

BOARD OF ADJUSTMENT MINUTES

April 3, 2006

A complete record of this meeting is contained on the audio tape of the meeting which may be listened to at the Bernardsville Municipal Building. Information on how to obtain a transcript can be had by contacting the Administrative Officer of the Zoning Board of Adjustment.

1. Call to Order
2. Statement by Presiding Officer: Adequate Notice
3. Roll Call

Present were Mr. Biba, Ms Buchanan, Mrs. Dee, Mr. Foster, Mr. Greenebaum, Mr. Hagen, Mr. Negri, Mr. Salisbury and Mrs. Shea. Mr. Fell arrived at 8:35 p.m. Mr. Berman was absent.

Also present were John T. Lynch, Esq., Board attorney and Robert Brightly, P.E., Ferriero Engineering, engineering consultant.

4. Communications - None
 5. Minutes - None
 6. Vouchers
 - A. Oracle Engineering
 1. Weichert, Appl. #04-20 (escrow) \$ 160.00
 - B. John T. Lynch, Esq.
 1. Arendas, Appl. #05-18 (escrow) 525.00
- Total \$ 685.00

Mr. Greenebaum moved the vouchers be sent to the Council for payment from the escrow accounts and Ms Buchanan seconded. The roll call vote was:

Mr. Biba yes Mr. Hagen yes Ms Buchanan yes Mr. Negri yes Mrs. Dee yes Mr. Salisbury yes Mr. Foster yes Mrs. Shea yes Mr. Greenebaum yes

7. Resolutions

#05-20 C. Saliou & C. Beeton, 8 Highview Avenue; Block 52, lot 16,

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R-4 Zone - Memorializing Resolution of Approval

Mr. Lynch read a draft resolution. Mr. Negri moved approval of the draft resolution with corrections and Ms Buchanan seconded. The roll call vote was:

Mr. Biba yes Mr. Negri yes Ms Buchanan yes Mr. Salisbury yes Mr. Foster yes

B. #05-23 Miana Properties, 13 Center Street; Block 109, lot 2, R-5 Zone - two-family house - Memorializing Resolution of Approval

Mr. Lynch read a draft resolution. Mr. Biba moved approval of the draft resolution and Mr. Negri seconded. The roll call vote was:

Mr. Biba yes Mr. Hagen yes Ms Buchanan yes Mr. Negri yes Mr. Foster yes Mr. Salisbury yes Mr. Greenebaum yes

8. Pending Applications

A. #05-03 PCJ Associates, LLC, 79 Bernards Avenue; Block 100, lot 2.01, I-2 Zone - allow continued use as storage facility. Carried from Feb. 14, 2006

Held to May 15, 2006 at applicant's request.

B. #05-26 Schlott, 211 Douglass Avenue; Block 28, lot 60, R-1 Zone - subdivision - 3 lots

Vincent T. Bisogno, Esq.

Richard Schlott, owner

Kim Schlott, owner

Ronald Kennedy, P.E., P.P.

Exhibits: A-1 - colored subdivision map; A-2 - slopes map

Mr. Bisogno outlined the application for a three lot subdivision (29 acres in

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R-1 Zone) - lot 60 with 14+ acres, lot 60.04 with 6+ acres and lot 60.05 with 8+ acres, indicating them on A-1. Lot 60 will continue to contain the main house, a carriage house and a cottage. The two accessory buildings are usually used by employees on the site. In 1999, this property was 54+ acres (a large portion of the Green Gables Estate). The applicants had the site subdivided at that time into 4 lots (lot 60, lot 60.01, lot 60.02 and lot 60.03). Lot 60 again contained the home and the accessory buildings while the three new lots were developed.

Mr. Bisogno noted the Schlotts intend to retain lot 60 and sell off new lots 60.04 (Charles Road) and lot 60.05 (Douglass Avenue). There will be a new driveway to the main house from Charles Road. That driveway will be shared for a distance by lot 60 and lot 60.04. One of the variances will be to allow lot 60 to not have frontage on a road (Charles Road). The present driveway from Douglass Avenue (to the extent it goes to the main house) will be removed.

Mr. Bisogno said when the Board granted the original subdivision in 1999, the three dwellings were on a 29-acre lot. Now the lot will be only 14 acres but there will still be three dwellings on it. This creates an intensification of a non-conforming use. He reviewed the variances granted in 1999. They are seeking the subdivision plus any variances caused by it.

Mr. Schlott said they have lived on this site since 1998. He outlined the history of the property since the Hummels built the original home in the early 1900s. After Mr. Hummel's death, Mrs. Hummel subdivided the property and built a ranch house on the 54+ acres Mr. Schlott bought, maintaining the carriage house and the cottage. The Schlotts enlarged the home and renovated the two accessory buildings which he described. They then subdivided the property as outlined by Mr. Bisogno.

Mr. Schlott said the property is heavily wooded. About 4 acres have been fenced to discourage the deer. They added a driveway from the cottage to Charles Road. They also added a swimming pool. The surrounding lots contain homes of either the same size or larger than theirs.

Mr. Schlott pointed out that when they did the 1999 subdivision, the new lots were about 8 acres in size to be consistent with the area. They are continuing this idea with the new lots proposed here. Lot 60 will have 14 acres which they feel will be a protection for the main house. They do not have any plans for building on the

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two new lots, but rather sell them.

Mr. Schlott said the reason for putting a driveway from Charles Road is (according to the engineer) this is the best way to handle the slopes for emergency vehicles. They put this in before they decided to subdivide and it will now be a (partially) shared driveway with lot 60.04. Large vehicles, including delivery trucks, fuel oil trucks, etc. use it. It is a hill but they get through.

Mr. Negri asked about the fire cistern originally planned to be placed on lot 60.03. Mr. Schlott said he did not know too much about it. There was a discussion about how the Borough handles the placement of a cistern and who pays for it. Mr. Bisogno noted Mr. Schlott paid 3/6th toward the cost of cistern. The Schlotts' pool is also considered by the Fire Department for use.

Mr. Kennedy said his company did the plans for both subdivisions (1999/ 2006). He described the subdivision, noting this is an irregularly shaped lot. The point was to preserve the area around the main house (built in the 1960s) and also preserving the two accessory buildings (probably built in the early 1900s). There is a driveway from Douglass Avenue to the main house which will be used for a new house on lot 60.05. The section from the proposed new house to the main house will be removed so there will not be any common drive in that section.

Mr. Kennedy said in 1999 the Schlotts had the option of extending the interior driveway to the Charles Road extension. There is another driveway on lot

59.01 (64 Charles Road) which is parallel to lot 60 but since it is a private drive for the use of one family (who own lots 59.01, 59.02 and 59.05), it probably could not be used by the Schlotts. The new driveway off Charles Road is paved and has been used by heavy equipment, including fire equipment. It has a similar slope to the driveway from Douglass Avenue and has better turning radii. Mr. Kennedy said other than the driveway easement, no other changes are proposed for lot 60.

The third lot, lot 60.04, was created downslope off Charles Road and will be 6+ acres and have a 50 ft. frontage to Charles Road cul-de-sac. About 300 ft. of the driveway would be the common driveway with lot 60 and then a new driveway would be extended to the new house. The driveway is paved, about 12 ft. wide, the radius conforms to the Borough's requirement for fire equipment and the angle off Charles Road will accommodate a fire truck (based on Mr. Kennedy's experience as

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a fireman). The driveway next to it (lot 59.01) is steeper and harder to enter. There was a discussion about improving the old driveway - it will be discussed with the Fire Prevention Bureau.

There was a discussion about the proposed cistern at the end of Charles Road. It was noted that Mr. Schlott submitted \$20,000.00 (June, 1999) when he did the earlier subdivision as his portion of the cistern cost. Mr. Schlott said this did not include lot 60 because he put in a drive to his pool at the suggestion of the Fire Department and so would not be served by the cistern. Mr. Kennedy explained the idea of shares being contributed toward a cistern which he believes was adopted as an ordinance at the suggestion of the Fire Prevention Bureau.

Mr. Kennedy said new lot 60 has access to Charles Road, 132 ft. of frontage. This is a present driveway, so there is less impervious coverage, less disturbance of slopes, etc. and emergency vehicles do not have any problems.

Asked about any zoning impact from the 29-acre site being reduced to 14 acres, Mr. Kennedy said he feels it is similar to the earlier 1999 subdivision when lot 60 was reduced to 29 acres with the two accessory buildings remaining with variances. He feels the two accessory buildings can continue to

exist on the 14-acre lot without impairing the zone plan. No physical changes will occur by allowing the small buildings to remain. While they are not “historic”, they do date to the last century and were part of the original Hummel estate. Any future change to the 14- acre lot would have to come back before the Zoning Board. There was a discussion about the possibility of further subdivision of lot 60 and why and how that might be prevented. Both deed restrictions or restricting the removal of the accessory buildings were discussed.

Asked if the carriage house could be screened from the proposed new lot, Mr. Schlott said other than the driveway the area is heavily wooded and so trees could be put in when the section of the driveway is removed. The trees are a mix of deciduous and evergreen and they would want to continue that. Asked about screening along the proposed driveway on lot 60, Mr. Schlott said it is already totally wooded.

Mrs. Schlott said the Charles Road driveway has been used by their

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housekeeper since it is more convenient. Also delivery trucks have found that driveway is easy to use than the one from Douglass Road. Any traffic from the new lot 60.04 would not come onto lot 60 and thus would not even be seen. There was some discussion as to whether screening might be necessary between the accessory dwellings and the neighbors. Mr. Negri said putting a cistern in is more important than screening.

Mr. Kennedy reviewed the Shade Tree Commission’s report. The report gave two options and Mr. Kennedy said the applicants would agree to the second one where trees would be replaced only when new houses on the two new lots are actually being built. Compliance with the stormwater regulations would follow the same pattern.

Mr. Kennedy addressed the Environmental Commission report. No LOI is needed. On the question of affecting local wells, no draw-down tests have been done yet. Before any certificate of occupancy is issued, new wells will have to be dug and approved. There is an old root cellar on lot 60.04 which is deteriorating but is of some interest, giving some character to the lot. It may become a safety issue in time so it should be checked by the Board engineer and/or the zoning officer. The applicant agreed. Mr. Kennedy said they will be able to comply with the Board engineer’s report.

Asked about the proposed locations of the two new houses, Mr. Kennedy said this are what they feel are the best spots. There are other alternatives. The houses have to meet the requirements of the ordinances - not just setbacks, but steep slopes, etc. The point is to show that a house can be built on the site. Mr. Kennedy explained how they fit a house, septic system and K-turn into each lot taking the slopes into consideration. He noted that the slopes are similar to the three earlier lots and they each has a house on it now.

Mr. Bisogno described the easement agreement for the common portion of the driveway for lots 60 and 60.04. The easement will be placed in the deeds.

Mr. Bisogno had no further witnesses.

Mr. Lynch said there are number of items which have been discussed and which should be looked into. There was a discussion between Board members and

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Mr. Lynch, particularly about the cistern. Mr. Lynch recommended that the matter

be held. Mr. Bisogno agreed to a meeting on June 5, 2006. (This was later changed to May 30, 2006 - a special meeting.) The Administrative Officer will provide copies of the cistern ordinance and the Duncan resolution for the next meeting. The Fire Prevention Bureau will be asked for the current cost of a cistern.

Board members listed the problems each is having with the application: screening, further subdividing of the site, the cistern, destroying the accessory buildings, correcting square footage of the accessory dwellings, etc. Mr. Bisogno reviewed what information the Board would be seeking.

Old Business - None

New Business

There was a discussion about e-mail use by Board members on subjects before the Board.

11. Comments from Members - None

Comments from Staff - None

Adjournment

Mr. Hagen moved the meeting be adjourned and Mr. Negri seconded.

Respectfully submitted,

Joy W. Vavrek

Administrative Officer

keywords - saliou-beeton-miana-PCJ-schlott

4-3mins