

# BOARD OF ADJUSTMENT MINUTES

June 5, 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 may be had by contacting the Administrative Officer of the Zoning Board of Adjustment.

## 1. Call to Order

### 2. Statement by Presiding Officer: Adequate Notice

Roll Call: Members present were Mr. Berman, Mr. Biba, Ms Buchanan, Mrs. Dee, Mr. Fell, Mr. Foster, Mr. Negri, Mr. Salisbury and Mrs. Shea. Mr. Greenebaum and Mr. Hagen were absent.

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

Communications - None

5. Minutes - None

Vouchers - None

7. Resolutions - None

Pending Applications

#06-02 Isabella Jazz, LLC, 450 Claremont Road; Block 4, lot 4, R-1-10 Zone - addition in front - Stronghold

Vincent T. Bisogno, Esq.

Marc Ecko, owner

Alan Wanzenberg, AIA

Craig Villa, P.E.

Brien Bozenberg, L.E.

George Petersen, 301 Claremont Road

Robert Elkins, 40 Turnbull Lane

Bennett Stein, 411 Claremont Road

Exhibits: A-1 - colored version of S-1 of Site Plan; A-2 - A-1 of Existing Plan & Elevations; A-3 - A-2 of Existing Plan & Elevations; A-4 - A-4 of Existing Plan &

Elevations; A-5 - partially colored A-3 of Existing Plan & Elevations; A-6 - 17 pictures

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of the building.

Mr. Bisogno outlined the application, noting that the owners wish to restore the building, a stone structure, over 100 years old and part of the Borough's history. The applicants intend to live on the site with their family. There are three entrances from Claremont Road. The most northerly one will be eliminated. The southerly one will be retained and the middle one realigned.

Mr. Bisogno said the parcel was originally 30+ acres. Lot 4.01 which contained the headmaster's house (when this was Gill-St. Bernards School) had been subdivided off earlier. Later lot 4.02 (10 acres) was subdivided off but has been retained under the same ownership. A third variance concerned an accessory dwelling (the "ice house") was granted but the renovation never occurred and the variance expired. It meets all of the criteria of the ordinance, but must be re-established. An additional granted variance was for increasing the height of the tower which was done.

The variances being requested are: impervious lot coverage (the present coverage is being reduced but not enough); a conditional use for the detached accessory dwelling; a new 3-car garage is proposed in front connected to the building by a *porte cochere* (the 4-car garage in the rear will be reduced to 2 cars); and the enhanced frontyard setback. The building is about 300 ft. wide but somewhat "broken" to one side so the front might be considered to be 245 ft. wide. The applicants want to put the addition at the "broken" spot. The building is set back 197 ft. from Claremont Road but the ordinance requires it to be 245 ft. from Claremont Road.

Mr. Ecko explained that he had purchased lot 4 as a home for his family. At the same time he purchased lot 4.02 and his sister-in-law and her family live there now. As to the house itself, it needs a lot of work - a stone ice box. The site is basically rolling, almost flat. There are three entrances, one of which will be removed. The building itself is about 15,000 S.F. (if the stone walls are counted). There is a service shed to the rear of the lot and a gymnasium on the northern side (left from the school use).

The prior owner had built a large structure (terrace with garages underneath it) on the back of the building. They had planned to have this as the main entrance. The Eckos do not wish this use so will be removing the structure, leaving only 2 car bays and make this a service entrance. They prefer using the front entrance and by adding the garage and *porte cochere*, they will have a sheltered entrance by the kitchen. They had looked at the "ice house" as a garage but it is too distant.

Mr. Ecko said he understands that if the "ice house" is converted into a detached

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accessory dwelling, there are restrictions. They discussed the restrictions and Mr. Ecko said he agreed with them all including that the dwelling cannot be rented. It can only be used by family members, caretakers or guests. He will file annually with the borough.

Mr. Ecko said they have no intention of using the building as anything other than a residence. There was a discussion about the "ice house" and the walled garden between it and the main residence. Mr. Bisogno reviewed the locations of the three driveways from Claremont Road, noting that the entrance to the most northerly one will be removed. The middle entrance/driveway will be reconfigured to go under the new *porte cochere*. The sections of the driveway which go to lot 4.02 will remain as long as the two lots are in common ownership.

The pool on lot 4.02 will continue to be available to the Fire Department as a source of water. A new pool will be built behind the subject house which will also be available as a water source. The gates will be electronically opened by the fire siren.

Mr. Petersen asked about there being a helicopter pad or other air transportation landing area on site. Mr. Bisogno said nothing like that is applied for or planned.

Mr. Elkins asked about a second kitchen. Mr. Ecko said there will be a second kitchen placed in the lower level to basically service the pool area. He said it would be used only for family gatherings as he

has a rather large extended family. Mr. Elkins said there is some concern among the neighbors about this property being used for business functions or for particularly loud outdoor parties. Mr. Ecko said he likes to cook and he likes to entertain his family. That is all they intend to do. If someone in his family, a niece perhaps, wants to get married on this site, he would certainly wish to do so. He has hopes to have many fun parties for the children in the family. He has no intention to rent out his home, to turn it into a catering hall, etc. Asked about the use of the words, "catering kitchen", Mr. Ecko said they refer to the type of appliances to be put in.

Mr. Lynch said what the neighbors and the Board are concerned about is whether there will be a hobby or a business of undue proportions. Mr. Ecko said in a home of this size it is not uncommon to see a second kitchen. Board members noted there are homes of ethnic origin with two kitchens in Bernardsville. Mr. Lynch said two kitchens are not a problem. The idea is not to have large numbers of people on a regular basis. Family functions are not a problem but business ones might be.

Mr. Ecko said he does not know what he can do to assure the Board that this is to be his home and he will not be conducting business from it. They do not intend to over-utilize or mis-utilize the property or to be disruptive.

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Mr. Elkins suggested that any approving resolution include some restrictive language or conditions. He doubts the applicant would abuse such conditions, but the neighbors would feel better if they were there. Mr. Lynch said if the Board approves the application, he would recommend the Board discuss exactly what language is used and not leave any subject open. Mr. Berman noted that a lot of people, including himself, entertain for business and he would not want a tight restriction on the applicants. The applicant has said over and over again this will not have a commercial use.

Mr. Wanzenberg outlined his education and qualifications as an architect and was accepted by the Board. He specializes in private homes and apartments; some of the work is restoration. Restoring Congers Farm, North Street, Greenwich, Connecticut was one of his projects. That building is about the same age as this building - 1890s - and was on the largest undeveloped tract in the city.

Mr. Wanzenberg said he now specializes in bringing older homes and buildings into liveable, modern condition while maintaining the historic nature. On average he and his firm do 10 such projects a year. Each is as unique as this one is.

Mr. Wanzenberg noted they met with the local Historic Preservation Advisory Committee and a letter of support was sent to the Board. Given the position of the house and its history and what is proposed, there will be a visiblenss to the *porte cochere* and garage; they felt it was important to discuss the proposal with the Historic Committee. They discussed it from a historical perspective, appropriateness, aesthetics and function.

Mr. Wanzenberg used Exhibit A-1 to point out the location of the buildings on the site as well as the reworked driveways. Exhibit A-6 consists of 17 pictures of the house: one historic, 16 showing existing conditions (taken within the last year). Copies were distributed to the Board. Mr. Wanzenberg pointed out several items, noting that a red line marks the area where the *porte cochere* and garage would be placed. He said all of the rooms on the first floor are presently being restored. The only change is a staircase is being moved to the tower area. At the present time all of the staircases above the first floor have been removed while work continues.

The interior of the house on the ground floor has deteriorated - the basic rooms remain: the living

room, the gallery, etc. The ceiling was removed from the library and is being restored. The portico in front and the porch in the rear are being restored. The

existing *porte cochere* is opposite the fountain (being restored). The new *porte cochere* is proposed to be part of the new garage. He used "front facade photo 3" to point out a square facade section of the building - the *porte cochere*/garage will be located in front of that. The present gymnasium will not be touched. Neither will the maintenance building

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on the western side of the site which is somewhat buried in the ground.

As to the exterior of the main building, they will be restoring it. The former owners had done a lot to the building, including adding a terrace with additional garages under it. They put on a new roof, put in new windows and began securing the masonry work. That work will be finished. As to the first floor, there has not been any water damage so most of the work will be restoration. It is different on the second floor - there is a master bedroom and four children's bedrooms between the tower and the portico. No portion of the main house is liveable now.

The "ice house" will be 1500 S.F. It will be one-bedroom and will take up the space of the present structure. It will meet all of the requirements of the ordinance for a detached accessory dwelling. It will be used only for family members, guests or employees of the estate.

The *porte cochere* and garage are in the front of the building, causing the special frontyard setback variance. Mr. Wanzenberg said when they discussed the needs of the Ecko family, they realized that the large terrace/garage area added by the Careys would not do. One must drive to back of the house and under it to enter. It is more appropriate for this type of home to have an entrance/garage in the front, near the kitchen/family room area. The addition will match the present architecture.

The location was discussed with the Historic Preservation Committee. This square portion had been the servants quarters, near the kitchen, the garden and the ice house. Since this portion would now become family room, laundry room, staff room, etc., it became the logical place to enter the house.

In the rear of the house, the second kitchen was going under the tower. Thus the terrace and several of the garages will be removed and the entrance for that kitchen will be there. It will allow people to watch children at the proposed pool. A two-car garage will remain on grade with an entrance to the spa/sauna and kitchen area.

Mr. Wanzenberg said their intention is to mimic the existing *porte cochere* and put the garage off that. They attempted to create a detached structure connected through the *porte cochere*. This will allow the family to park and have a direct entrance into the kitchen. Delivery people and service people will use that entrance.

It is important to have the garage in this location because it helps to "enclose" the area rather than pulling the eyes across the building and away from the front as it turns. The Historic Committee agreed this would be proper. The garage will match the house in

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stonework and its roof will match the ice house. It will be low into the ground. This will reduce visibility into the parking area and give architectural interest into this part of the property - rather than what looks like a two-story stone wall.

He feels the benefits outweigh the detriment of encroaching into the frontyard. The Historic Preservation Advisory Committee were very supportive of the design. They recommended that the height of the *porte cochere* be increased to make it match the existing *porte cochere* and that the stone on the garage match the main facade. He had no problem with the height. However, he was not sure about the stone because the landscaping will hide most of the walls and the garage will be low into the ground. So the only thing which will be seen is the roof. The ice house is constructed of a different type of stone which might “allow” a difference here.

Using Exhibit A-4, Mr. Wanzenberg pointed out how the parts of the proposal will work together, i.e.: the *porte cochere*/garage, the main house facade behind it and the “ice house”. The garage doors are on the northwest side of the garage and might be seen as one drives south on Claremont Road. That is also the area for guest parking. There is a lot of landscaping either there already or planned which will screen the parking area and the doors. The garage will be slightly higher than the garden wall, 13 ft. vs 10 ft. The *porte cochere* will be higher than the garage and will relate to the portico on the front of the building as well as the existing *porte cochere*.

Mr. Stein asked about the windows on the top of the section behind the garage. Mr. Wanzenberg said those had been added by the former owners. They will be cut back and made to match the building. There were some in the rear and they will be matched. Mr. Stein asked about the glass cupola on the top of the tower. Mr. Wanzenberg said that is the outlet for the stairs in the tower and will be moved to the rear of the tower roof so it will not be so prominent. It will also be reconfigured so it matches the tower. His firm is known for restoring homes of this type. They will give it some modernizing as to use but not in looks.

As to the variance for 5 garages, Mr. Wanzenberg said there would be three garages in the new garage and two garages under the house in the rear near where the house’s mechanicals will be. That space already exists.

Mr. Villa said he prepared the site plans for this application. The allowed impervious coverage is 54,580 S.F. The existing coverage is 95,385 S.F. They are reducing the coverage by 5,830 S.F. so it will be 89,555 S.F. (still being 34,975

S.F. over). Thus a new variance is requested.

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Mr. Villa said, although they are reducing the coverage, they are proposing some limited drainage facilities to handle the runoff from the area of disturbance - a new drywell for the roof runoff from the new *porte cochere* and the garage to recharge the ground water and some leader lines to take the water away from the house. The tree removal plan shows 9 trees to be removed, 4 of which are dead or dying. One tree is less than 10 in. and does not need to be replaced. The remaining trees require a replacement by 17 trees. Four white cedars presently in the front of the site will be relocated.

Mr. Villa reviewed the history of the septic system, noting that when the headmaster’s house was subdivided off, the septic system was abandoned and new systems were built for the two separate lots. The carriage house (now lot 4.02) has its own system. Because bedrooms will be added to the house, a new septic system will be built to serve the gym and the maintenance building.

Mr. Villa pointed to the three driveways. The northernmost one will be removed (thus removing a non-conformity - within 10 ft. of the property line). The middle entrance will be somewhat reconfigured so it will go to the gym and beyond and also into the new *porte cochere* and garage area.

One arm of this drive will also go around the building to the rear garages. There is an area of gravel and a concrete pad near the gym area which will be eliminated and seeded - the area was used as a play area when this was the school. The southeast entrance will remain as is.

Mr. Villa said the new equipment pad is shown on the plans as 30 ft. from the northern property line. The zoning report defines this as an accessory structure and says it should be 40 ft. off the property line. The pad will contain an air conditioning tower, a JCP&L electrical transformer, gas meter facilities, an enclosed residential generator and a transfer switch. The generator will be tested as required (once a month). The structure itself will be "tucked into" the slope with a small retaining wall on three sides. If it is moved to a flatter area, the walls would not be needed and landscaping or fencing would be utilized. The pad itself will be 40 ft. x 16 ft. and flush to the ground. The largest piece of equipment will be the air conditioning tower which will be 19 ft. long, 6 ft. wide and 12 ft. high. There are both federal and state guidelines on noise which will be followed.

Mr. Villa said they are reducing the impervious surface by removing a portion of the northern driveway and by removing the large terrace area on the rear. The site is serviced by a well which will be kept (400 ft. deep). The well is north of the circular drive and off the corner of the proposed garage. There is a submersible pump for the well. Mr. Villa noted that there had been a water tower in the northeast corner. The concrete pad and the old valve pits still exist. Those will be properly sealed.

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In a further discussion about noise suppression, Mr. Villa said the engineer in charge of the mechanicals for the applicant said he has used board-on-board fencing with sound panels on the inside to cut the noise even further. This is in addition to already meeting the federal and state standards.

Mr. Brightly asked for a further breakdown of the impervious coverage. Mr. Villa said there is a breakdown on Sheet 2 of 4 in the submitted variance plan. They have calculated the amount of the drywells and feel the number is correct since they are reducing the impervious surface. Mr. Brightly expressed concern about the runoff from slopes as well as from roofs. He asked for some further calculations. Mr. Villa said they will be glad to meet with Mr. Brightly to review the plans. They are not changing the grading pattern and proposing a scour hole at the end. The calculations must also be submitted to the Soil Conservation people.

Mr. Bisogno said with regard to noise from the equipment pad, the applicant has no objection to placing dampening material on the inside of any fencing. There was a question about noise from the 12 ft. tower. Mr. Villa said he would presume that the tower would be lowered if service is needed.

Mr. Bozenberg said he is a landscape architect and has testified before the Board previously. He said they coordinated with the architect's office in deciding what is on the site and where the applicants want to go in landscaping. They considered views from Claremont Road, going up or down. Evergreens and large shrubs will be put on the edges to soften the building and then filled in with climbing vines. The new garage will also be screened. He referred to Sheet A-5. As to the 17 replacement trees required by the Shade Tree Committee, he pointed out where they would be placed.

Mr. Bozenberg said the applicants have said they want to stabilize and preserve what is on the site. Trees are important to them. A long term plan is being developed so the old trees can be replaced as they die or become unsafe. They also plan to restore trees that are missing due to attrition or changes

on the site. (Old photos are being used to identify the trees.) They feel they can satisfy the requirements of the Shade Tree Committee and work with it on the plans.

Asked about outside lighting, Mr. Wanzenberg said none is planned. There are historic lamps in the existing *porte cochere* but they do not plan on any facade lighting.

Mr. Bozenberg said the idea of the vines is to give a lacy effect. Trees have been lost along the road and they hope to put in shade trees, not evergreens. That would allow the building to be seen - framed, not screened from the road.

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Mr. Bisogno said he has no further witnesses. No members of the public asked to speak.

Mr. Bisogno summarized the application by saying this is one of the unique properties in Bernardsville, very historically significant. Here is someone who wishes to restore it to its former grandeur. The variances being sought are typical for a house of this size. First, for impervious coverage - it is being reduced but a variance is needed. Second, for the conditional use - all requirements are being met. Third, the frontyard setback, the only one being created - the Historic Preservation Advisory Committee supports the application, noting that the addition of the *porte cochere* and garage acts to frame the front courtyard and to screen the bulk of the residence on the northern side which has more mass than interest. Fourth, five garages vs 4 garages allowed. Fifth, the detached accessory dwelling - all conditions are met. He said the benefits outweigh the detriments.

Mr. Lynch reviewed the variances and conditions. No variance is needed for the equipment pad as it will be 40 ft. from the property line vs 30 ft. as originally proposed. The equipment is to be installed to the satisfaction of Mr. Brightly who can require a noise test if he feels it is necessary. Mr. Brightly noted that the attic of the detached dwelling was not to be sheetrocked. The pool is to be fenced per state requirements. The breakdown of impervious surface as requested by the zoning officer will be added to the plans. No internal illumination of the tower. All fire codes and UCC codes will be followed with regard to the detached dwelling. All construction will be in compliance with the plans submitted. There will be no helicopter pad. As to the second kitchen, there was a discussion among Board members. It was decided that "no commercial use" would be mentioned in the recitation rather as a condition.

Mr. Biba moved approval of the application and Mr. Berman seconded. The roll call vote was:

Mr. Berman yes Mr. Foster yes

Mr. Biba yes Mr. Negri yes

Ms Buchanan yes Mr. Salisbury yes

Mrs. Dee yes

#06-05 Silverman, 271 Mt. Harmony Road; Block 14, lot 15, R-1 Zone - swimming pool

Vincent T. Bisogno, Esq.

Constance Silverman, owner

Ronald Kennedy, P.E.

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Mr. Bisogno outlined the application for a pool in the rearyard of the property. The pool will be directly behind the home. The lot does not conform as to lot area (3.75 acres vs 5 acres), lot shape circle (293 ft. diameter vs 350 ft. diameter), front setback 125 ft. vs 14.9 ft.) and accessory building setbacks. All non-conformities are pre-existing. The impervious surface also exceeds that allowed but it is not being increased. The applicant is removing some of the coverage to compensate for what is proposed. There is no increase in any of the pre-existing conditions.

Mrs. Silverman said she was raised in the Borough and has lived in this house for 10 years. The family consists of her husband, herself and two daughters. The planned pool will be 16 ft. x 38 ft. The garage on the lot contains an apartment which was built for the driver when this was part of the Engelhard estate. Their home originally was a 1850s farm house.

Mr. Bisogno explained that the zoning officer feels a variance is needed even though the applicant is not increasing the amount of impervious coverage. There might also be a question with regard to the apartment. He agreed the present impervious coverage is over the maximum but the applicant is not increasing it (by adding the pool) because she is removing some of the coverage. Mr. Lynch said even though there is no increase in coverage, a new item is being added and thus intensifying the pre-existing non-conformity. The question for the Board is whether what is being added has any real effect on the pre-existing violation.

Mrs. Silverman said when they purchased the property there was an in-ground pool on the site. It was in very bad condition so she had it filled in and put a vegetable garden there.

Mr. Kennedy described the lot and the non-conformities that exist. He described the proposed pool including how much it and its coping would cover - 1,096 S.F. Mr. Kennedy pointed out the areas of the existing driveways which would be removed so the amount of coverage remains basically the same (16 S.F. less).

Mr. Bisogno said he contacted the fire chief as recommended by the Fire Prevention Bureau and told him the applicants would provide access to the pool. He then sent a letter but has not yet received an answer. Mr. Kennedy said the removal of portions of the driveways will not limit the K-turning ability of the fire equipment.

Mr. Lynch said the only new variance is the change in the impervious coverage which is being balanced by the removal of coverage. The only condition would be the letter to the fire chief. Mr. Negri moved approval of the application and Ms Buchanan

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seconded. The roll call vote was:

Mr. Biba yes Mr. Negri yes  
Ms Buchanan yes Mr. Salisbury yes  
Mr. Fell yes Mrs. Shea yes

Mr. Foster yes

Old Business

New Business

11. Comments from Members



Comments from Staff

Adjournment

Mr. Negri moved the meeting be adjourned at 10:25 p.m. and Mrs. Shea seconded.

Respectfully submitted,

Joy W. Vavrek

Administrative Officer

6-5mins.06