

BOARD OF ADJUSTMENT MINUTES

November 15, 2005

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. Berman, Mr. Biba, Ms Buchanan, Mrs. Dee, Mr. Foster, Mr. Hagen, Mr. Negri and Mrs. Shea. Mr. Greenebaum, Mr. Palomaki and Mr. Salisbury were absent.

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

- 4. Communications  
Mr. Foster noted the communications were distributed.
- 5. Minutes - None
- 6. Vouchers - None
- 7. Resolutions
  - A. #05-16 Gillis/Keller, 31 Club Lane; Block 23, lot 14, R-2 Zone - Memorializing Resolution of Approval (porch only)

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

Mr. Biba	yes	Mr. Foster	yes
Ms Buchanan	yes	Mr. Negri	yes
Mrs. Dee	yes		

- 8. Applications
  - A. #05-17 Hedden, 82 Rippling Brook Way; Block 30, lot 22.05, R-1A Zone - pool

Paul Williams, Esq., represented the applicants  
Robert Pickell, Bernardsville fire chief, witness  
Thomas Hedden, owner

Steven Tripka, 74 Rippling Brook Way, witness/objector  
John Harrington, 75 Rippling Brook Way, objector  
Janet Harrington, 75 Rippling Brook Way, objector  
Gerald P. Negri, Bernardsville assistant fire chief, witness

The original house on the site had been completely destroyed by fire and has been rebuilt. The Heddnas are now trying to find a water source on the site and that is why Mr. Pickell is present. They are allowed 16,292 S.F. of impervious surface but are proposing 18,537 S.F. The additional space is for the swimming pool for fire

protection.

Mr. Pickell explained that when the house burned down in 2004, the nearest water source was 3,500 ft. away, a problem. A dry hydrant is planned with Mr. Hedden's pool which will afford protection to the Heddens and some neighbors. The hose on the Borough pumper is 3,500 ft. long so they had to call on a mutual aid pumper to reach the Hedden home. They were able to keep a constant flow.

The basic problem for homeowners in these circumstances is the insurance company treat coverage differently when the nearest water source is 1,000+ ft. away. Because the original house was a total loss, Mr. Hedden is having a problem getting new fire insurance. With the dry hydrant, should there be another fire, the fire company will create a draft to get water. The pool water below the frost line does not freeze. In order to get the pressure needed for Mr. Hedden's house, the pool must be the proposed size.

Mr. Pickell said having this water source in an area without hydrants is a plus for the nearby homeowners. He understands there may be more development in this area and having access to a pool will help. Another solution is to put in a cistern paid for by the residents and maintained by the fire company. As fire chief, he has found people assume there is a hydrant and often there is not. The pool capacity is 30,000 gallons, the same as the cisterns in the Borough. Mr. Pickell said the fire company did look for other water sources in the area. There is a neighbor with a pool but it is not accessible.

There was a discussion about the price of fire insurance. Mr. Hedden cannot get regular insurance because there is no water source and he filed a claim. He has tried several companies. Mr. Pickell said if people build a new house or put on an addition, the fire company will walk the property if asked and explain what protection the house has.

The shape of the proposed pool is odd because the engineer is trying to fit it into the slope with the least disturbance and yet keep it close to the house for fire protection. The bottom of the pool must be on the same level as the dry hydrant so they can get a

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gravity feed. The fire engine must be able to access the pool from the driveway since it will be difficult to go to the pool on the slope. Other possible sites for the pool were discussed. Mr. Lynch reviewed the slope variances with the proposed retaining walls and Mr. Pickell explained why the fire company feels this is the best layout for protection. Mr. Hedden agreed that the patio could be moved.

The long driveway requires an impervious surface variance because of the slope. It was there before the disposal fields and the fire. The driveway extends over onto the neighbor's property but the paving was removed and the gravel will be removed and grass put in. Mr. Hedden said he can move the driveway back 10 ft. from the property line to do away with the technical variance. The parking area in front of the garage is large enough for fire equipment to turn around.

Mr. Tripka said he has discussed the driveway and the fence on his property with Mr. Hedden. The fill put in to support the driveway is a problem as a lot of it is over on his property. Mr. Hedden said if the property line is marked he will finish removing the driveway and restore the original slope on Mr. Tripka's property. Walls will have to be put in when the fill is removed. Mr. Tripka said since the driveway was paved (4 or 5 years ago), the runoff onto his property has lessened.

The zoning report recommends drywells since there will be additional runoff. The walls behind the pools will have pipes to catch runoff and take it to the drywells next to the house. This is noted on the plans. It was

suggested that if the Board approves the application, the Board engineer should review the question of additional drywells.

John Harrington said ever since this property was developed they have had significant runoff, particularly after the driveway was paved. The entire front of his property has been washed out even though they have tried to fix it with plants/fill. They have also installed large drains on their lot to handle the runoff. They feel the additional slope disturbance/impervious surface will cause more problems for them. Mr. Pickell said there is a fire hydrant on the curve of Rippling Brook but the fire company has not been able to get a draft for water. However, an insurance company may consider it an active hydrant and issue insurance.

Mr. Brightly said there is not enough information to decide on the question of additional drywells. Existing drywells are shown on the plans.

There was a discussion about the Environmental Commission report. Mr. Hedden agreed to remove or minimize the patio. He explained how they minimized the slope but needed the patio since the pool had to be raised. There will be walls behind the pool - a

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rock outcropping. Mr. Hedden said he wants to be sure that all runoff can be handled. As to putting in a cistern, Mr. Hedden said it would cost as much as the pool but would not give any return when the property is sold. He said they did look at putting sprinklers into the house but felt the pool would be a better investment and would help the neighbors. There was a discussion about the various walls which will be going on the site. More detail was requested. The driveway is flat with a flower bed behind it.

Mrs. Harrington asked why the fire chief allowed the Heddens to build the same size house as they had before. Mr. Pickell said he does not have the power or right to do that. Mrs. Harrington described the problems they have had with runoff.

Mr. Berman asked how is the cost of an insurance premium a hardship for Mr. Hedden. Mr. Lynch said the cost is not the cited hardship, the hardship being advanced is being able to get insurance reasonably. There was a discussion about insurance before and after a fire. It was agreed insurance in itself is not the problem but rather the need for water.

G. P. Negri said the Heddens came to the fire company after they rebuilt the house and found they had a problem with insurance. The fire company often recommends a pool be built to protect the house and neighbors if there is no ready source of water. He noted they do not have anything to do with sprinklers - sprinklers are under the construction official and/or the fire code inspector in the Building Department. Sprinklers have to go in when the house is being built.

Mr. Harrington asked how to get a neighborhood cistern. Mr. Pickell said the neighbors would have to get together, have it built and then turn it over to the fire company. Mr. Tripka said he does not object to the pool - he is only concerned about the runoff from the patio and any other impervious surface.

There was a discussion about what items the Board's engineer needs prior to the next meeting. Held to January 24, 2006 (but due to circumstances, held to March 20, 2006).

B. #05-18      Arendas, 240 Post Kunhardt Road; Block 15, lot 2, R-1 Zone - addition

Mark Arendas, owner

Elizabeth Lange, owner

Exhibits: A-1 - colored elevation

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A-2 - A-12 - pictures

Mr. Arendas outlined the plans for an addition and a porch extension. He referred to the exhibits in his testimony. This is an existing, non-conforming lot by size. They wish to reconfigure their front porch (widening/lengthening) and add an addition to the side rear. They had previously received a variance for a new detached garage which they built. A prior existing shed has been removed. The one-story addition will provide a master bedroom. The architecture of the addition will match the existing house. The present master bedroom is in the converted, attached garage. The second floor rooms are small, only one has a closet and there is a bath. In terms of impervious coverage, the addition and porch will go over what is allowed.

After a discussion, Board members agreed that the addition placement is acceptable, being one-story and having less effect. Two stories would be too much. However, the Board asked that the porch be made smaller as members felt it intruded too much into the front setback and some members were also concerned about the stream in front of the house. Mr. Arendas said there is a culvert in front of the house which protects the house. There are underground springs so they are restricted in where they build.

There was no one from the public present.

Held to December 13, 2005 (meeting canceled), then to January 10, 2006, at which time it was held to February 28, 2006.

C. #05-19 Polsen, 26 Crestview Drive; Block 80, lot 5, R-2 Zone; add 2<sup>nd</sup> floor and porch - new septic

Mr. Biba excused himself as a neighbor.

Robert Polsen, owner

Catherine Polsen, owner

Paul Biba, 23 Crestview Drive, neighbor

Joseph Rossi, 56 Crestview Drive, neighbor

Michael Hartwig, 41 Crestview Drive, neighbor

Mrs. Polsen described the 2<sup>nd</sup> floor and porch they wish to add to their home. Although the new septic was on the application, it has already been installed. The existing house already violates the setback because the lot is deficient in size. The new porch will line up with the bump-out so it will not make the setback worse.

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The three neighbors had no objections.

Mr. Lynch outlined the variances required: (a) 75 ft. setback required vs 73 ft. proposed; (b) the special setback requirement because the house will be 4 ft. wider than the proposed setback; and a side setback is caused by the angle of the house. It was agreed that various trees will be protected during construction. The

Polsens agreed to sign the standard wetlands notice and to put in a drywell if the Board engineer recommends it.

Mr. Negri moved approval of the application and Mr. Hagen seconded. The roll call vote was:

Mr. Berman	yes	Mr. Hagen	yes
Ms Buchanan	yes	Mr. Negri	yes
Mrs. Dee	yes	Mrs. Shea	yes
Mr. Foster	yes		

D. #05-21 Zanardi, 71 Crestview Drive, Block 81, lot 16, R-2 Zone - 2<sup>nd</sup> floor and porch additions

Valerie Zanardi, owner

Paul Zanardi, owner

Joseph Rossi, 56 Crestview Drive, neighbor

Mrs. Zanardi explained the plan to put a second floor and new porch on the house. The lot is over-sized but because of its odd shape, setback variances will be needed for the additions: (a) sideyard setback and (b) the special front setback. The applicants agreed to protect the one holly tree which will be affected. No additional drywell is required.

Mr. Negri moved approval of the application and Ms Buchanan seconded. The roll call vote was:

Mr. Berman	yes	Mr. Foster	yes
Mr. Biba	yes	Mr. Hagen	yes
Ms Buchanan	yes	Mr. Negri	yes
Mrs. Dee	yes		

9. Old Business - None

10. New Business - None

11. Comments from Members - None

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12. Comments from Staff - None

13. Adjournment

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

Respectfully submitted,

Joy W. Vavrek  
Administrative Officer