. Additionally, the plan will be revised for drywells. Mr. Burdick stated the Applicant realizes he is at the full 20% coverage and no additional building can be added to this lot.

Mr. Burdick referred to the 35 foot building height requirement, as the Applicant requires a height variance. He said the height is measured from the crown of the road, and the lot slopes up about 3%. He addressed the Property's drainage and stated it drains from south to north. It is critical in the back to keep the drainage on the property going towards the road. If the grading were to be cut down, it would create a drainage problem for the neighbors. He explained that the Applicant needs one foot between the ground and the wood. The joists will be at 26 for the first floor, the peak is at 29.2 and the final home would be one foot higher than permitted by the Ordinance. This is a unique topographic situation, and Mr. Burdick said the height is similar to the neighbor's property to the west. Mr. Burdick opined that some homes in the area are even taller, but he admitted that those taller homes are all pre-existing.

Mr. Burdick acknowledged the Board has to enforce the Ordinance, but if there are unique conditions the Board can grant variances, and this is how the Applicant came up with the height variance request.

Mr. Burdick went back to the topic of drainage and stated there will be small swales on site and the drainage will go to the street; there will be storm water recharge on the roof which will go to an underground recharge system so the Applicant will reduce runoff.

Addressing the side yard setbacks, Mr. Burdick stated the west side will increase from 7.3 feet to 9 feet. On the east side the setback will decrease from 13 feet to 9 feet. However, he noted the next home is about 20 feet away. Mr. Burdick stated he looked at the widths of some homes and some of them are wider. One home to the west is also on a 50-foot lot with a 33.4 foot width. There is also a 35-foot wide home farther down. He asked the Board to consider this and opined this home will be within the spirit of the Ordinance.

The Applicant is increasing the west side line setback and moving the driveway. This will be an aesthetic improvement. If the Property is narrower, it would affect the roof peaks. Mr. Burdick opined this home will fit in and provide light, air and open space at 20% coverage. There will be new drainage which will be better, as this lot is unique as far as topography that cannot be changed. He opined that the benefits of the variances outweigh the detriments.

The hearing was opened to the public for questions to Mr. Burdick. Mr. Wohltman came forward and asked if the side yard setback extended to the back of the Property. Mr. Burdick said this applies to the home itself. Mr. Wohltman noted the lot narrows to only 44 feet wide in the rear. Mr. Wohltman then asked about the drainage as it would apply to a 25-year storm. Mr. Burdick said the plan here is for a 10-year storm. Mr. Wohltman noted there is a standing water problem on Agnes Avenue and did not think discharging water to Agnes Avenue is a good thing. Mr. Burdick commented that the Applicant can put in a 100-year storm drainage system and that will be less drainage to the street. Mr. Wohltman then asked about the solar panels the next-door neighbor has and will this proposed home affect the light to those panels? Mr. Burdick felt the impact will be minimal but he couldn't quantify this impact.

Mr. McGowan, the next-door neighbor with the solar panels, then came forward and said he was told by the installer that where the panels were put was the best place. He will have to call them again and may have to move some of them if this home is built. He estimated that he would lose 10 to 20% solar. Mr. Burdick said

their height is two (2') feet above his home, and they may be able to reduce the height to have a minimal impact.

Mr. Bonk again came forward and commented the Application says the building coverage will be 20.4%. Mr. Rubino responded stating the Plans were amended to reduce the coverage to 20%. He then wanted to know why the comment was made about the R-4 Zone and the side setbacks there. Mr. Rubino said he just made a comparison. Mr. Bonk felt that, as the sun comes up in the east, the proposed home will result in more shade, and every foot is an issue.

As there were no more questions to Mr. Burdick, that portion of the hearing was closed. Mr. Lapham asked Mr. Hilla if the recharge system was acceptable to him, and Mr. Hilla said that currently there is no recharge in place. This system will reduce the drainage to the street. Mr. Lapham then asked Mr. Burdick where this recharge will be. Mr. Burdick said there will be one in the front and one in the rear at the west sideline. Mr. Hilla noted that it would have to be five (5') feet from the rear of the Property. Mr. Lapham then asked how deep the new driveway would go and was told 25 to 30 feet.

Mr. Maclearie asked Mr. Hilla about the building height, and Mr. Hilla said he could not replicate their figures. He could not reconcile his numbers with the Applicant's but this could be straightened out. Mr. Hilla stated the Applicant asked for more of a height than his figures accounted for; Mr. Burdick admitted to changing the Plans a little.

Mr. Condon reminded Mr. Hilla of the home at the end of Agnes that also had grading problems. Mr. Hilla said in this location they are stuck with the center line of the road and that this is different. Mr. Hilla then asked Mr. Burdick whether the driveway was ten (10') feet wide, and Mr. Burdick said yes. Mr. Hilla asked whether there would be a sump pump, and Mr. Burdick said yes and it will recharge into the system.

As there were no more Board questions, the hearing was opened for general comments. Ms. Cho again came forward and stated it is a beautiful home but she could not see why it cannot be smaller. The builder is not going to live in it, and it will upset the neighborhood. It was stated they could make a smaller home, and if they did that it would fit. She lost a 1 ½ feet width when she had her home done to keep within code requirements and she lives with it.

Mr. Bonk came forward and opined that granting variances should be based on a hardship. He stated he did not think a hardship has been proven, and this is not a unique situation. This home will alter the area with a larger square footage home that is being built for financial gain. He has read the Zoning Ordinance and opined the Board should abide by it. He said the builder has built homes in Brielle before and should know what the codes are; there is no hardship here and this should be denied. The neighbors offered a solution to him, and he does not want to do it. He just wants monetary gain. This home will not fit in the neighborhood, the dormer will block sunlight and they will suffer. This is not a reasonable use of the land. The builder knew what was there and bought the lot anyway. The request for a height variance must be denied. If this is allowed, the Zoning Ordinance should be changed.

Mr. Michael McGowan came forward and told the Board he grew up here and went to Manasquan High School and wanted to buy Carol Bennett's home. He had spoken to Mr. Carannante and was told all he wanted to do was go up in height, that was all. He felt he was lied to as Mr. Carannante has come to the Board seeking other variances in addition to a height variance. Mr. McGowan also had letters from some of the other neighbors, but Mr. Rubino and Mr. Condon told him letters could not be accepted because they cannot be cross examined. Mr. McGowan then said they will appeal the Board's decision if the Application is approved.

Jennifer McGowan of 637 Agnes Avenue was sworn in and stated she objected to this Application's approval.

Jill Moore of 630 Agnes Avenue was sworn in and said she was in support of denying this Application.

As there were no more comments, that portion of the hearing was closed and Mr. Rubino came forward to summarize the Application. He stated that the Applicant's witnesses gave testimony as to why this Application can be granted on a C-1 and C-2 criteria. The Applicant did not say he would make more money if the home is bigger and wider, he just feels 32 feet wide will be better. If this lot was 75 feet wide, there could be a 55-foot wide home, but this is an undersized lot so there is a hardship, as well as the slope of the property at the back is 6 to 7 feet higher than the road. The deviations are minor. Mr. Rubino asserts that the requests for variances are reasonable, and this will be a better looking home and asked the Board to grant this Application.

Mr. Langenberger stated he was concerned about the drainage problem and felt it has been addressed. Mr. Stenson was concerned about the width. He opined that the structure could be moved back and the proposed height could be reduced. Ms. Montalto agreed with the width and height concerns. The Applicant is not going

to live in the home, and she felt the Board has to respect the neighbors' concerns. Mr. Miller also had concerns with the size and felt this can be brought into conformity, if they change the first floor from 9 to 8 feet. Mr. Lapham had similar sentiments, such as take the footprint in and reduce the height, and there will be a little less unrest in the neighborhood. Mr. Maclearie said a bathroom on the third floor concerned him, and he wanted to see it eliminated from the Plans. Mayor Nicol also had concerns about the third floor and the house width. Mr. Condon felt the height and width were issues. He stated that he could understand why the Applicant wanted the home built to this size, but the size of the lot is the hardship. Also, the amount of people that are showing up needs to be taken into account by this Board.

WHEREAS, the Board after carefully considering the evidence presented by the Applicant at the hearing and of the adjoining property owners and general public, if any, makes the following factual findings and conclusions of law:

- l. 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;
- m. The requested variances relate to a specific piece of property;
- n. The Property's lot size of 7,500 square feet is a pre-existing non-conformity;
- o. The Property's lot width of 75 feet is a pre-existing non-conformity;
- p. The existing structure on the Property conforms to the height restrictions in the R-3 Zone.
- q. It is an applicant's burden to prove positive criteria and negative criteria set forth in New Jersey's Municipal Land Use Law at N.J.S.A. 40:55D-70(c)
- r. The positive criteria must show "where: (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation ... would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship" N.J.S.A. 40:55D-70(c)(1)
- s. The narrow shape of the lot is not unique to the Property, rather it is a general characteristic of the neighborhood.
- t. The Applicant proposes to demolish the existing house to build a new house.
- u. The proposed non-conforming structure does not yet exist.
- v. The Applicant has not established that compliance with the Code would result in a hardship.
- w. Any existing hardship is being created by the Applicant's desire to build a larger structure and not by the unique condition of the Property;
- x. The Applicants states that the variance relief is needed to create an aesthetically pleasing structure. This is a matter of personal taste and is not a basis for variance relief.
- y. The Applicant has the ability to design a structure that conforms to the Borough's land use Code.
- z. The Board finds that the Applicant has not met the positive criteria required for a variance to be granted as set forth in the Municipal Land Use Law.
- aa. The negative criteria must establish "that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance." N.J.S.A. 40:55D-70(c)
- bb. The requested variances would impair the intent and purpose of the zone plan and zoning ordinance.
- cc. The Board finds that the Applicant has not met the negative criteria required for a variance to be granted as set forth in the Municipal Land Use Law and that the detriments of granting this relief outweigh any benefits.

WHEREAS, Mr. Langenberger made a motion to approve the Application for the Variance Plan with conditions as described herein. This motion was seconded by Chairman Condon. At that time, the following roll call was taken:

Ayes: None

Noes: Mayor Thomas Nicol, Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, Stacey Montalto, James Stenson

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Brielle, that the Applicant's Application for Variance Relief is hereby denied for the reasons set forth above.

On November 27, 2018, a motion to approve the above Resolution of Denial was made by Mr. Stenson, seconded by Ms. Montalto and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, Stacey Montalto, James Stenson

Noes: None

Not Eligible to Vote: Corrine Trainor

Absent: Councilman Frank Garruzzo

NEW BUSINESS:

The Board then heard an application for Site Plan approval for Block 23.01, Lot 16, 7-9 Union Avenue, owned



by Aaron & Company, to modify the parking area and circulation on the south side of the building. Front Yard Landscaping Setback for Commercial Property, 5 feet required, 4 feet proposed. Off-Street Parking – 75 spaces required, 16 spaces existing, 25 spaces proposed. Impervious Coverage – being increased by over 1,600 square feet. Stormwater flow towards Roberts Swamp Brook, Board can require mitigation.

The correct fees were paid, taxes are paid to date and the property owners within 200 feet and the newspaper were properly notified. Ms. Meredith Marcus, Esq. came forward to present this application.

She said they are renovating the property parking lot but need variances; they were in receipt of the Board Engineer's review letter of 11/19/18. She indicated there were going to be two witnesses, the owner and the Engineer/Planner from Maser Consulting; Mr. Anthony Conte was first to come forward and be sworn in, he is the owner of the business Aaron & Company. Before this started, Mayor Nicol asked Mr. Clark if there may be a conflict for him as one of the Councilmembers, Paul Nolan, works for Maser. Mr. Clark said there is no conflict unless Mayor Nicol has a personal or financial interest in the business, a Councilman working there is not a problem.

At this time Mr. Anthony Conte came forward and was sworn in, giving his address as 30 Turner Place, Piscataway, N.J. He testified they have been in Brielle since 2013 and now own 8 plumbing supply places. They are open 7:00 to 5:00 Monday-Wednesday, Thursday until 8:00 pm and Saturday until 1:00 p.m. They have done a lot of work on this building and are proud of what it now looks like, the paving of the parking lot is the finishing touch. He went on to say the building is old and needed to be refreshed, they wanted to bring it up to date. As far as the parking lot, the space that is being paved was the location of a home that was used as a warehouse; they took it down and want to clean up the lot, it is now unkempt and needs to be finished off.

He continued and told the Board there are 9 employees and they mostly deal with tradesmen that need plumbing supplies, they hope to get more of the public in; they took an existing room and turned it into a showroom.

As his testimony was done the hearing was opened to the public for questions and, as there were none, that portion was closed. Mr. Maclearie asked if there will be more employees for the retail area and counter help and Mr. Conte said no, 7 of the employees had worked for Dickson Supply that was there before them, when they opened the showroom they brought the employees up to 9; they were requested to have a showroom to help get homeowner traffic. Mr. Hilla asked if they purchased the other Dickson Supply building that is across the street and the answer was no.

As there were no other Board questions, Mark Zelina from Maser Consulting came forward and was sworn in, he has been with Maser for over 20 years. He has a Bachelor's degree from Lafayette College and has been before Boards for over 35 years, he is licensed as an Engineer & Planner, however, this is his first time in front of the Brielle Planning Board; he also holds a Certified Municipal Engineer license. The Board accepted him as an Expert Witness in both engineering & planning.

Mr. Zelina marked, as Exhibit A-1, an aerial photo from 2012 which shows the site in its entirety, this is all in the C-1 Commercial Zone. He explained that a lot of what is shown in the photo from 2012 is not there anymore, the home on the corner and the trailers in the back lot were all removed in 2013. The site itself if about 12,000 square feet and the main entrance is on the south side of the building. The area of where the home was is now unsightly, that lot will be paved and made to look much better.

He then presented Exhibit A-2, Landscape Exhibit. This is an aerial photo that they superimposed landscaping on to show what it will be like. There will be 25 parking spaces with a one-way circulation through the lot with access to Agnes Avenue. The depressed curb will be eliminated on Union Avenue (Highway 71), the sidewalks here are in bad shape and will be improved. The pavement runs to the sidewalk now and they plan to put in a landscape strip, it should be 5 feet and they are asking for variance relief to put in a 4-foot strip; they did not extend the parking towards the residential area so they need the variance for a 4-foot strip. They would rather not reduce the width of the parking spaces as business trucks and vans park here; the landscaping will be done in stone mulch and they are installing curbing on Agnes Avenue and commented none is there now, there will be landscaping on Agnes Avenue as well as the corner of Agnes Avenue and Union Avenue.

The second variance is for the number of parking spaces, they need 75 spaces but this is based on the two buildings (there is a building in the back for a warehouse that is not used by the public). There are no changes to the structures themselves and they are able to increase the parking spaces from 16 to 25; he noted this lot as it is today has been there for 5 years and they have had no parking problems so they did not do a traffic study because of this; there also is one handicapped spot. There will be 3 light poles around the site with down lighting so there will be no effect on the neighbors.

He then referenced Mr. Hilla's report on the increase of impervious coverage and storm information. He then showed Exhibit A-3, Site Plan, which was revised today, the blue line is the property line and the dark gray area is currently gravel which will be paved. This will make 2,600 square feet of new pavement but they are getting rid of the original pavement and found they will still have 570 square feet of new pavement on the lot. They decided to remove a 10 feet wide by 60 feet long pavement in front of the building on Union Avenue and put in landscaping, this will better improve the aesthetics and this will take out 600 square feet of impervious coverage. They feel this will also look better and will help with any runoff.

He ended by stating this is a C-2 variance and they need to prove negative and positive criteria, he felt the C variance applies to the existing site and the benefits outweigh the detriments without any impairment to the Zoning Ordinance. The use here is permitted in this zone, the site is already developed and this plan will improve safety to vehicles and pedestrians. There is no negative impact, they are not coming closer to the neighborhood homes to the west. He felt the C-1 Commercial Zone is advanced by this plan and the Board should grant the variances.

Mr. Hilla asked Mr. Zelina about the letter from the Fire Marshall regarding signage for fire lanes and Mr. Zelina said there is no problem in doing this, they are happy to comply. He also noted there are letters from the County and Freehold Soil that were submitted to the Board with the application.

At this time the hearing was opened to the public for questions to Mr. Zelina and, as there was no response, that portion was closed. Mr. Langenberger asked about two spaces at the north end of the site and Mr. Zelina confirmed they are there and are used by employees. Mr. Langenberger asked about the Fire Lane width and was told 25 feet. Mr. Langenberger said he would like to see a Right Turn only for the Union Avenue driveway as he felt it may be a problem for trucks turning left onto the highway. Mr. Conte spoke then and told the Board of a problem they have in Flemington with this, their building there is on Highway 202; a shopping center was put in across the street so a No Left Turn was put in; however, their trade customers still make a left turn and the Police do not enforce it. He wanted to be cautious about doing this here as it is a concern for him. Mr. Langenberger said he had heard there may be development of the building across from Aaron & Company so he was concerned. Mr. Condon noted this is a State Highway they are talking about and asked Mr. Hilla about this, Mr. Hilla said the fact that they are using the existing curb cut means the State has no interest in this. Mr. Condon did not know of any incidents that have happened here, making a left turn out of the lot onto Highway 71, Mr. Conte did not know of any either. Mr. Conte suggested waiting to see what happens with the building across the street, however, Mr. Clark said that can't be done, the Board has to deal with what is there now, they can't come back to it later. Mr. Condon suggested continuing with the questions from other Board members and coming back to this with a poll.

Mr. Stenson felt this would be an improvement and had no problem with the application. Ms. Montalto asked about the landscaping on the highway side and was told it will be in back of the sidewalk, Ms. Montalto loved that. Mr. Maclearie asked where the employees park and was told on the west side by the residential area, the rest of the parking is for customers. Mr. Lapham has had numerous visits to this store and also questioned the egress, he wondered if there will be an increase of vehicles pulling out onto Agnes Avenue and was concerned about this. Mr. Conte said they spent a lot of time on the Agnes Avenue entrance and they are putting shrubs around the residential end of the lot. He commented that most business trucks pull out onto Union Avenue (Route 71). Ms. Marcus said they can put a sign there that says "local traffic only" but Mr. Hilla did not think this was a good idea as it will force vehicles to cross Highway 71. He did not see more traffic in any direction and signage may push traffic into other unanticipated locations. At this time Mr. Condon felt the Board is overthinking this, the building has been there for over 50 years and he did not think this was an issue.

Mr. Miller said he grew up in Dickson's and just wanted to find out about the storm runoff, are they trapping water? Mr. Zelina said a trench runs around the back of the building and not to Highway 71, it slopes back. Mrs. Trainor asked about the landscaping on the corner of Agnes Avenue and Highway 71, will this affect the sight line? Mr. Zelina said the trees and shrubs they are putting in the area are azaleas, small bushes and grasses and there will be no impeding of the site line.

As there were no other Board questions the hearing was opened to the public and, as there were no comments, that portion was closed. Ms. Marcus summarized by stating this is a great project and it will look great for the town; she hoped it would be approved.

Mr. Stenson then made a motion to approve the application, as presented with the condition of complying with the Fire Marshall's letter, this seconded by Mr. Maclearie and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, Stacey Montalto, James Stenson, Corinne Trainor

Noes: None

Mayor Nicol left the dais at this time as he had a conflict with the next application, he is Mayor and Michael Mechler, one of the applicants, is a police officer in town.

The last item for the evening was an application for variance relief for Block 30.01, Lot 29, 524 Harris Avenue, owned by Michael & Lisa Mechler, to allow construction of a pool & fencing. Front Yard Setback (for home) – 25 feet required, 24.94 feet existing. Side Yard Setback (for home) – 8 feet required, 6.98 feet existing. Accessory Building Rear Yard Setback – 5 feet required, 3.17 feet existing. Accessory Building Side Yard Setback – 5 feet required, 2.54 feet existing. Side & Rear Yard Setback for Pool – 10 feet allowed, 5 feet from side & rear yard proposed. Pool Equipment – location of 5 feet from rear or side yard allowed, 1 foot proposed. Impervious Surface Coverage – 50% allowed, 52.02% existing, 52.35% proposed.

The correct fees were paid, taxes are paid to date and the property owners, as well as the newspaper, were properly notified. Mr. Michael Mechler came forward to present this application and was sworn in.

He told the Board he and his wife live in this home with two daughters. The reason for the pool is that his in-laws owned a home in Point Pleasant that had a pool that they enjoyed but they are moving so it was decided to put in a pool in this home. They want to keep it as far away from the home as possible as they do have a dormer and do not want any problems in the future with someone trying to access the pool from the dormer. As far as the pool equipment they do not want it to affect their neighbors, who also have pools, so they are putting the equipment in the back of the yard.

He commented they are surrounded by pools and they do not hear any of the equipment running, they will also have fencing around it. There will be no diving board and the pool will be 6.5 feet at the deepest end. They have not had any drainage issues on this property but when they put in the pavers they will have drainage put in. As far as backwashing it will go down the street the stormwater system.

Mr. Hilla agreed with this, he noted the land is flat in the back but wanted to condition this approval on making sure there is no impact on the neighbors and this may have to be addressed if it becomes a problem, this should be in the Resolution.

As there was no further testimony from Mr. Mechler the hearing was opened to the public for questions and, as there were none, that portion was closed and the Board asked questions. Mrs. Trainor asked about the other pool equipment that the neighbors have and Mr. Mechler said they are both on the opposite sides of the yard away from him. She then asked about fencing and Mr. Mechler said they are putting in a horizontal fence that will be built up to the old one.

As there were no other Board questions the hearing was opened to the public for general comments and, as there were none, that portion was closed and the Board went into discussion. Mr. Langenberger asked if the fence will be his and not the neighbors and the answer was yes. Mr. Hilla asked about details of the horizontal fence and Mr. Mechler said it was not scalable, Mr. Hilla just did not want to see a problem here. No other Board members had comments or questions, Mr. Condon felt it was a good application and all the surrounding neighbors have pools.

At this time a motion was made to approve this application with the condition of addressing a possible runoff/drainage situation, this was done by Mr. Maclearie, seconded by Ms. Montalto and then by the following roll call vote:

Ayes: Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, Stacey Montalto, James Stenson, Corinne Trainor

Noes: None

While it was not on the agenda it was felt that a Resolution to appoint a substitute Engineer that will be present for the December meeting (Mr. Hilla had a conflict with the application for December) was needed, even though Council had taken care of this matter at their last meeting. The following Resolution was presented:

WHEREAS, the Brielle Planning Board Engineer has a conflict with an application coming before the Board in December, 2018, and

WHEREAS, the Board has to use a substitute Engineer for this hearing and contacted several firms,

NOW, THEREFORE, BE IT RESOLVED that Kennedy Consulting Engineers, Red Bank, will be present at the December 11th meeting of the Brielle Planning Board to hear the application for Waterman's Grill on Higgins Avenue.

This Resolution was approved on a motion by Mr. Condon, seconded by Mr. Lapham and approved by voice vote, all aye.

Before closing the meeting, Mr. Condon noted two people in the audience and asked them if they wanted to speak to the Board; Mr. Jeff Clayton of 1 Aldrin Lane came forward and was sworn in. They had received a letter concerning Brielle Shores and a subdivision application, a letter concerning DEP/CAFRA approval. Mr. Condon told Mr. Clayton the Board does not, at this time, have any information on a subdivision or an application. He suggested Mr. Clayton contact the DEP, as per the letter, but the Board does not have anything on this. Mr. Hilla agreed that this is a CAFRA application and does not involve this Board, Mr. Clark agreed a CAFRA application is not the same as an application to the Planning Board. Mr. Clayton said the letter says they have 20 days to comment to the DEP and was told to send in comments to them if they want to, this has to do with a State CAFRA application.

As there was no other business to come before the Board a motion to adjourn was made by Mr. Lapham, seconded by Mr. Maclearie and approved, all aye. The meeting was adjourned at 8:46 p.m.

---

Karen S. Brisben, Secretary

Approved: January 8, 2019