

Borough of Brielle

JULY 9, 2019

September 10 2019

July 9th, 2019

BRIELLE PLANNING BOARD
TUESDAY, JULY 9, 2019

The Regular Meeting of the Brielle Planning Board was held on Tuesday, July 9, 2019 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 roll call was taken:

Present – Mayor Thomas Nicol, Councilman Frank Garruzzo, Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, Corinne Trainor, Francis Pierciey

Absent - James Stenson

David Clark, Board Attorney, Alan Hilla, Jr., Board Engineer and Carol Baran, Recording Secretary, were also present; there were approximately 13 people in the audience.

A motion was made to approve the Minutes of June 11, 2019, this done by Mr. Langenberger, seconded by Eric Lapham and approved by unanimous vote, all aye.

CORRESPONDENCE:

The Board accepted the resignation, with regret of Stacey Montalto.

OLD BUSINESS:

The Board then turned to a Resolution for Block 22.01, Lot 4, 643 Agnes Avenue, owned by Marion Hadley (Applicant Craig Hadley), to create a minor subdivision for two buildable lots. As all Board members had received a draft copy and had no recommendations, the following was presented for approval:

WHEREAS, Craig Hadley (the "Applicant") has applied to the Planning Board of the Borough of Brielle (the "Board") for a minor subdivision approval with variance relief for the property located at 643 Agnes Avenue and identified on the tax map of the Borough of Brielle as Block 22.01, Lot 4 (the "Property"); and
WHEREAS, the Property is located within the Borough's Residential Zone 3 (the "R-3 Zone") and currently contains two (2) single family residential dwellings; and
WHEREAS, the Property is a through lot with frontages along the southern side of Agnes Avenue and the northern side of Park Avenue (near Old Bridge Road); and
WHEREAS, the Applicant has filed an application for minor subdivision approval to subdivide the existing lot into two (2) conforming lots, thus eliminating an existing non-conforming use (i.e. two residential dwellings on one lot) and replacing it with two conforming uses; and
WHEREAS, the Applicant has submitted plans for the proposed subdivision delineating the proposed new lots as Proposed Lot 4.01 and Proposed Lot 4.02; and
WHEREAS, this application specifically requires the following variances (new variance conditions created as a result of this application are delineated in bold type below; the other delineated conditions are pre-existing and are not changing as a result of this application):

- a. Lot Area (Proposed Lot 4.01) – 11,250 square feet required; 11,238.5 square feet proposed;
- b. Lot Area (Proposed Lot 4.02) -- 11,250 square feet required; 11,238.5 square feet proposed;
- c. Front Yard Setback (Proposed Lot 4.01) – 25 feet required; 24.7 feet existing [pre-existing non-conformity that is not being changed through the development proposed within this application];
- d. Building Height (Proposed Lot 4.01) – 35 feet (2 ½ stories) maximum allowable; 35.8 feet existing [pre-existing non-conformity that is not being changed through the development proposed within this application]; and
- e. Rear Yard Setback (Proposed Lot 4.02) – 35 feet required; 3.1 feet proposed.
- f.

WHEREAS, the Board held a hearing on this application on June 11, 2019 and considered the following documents presented at the hearings in connection with this application:

- a. Jurisdictional Packet and subdivision application and plans;

WHEREAS, prior to the hearing on this application, Councilman Frank Garruzzo recused himself and left the dais because his sister owns a property within 200 feet of the Property; and

WHEREAS, the Applicant, Craig Hadley, was sworn in and presented this application; and
WHEREAS, the Board considered the following testimony presented at the hearing in connection with this application:

Mr. Hadley testified that the Property is a 75 x 300-foot lot that is a through lot that goes from Agnes Avenue to Park Avenue. If the subdivision application is granted, the existing carriage home will require variance relief done as it is already in place and they don't want to demolish or move this home as his sister lived in it. Mr. Stenson asked for confirmation that both buildings are staying, the original house and the carriage house, and the answer was yes. Mr. Lapham asked if this is where the 3.1-foot rear yard setback applies and Mr. Hadley said yes, he promised his mother that his sister can remain in the carriage house, they are not planning on selling this lot right now.

Mr. Miller was also concerned with only a 3-foot rear yard setback, Mr. Piercey agreed. Mr. Maclearie asked about drainage and Mr. Condon said Mr. Hilla will address that. Mr. Condon also suggested that a restriction should be placed upon any approval for this subdivision providing that should the dwelling on Proposed Lot 4.02 ever be razed and a new building built, the new building will conform with the zoning requirements (including the rear yard setback). Mr. Clark agreed this can be done, if the home gets replaced it will have to meet the zoning restrictions. Mr. Hadley agreed to this stipulation and said the Zoning Officer had told him the same thing. Mr. Clark asked if Mr. Hadley was willing to have a deed restriction which will state this so there is no question of the requirements in the future and Mr. Hadley felt that made sense and was agreeable to a deed restriction.

Mr. Hilla spoke and said one of the things that the Board should consider is that the Property is currently a non-conforming use as they have two homes on one lot and this application will correct that non-conformity. Also, there is a rock wall that encroaches on Lot 36 and this should be addressed, and the area cleaned up. The gravel driveway for both houses casts out aggregate onto the street; maybe an apron can help the stone and the Board should consider this. The Park Avenue lot is higher than the Agnes Avenue side, maybe by 6 feet and the Park Avenue home is so close to the property line. If water passes now there is no problem but if there are two new owners of these lots, there may be a problem. Mr. Hilla would like to see a condition on this, particularly for the Park Avenue lot, that there are drywells installed so the drainage does not affect the Agnes Avenue lot.

Mr. Hilla went on to indicate that once the subdivision is filed it is done, the drywells should be either installed now or bonding should be required now to make sure that they are installed later. Mr. Condon felt that the drywells should be completed before the subdivision is perfected. Mr. Clark asked Mr. Hilla if this can be done in 190 days as that is the time period to perfect a subdivision and the answer was yes, this can be done as a Resolution compliance item and he did not see a problem. Mr. Clark asked Mr. Hadley if he was going to file by deed or map and Mr. Hadley said that he would file by deed and noted that the Assessor has already okayed the new lot numbers and gave new addresses.

Mrs. Brisben had a question on the lot sizes, the property size is 75 feet by 100 feet, which conforms, but the figures inside the lots say the lot size is 11,238.5 square feet and not 11,250 square feet. Mr. Hilla agreed this is what is says, there is not an explanation. Mr. Condon and Mr. Clark felt this is de-minimis, but it should be addressed. Mrs. Brisben asked Mr. Hadley for an explanation but he had none so Mrs. Brisben said she would contact Mr. Burdick, the engineer who did the plan for the reason for the difference in square footage. If this is an error, she will need revised plans.

At this time the hearing was opened to the public and Virginia Lofton of 407 South Street came forward and was sworn in. She asked about the driveway and configurations on the subdivided lot. Mr. Condon explained this lot currently goes through from Park Avenue to Agnes Avenue. Once it is subdivided it will be two identical lots, one with a frontage on Park Avenue and one with a frontage on Agnes Avenue, they will each have their own driveways.

As there were no other public questions or comments the public portion was closed and the Board went into discussion. Mr. Langenberger said if this were his property, he would do the same thing, Mr. Lapham was for approval with the changes and restrictions; Mr. Miller felt this application makes sense and he would approve it, Mr. Piercey agreed with all that was said. Mr. Maclearie said he wants to see the driveway cleaned up and the drainage work done.

At this point Mr. Clark went over the proposed conditions for approval of the application: 1) the rock wall that encroaches on the adjacent property will be removed, 2) some type of drainage capture system, approved by the Board Engineer, will be installed by the Applicant before the subdivision is perfected so that stormwater can be captured, 3) installation of driveway aprons, 4) lot numbering will be subject to the Assessor's approval, 5) the subdivision will be filed by deed within 190 days and 6) there will be a deed restriction for Proposed Lot 4.02 that if the existing home is removed it will be required that any rebuilding of a new home

will have to conform with the zoning requirements.

WHEREAS, the Board after carefully considering the evidence presented by the Applicant at the hearings 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 minor subdivision and variances sought relate to a specific piece of property;
- c. The purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirement because the Property is currently a through lot with frontage on two streets. It is currently a non-conforming use because it has two residential dwellings on one lot which is not permitted in the R-3 Zone. The subdivision of the Property into Proposed Lot 4.01 and Proposed Lot 4.02 will create two conforming uses (i.e. two lots which each have a single-family residential dwelling on them) and the variance for lot area caused by creating the two new lots is de-minimis;
- d. The purposes of the Municipal Land Use Law would also be advanced by granting the variance for the rear yard setback for Proposed Lot 4.02 as the dwelling on Proposed Lot 4.02 is pre-existing and if it is removed for any reason, the Applicant has agreed to a deed restriction requiring that any replacement dwelling constructed on Proposed Lot 4.02 will conform to the rear yard setback and other zoning requirements. Moreover, as stated above, the subdivision will remove the current non-conforming use on the Property and replace it with two conforming uses, thereby furthering the purposes of the Municipal Land Use Law;
- e. The variance can be granted without substantial detriment to the public good;
- f. The benefits of the deviations substantially outweigh any detriment, and;
- g. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, Mr. Langenberger moved to approve the applications with the conditions as described herein; this motion was seconded by Ms. Stenson. At that time the application was approved by the following roll call vote:

Ayes: Mayor Thomas Nicol, Thomas Condon, Eric Lapham, James Langenberger, James Maclearie, Glenn Miller, Francis Piercey,

Noes: None

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Brielle, that the Applicant's application for minor subdivision approval with variance relief 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 application;
- c. The Applicant shall relocate the rock wall which currently encroaches on a portion of Lot 36 so that it is entirely on the Applicant's property. Such work must be satisfactorily completed prior to the Applicant's filing of the deeds to perfect this subdivision.
- d. The Applicant shall install proper bound pavement driveway aprons in order to limit the casting of aggregate to the roadways in a manner and in accordance with plans to be approved by the Board Engineer. Such work must be satisfactorily completed prior to the Applicant's filing of the deeds to perfect this subdivision.
- e. The Applicant shall mitigate the stormwater passing from proposed Lot 4.02 to proposed lot 4.01 by installing a drywell system or other drainage system, as approved by the Board Engineer. Such system must be designed and installed prior to the Applicant's filing of the deed to perfect this subdivision.
- f. The Applicant shall perfect this subdivision within 190 days of the date of the adoption of this resolution by filing deeds in forms approved by the Board attorney.
- g. The Applicant has agreed that the deed for proposed Lot 4.02 shall include a deed restriction with the following language: "If the structure on this property is ever removed for any reason, including but not limited to fire, storm damage, or demolition, then the rear yard setback variance granted by the Planning

Board to the existing structure on this property through the Planning Board Resolution adopted on July 9, 2019 shall be null and void and any new structure constructed on this property will have to comply with the Borough's rear yard setback requirements and all other requirements set forth within the Borough Code."

h. The lot numbers to be assigned to the lots created through this subdivision may change and are subject to the final approval of the Borough Tax Assessor.

i. All representations made under oath by the Applicant or his agents shall be deemed conditions of this approval, and any misrepresentations or actions by the Applicant contrary to the representations made before the Board shall be deemed a violation of this approval.

A motion to approve the above Resolution was made by Mr. Langenberger seconded by Mr. Maclearie and then by the following roll call vote:

Ayes: Mayor Nicol, Thomas Condon, James Langenberger, Eric Lapham, James Maclearie, Glenn Miller, Francis Pierciey

Noes: None

Not Eligible to Vote: Councilman Frank Garruzzo, Corinne Trainor

NEW BUSINESS:

Mr. Condon announced that the agenda was being moved around and now the first item to be heard was an Application for variance relief for Block 7.01, Lot 21, 108 Lenape Trail, owned by Andrew & Kelly Baldino, to allow construction of a second story addition & covered front porch. Minimum Lot Area — 11,250 square feet required; 6,190 square feet existing. Minimum Lot Width — 75 feet required; 55 feet existing. Minimum Lot Depth — 125 feet required; 114.9 feet existing. Minimum Front Yard Setback — 30 feet required; 24.5 feet existing & 24.16 feet proposed. Minimum Side Yard Setback — 10 feet required; 7.10 feet & 8.73 feet existing & proposed. Minimum Side Yard Setback for Accessory Structure — 5 feet required; .2 feet existing. Maximum Lot Coverage — 20% allowed, 22.16% existing & 23.75% proposed.

The correct fees were paid, taxes are paid to date and the property owners within 200 feet as well as the newspaper were properly notified. Mr. Bret Kaplan, attorney for the Baldinos came forward and was sworn in. Mr. Kaplan explained his clients were seeking several bulk variances for a second-floor addition and new front porch due to their family growing. He continued with the minor bulk variances can be supported by c-1 & c-2 criteria of the Municipal Land Use law. Mr. Kaplan asked to introduce Mr. Marc Nemergut, architect for the applicants. Mr. Marc Nemergut, R.A. from N2 architecture came forward gave his credentials, the Board accepted him, and he was sworn in. Mr. Nemergut testified he had prepared exhibits A-1.0 proposed site plan, A-2.0 exterior elevations and A-3 (4) photos. Mr. Kaplan explained these plans are slightly revised from the originals. Mr. Nemergut told the Board that the main change was an updated survey.

Mr. Nemergut explained the lot is undersized 6190 feet, 11, 250 is required, slightly irregular shape approximately 50 feet wide, 75 is required and depth is 115 feet and 125 required. The location of the building was updated. Mr. Nemergut stated he had based it on the survey from several years ago. The new survey was done in cad.

He continued with the history of the house. Built in 1955, a one story, three-bedroom, one and half bath home, approximately 1300 square feet. The height 22 ft. it is a modest structure. Second floor addition with no expansion to the existing footprint. Proposed Four bedroom and two baths. In addition to that, they are adding a front porch to square off the front of the home. Currently, the porch is a 2-foot covered area.

Mr. Nemergut explained they would remove one bedroom on the first floor due to the access stairs, leaving them with a master bedroom, three other bedrooms, a hall bath and a laundry room.

Mr. Kaplan asked Mr. Nemergut to describe exhibit A-2 elevation. He explained the structure would become two storied except where the porch and an addition from years before are located. Mr. Kaplan asked Mr. Nemergut to speak about A-3 Photos and how the improvements would fit with the neighborhood. Mr. Nemergut pointed out the residential structures surrounding the home are two-story homes. Leading him to feel it would fit in with the character of the neighborhood. He continued with the hardship is because of the lot size.

Mr. Kaplan asked Mr. Nemergut to identify issues referenced in the letter from Mr. Hilla on June 19th. In response to comment #1, Mr. Nemergut reminded the Board that the new survey was used to render exhibit A-1.0 which the structure did not change, the lot size did which effected the impervious surface, comment #2

he explained after the new survey was done, his calculations were proven to be off slightly and the new calculation is around 33, comment #3 they are under contract to have the trees removed just waiting for the company to come remove them. In reference to comment #4 Mr. Nemergut replied there are no issues currently, main structure roof area is staying the same, the porch roof would be added and will be diverting rainwater to the driveway down towards the road. Mr. Clark asked to clarify whether any variances being sought have changed. Mr. Nemergut confirmed the minimum lot area, width and depth did not change, the setbacks changed slightly, and the maximum lot coverage had changed to 24.62%. He finished with the benchmark of the existing structure changed with the new survey.

Mr. Condon asked Mr. Hilla if he had any questions, he asked about the encroachment and Mr. Kaplan responded it was a planter box or raised garden bed and they would move it to the client's property. Mr. Hilla asked about the drainage. Mr. Nemergut explained the rainwater would be diverted with a gutter; they are not currently experiencing any drainage issues. Mr. Condon asked Mr. Hilla if he had any further issues, he added he would like them to address the drainage more than down the driveway to the street. Mr. Hilla feels this is not preferable. He continued there have problems with other properties in that area and he would like them to address it better. Mr. Nemergut suggested they could address the additional 108 square feet with a drywell system. Ms. Trainor asked Mr. Hilla if he was satisfied with the solution proposed. Mr. Hilla responded he would like them to address a little more than the additional porch roof but not the entire house roof.

Mr. Condon opened to Board questions; Mr. Lapham questioned the location of the accessory structure. Mr. Nemergut answered the shed is not being moved as a part of this application. Mr. Hilla interjected that the shed should have received a zoning permit and it was not a conforming location. He pointed out between the two surveys the shed had changed locations and the shed is being passed off as a historic condition. Mr. Kaplan added that the shed is on a concrete slab, they don't believe it is a detriment, a relatively small shed and it has trees behind it to block the adjacent property. Mr. Clark asked Mr. Kaplan to clarify that they do not want to move the shed and he responded correct.

Mr. Maclearie asked about the pitch to the house and direction it runs. Mr. Nemergut replied the direction would be the same just higher. With no further questions of the Board, Mr. Condon opened to the public. Hearing no questions, Mr. Condon closed that portion and opened to comments of the Board. Ms. Trainor stated her understanding of the undersized lot and the need for variances. Mr. Miller, Mr. Pierciey, Councilman Garruzzo and Mayor Nicol had no problems with application. Mr. Condon stated concerns with the coverage but understanding of the lot size. Mr. Hilla and Mr. Condon agreed there should be more mitigation for the runoff on the north side.

Mr. Clark clarified the applicant would address the northside corner runoff and the removal of the trees as a condition to the motion.

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

Ayes: Mayor Thomas Nicol, Frank Garruzzo, Thomas Condon, Eric Lapham, James Langenberger, James Maclearie, Glenn Miller, Corinne Trainor, Francis Pierciey

Noes: None

The last item for the evening was an application for variance relief for Block 69.01, Lot 10, 605 Locust Road, owned by Joseph Jasaitis & Stephanie Totton, to allow construction of a screened porch addition, attached deck & patio expansion. Minimum Lot Depth — 125 feet required; 92.63 feet existing. Front Yard Setback - 40 feet required; 20.8 feet existing. Rear yard Setback — 40 feet required; 30 feet provided to dwelling & 8.3 feet proposed to the attached deck. Accessory Rear Yard Setback — 5 feet required; 1.78 feet proposed to patio expansion (existing patio encroaches onto adjacent Lot 2); 2.2 feet existing to detached garage.

Before this started, Councilman Garruzzo had to recuse himself from this hearing and left the dais.

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. Applicants Joseph Jasaitis & Stephanie Totton came forward and were sworn in. Mr. Jasaitis explained the home was old and they were hoping to replace existing deck and change position slightly and add screened in porch. They hope to let more light in their living space and add useful outdoor space. Mr. Brendan McHugh, Architect for the applicant came forward was sworn in and gave his credentials.

Mr. McHugh stated the applicants need to replace the deck and add more natural light by means of screened-in porch. Exhibits were marked A-1 Floor Plan, A-2 Elevations and A-3 & 4 & 5 Photos. They created the plans with the hope of minimizing the setback variance needed and matching the slopes of the existing house. Mr.

McHugh hoped to help the homeowners be able to use the space more often and have more outdoor living space.

Mr. Langenberger asked about the second floor above the garage. Mr. Jasaitis stated while they have owned the property it has not been used as an apartment. Mr. Lapham asked if they planned to enclose and use it as a 3/4 of the year porch. Mr. McHugh responded it is not a part of the current plan. The Board had no other questions. Mr. Condon asked the public if they had questions, hearing no he closed that portion.

Mr. Ray Carpenter, RC Associates, Planner Architect, came forward gave his credentials and was sworn in. He stated he was hired to do a plot plan by the applicants. This exhibit was marked A-6. Mr. Carpenter explained the depth of the lot was the reason for the variance. The proposed plan would replace the old deck with a new deck which would be expanded to make more useable space around the pool for lounge chairs.

Mr. Carpenter addressed the concerns in Ms. Commin's letter which reference the proposed setback of 8.5 feet to the existing deck would be scaled back slightly to 8.3 feet. Mr. Carpenter pointed out there is a fence along the entire rear of property, so they feel it is a hardship and no detriment to the neighbors.

Mr. Condon asked for questions of the Board. Ms. Trainor asked for Mr. Carpenter to address the existing patio encroaching on the adjacent lot 2. Mr. Carpenter responded they would conform and scale back the deck. Ms. Trainor also asked Mr. Carpenter to clarify the setback change from 8.3 to 8.5, he responded it was for aesthetics. The Board had no more questions. Ms. Commings asked the Board to clarify the living space above the garage. Mayor Nicol responded no living space primary or secondary.

The hearing was opened to the public for questions, hearing none, Mr. Condon closed that portion.

As there were no further comments from the Board, the hearing was opened to the public for comments, hearing no Mr. Condon closed that portion.

Mr. Clark clarified the conditions one, being no living space primary or secondary above the garage and two, the existing patio needs to be trimmed to not encroach on Lot 2.

At this time Ms. Trainor made a motion with the conditions for approval seconded by Mr. Lapham and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Thomas Condon, Eric Lapham, James Langenberger, James Maclearie, Glenn Miller, Corinne Trainor, Francis Pierciey

Noes: None

As there was no other business to come before the Board a motion was made by Mr. Maclearie to adjourn, this seconded by Mr. Lapham and unanimously approved, all aye. The meeting was adjourned at 8:31 p.m.

Carol Baran, Recording Secretary

Approved: August 13th, 2019