

**MONTGOMERY TOWNSHIP ZONING BOARD
MONTGOMERY TOWNSHIP, SOMERSET COUNTY, NEW JERSEY
REGULAR MEETING
JUNE 18, 2013**

MINUTES

Chairman Walker called the meeting to order at 7:38 p.m. and read the opening statement which affirmed that adequate notice of the meeting had been posted and sent to the officially designated newspapers.

BOARD MEMBERS PRESENT: Chairman Walker; Vice Chairman Gamache; Mr. Drift; Mr. Gale; Mr. Thompson; Mr. Wilson; Mr. Voitach; Mr. Cheskis, Alternate #1; Mr. Francolini, Alternate #2; Mr. Post, Alternate #3; Ms. Covello, Alternate #4

ALSO PRESENT: Mr. Drill, Board Attorney, Ms. Coppola, Board Planner, Mr. Cline, Board Engineer; Mr. Palmer, Zoning Officer

I. Chairman Walker led the Salute to the Flag.

II. RESOLUTION

Resolution No. 2013-01

Case BA-02-13

Block 7006 Lot 22

Bulk Variance

Applicant: Carolyn and Richard Naughton

A motion to memorialize the resolution was made by Mr. Wilson, which was seconded by Mr. Voitach. This was carried on the following roll call vote:

Ayes: Drift, Gamache, Gale, Thompson, Wilson, Voitach and Walker

Nays: None

III. MINUTES

March 19, 2013 – Regular Meeting

A motion to approve the minutes was made by Chairman Walker, which was seconded by Vice Chairman Gamache. This was carried on the following roll call vote:

Ayes: Walker, Gamache, Drift, Gale, Thompson, Wilson and Voitach

Nays: None

IV. APPLICATION

Case BA-03-13

Block 7013 Lot 4

Bulk Variance

Expiration Date – 9/20/13

Affidavit of Notification and Publication Required

Applicant: Anthony DiMeglio

Notice was found to be in order. Ms. Coppola and Mr. Cline were sworn in.

Dan Dunzik, the applicant's architect, was sworn in. Mr. Dunzik gave the Board his qualifications and was accepted as an expert witness. Mr. Dunzik referenced the existing conditions plan. The applicant is proposing to construct a 601 square foot roof over a portion of the existing raised patio. The proposed roof does not add to the lot coverage. Improvements to the lot that contribute to the lot coverage have been made over the years. The property faces south and the proposed roof will shade the area during the hottest part of the day. Photos of the back yard that Mr. Dunzik took on June 15, 2013 were marked as Exhibit A-1. He explained each photo.

Ms. Coppola referenced the plot plans submitted with the building permit for the pool and for the shed in the rear of the yard. The plot plans don't show all the improvements on the lot such as the circular driveway. The pool permit was issued before the shed permit and the shed permit plot plan doesn't show the pool.

Mr. Drill said if there were permits issued, even if information was not supplied, it can't be held against the applicant. Mr. Drill reviewed the permits.

Mr. Dunzik said in 2005 the patio, the pool and bigger shed existed. The patio and pool were constructed at the same time. The circular driveway was constructed in 2001.

Anthony DiMeglio was sworn in. Mr. DiMeglio testified that the circular drive was constructed in 2000 at the same time the house was constructed.

Mr. Dunzik testified that the new roof will be connected to the structure. Mr. Dunzik referenced drawing S1. The drainage goes through the existing easement to the wooded area in the rear of the property. There have been no problems with drainage. The impact of the project and what is there already does not impact the neighbors. Mr. Dunzik referenced the floor plan. The floor plan shows an outline of where the raised patio is and a dashed line above that showing the new roof area. The rear elevation was displayed.

Mr. Drill referenced copies of the building record cards provided by the Zoning Officer. The following exhibits were marked: Exhibit A-2 – the building record card for the dwelling. The permit was issued 5/18/99 and the C/O was issued 6/5/00; Exhibit A-3 – the building record card for the pool. The permit was issued 6/7/01 and the C/O was issued 11/15/01; Exhibit A-4 – the Certificate for the pool dated 11/15/01; Exhibit A-5 – the building record card for the shed. The permit was issued 9/10/02 and the C.A. was issued 10/16/02; Exhibit A-6 – the existing features plan dated 6/10/05, Exhibit A-7 – the building record card for the steps and door. The permit was issued 9/20/07 and the C.A. was issued 4/28/08 and Exhibit A-8 – the certificate for the steps and door issued 4/28/08.

Mr. Dunzik described the existing features plan which shows the pool, fence, the shed in the back of the yard, the raised patio, the patio around the pool and the circular driveway. The lean-to that is on the shed in the back was added to cover firewood and is not on the 2005 existing features plan. The patio areas and walkways are shown on the plan but did not require a permit at the time of installation. Mr. DiMeglio did not recall when the small 8 x 12 shed in the pool area was added.

Chairman Walker asked if there were inlets in the 20' drainage easement that is on the property. Mr. DiMeglio confirmed there were three inlets. Mr. Cline noted there is one inlet on Mr. DiMeglio's property and the other two are off the property directly behind the property corners.

Chairman Walker asked if the property drains toward the inlets. Mr. Drift said the topo shows there is about a 3.5' to 4' pitch and everything grades to the corner.

Mr. Dunzik said there is no negative impact. The property drains well and there has not been a flooding issue.

Ms. Coppola testified that the property is in the R-1 district which allows a maximum of 15% lot coverage. Lots under 2-acres in size can have an additional 4% for a pool provided there is a vegetated swale constructed and maintained on the lot to address the nonpoint source pollutant loading to the fullest extent possible.

Mr. Cline testified that the grading that exists on site is not a swale; it is evenly sloped across the rear of the property.

Vice Chairman Gamache said there is about 300 square feet of coverage that was not part of a permit. If that 300 square feet was removed, the lot coverage would reduce by 0.006 and the lot coverage would be 24.9%.

Mr. Cline said that reducing lot coverage by 6/10ths of a percent in an existing condition where there is no current demonstrated problem with the drainage would be de minimis.

There was discussion about the role of a swale that is required for the additional coverage. Mr. Cline explained the role is to carry pollutants, pool chemicals and a variety of things so that a good portion of the pollutants will fall out of the flow. If the pollutants are flushed directly into the drainage system it will end up downstream.

Mr. Dunzik testified that the property slopes continuously to the rear of the property. The amount of surface area of grass far exceeds any swale that could be put on the property.

Mr. Drift opined that what is there now would do better than a swale. There is a 3' grade that goes down to the pipe which would let the water run off slowly and filter the pollutants.

Based on the testimony provided about the existing water runoff, the Board ruled the applicant would be permitted to have lot coverage of 19%.

Chairman Walker asked if there was any opportunity on the site to reduce the lot coverage to any extent. Mr. DiMeglio said he may be able to remove the lean to. Vice Chairman Gamache commented that the applicant would be permitted to cover the patio with umbrellas and the roof structure might be better than a number of umbrellas. Mr. Dunzik said there is also a reduction in the heat island effect coming off the white siding of the house and the patio. Shading those areas reduces the overall heat. The roof would be consistent with LEED standards as requested by the Environmental Commission.

Mr. DiMeglio said he will put an underground tank to collect all the water from the gutters for irrigation and gardening purposes. The system will be close to 1,000 gallons. The system will be subject to the review of the Board Engineer and/or the Township Engineer.

Mr. Cline asked that the Board condition any approval on the plan being revised to show the roof leader tie in.

Chairman Walker opened the meeting to the public. There being no public comment, a motion to close the public hearing was made by Vice Chairman Gamache, which was seconded by Mr. Wilson. This was carried on the following voice call vote: Ayes (7) Nays (0)

Chairman Walker opined that if the underground tank is installed it would not be necessary to remove the lean to.

A motion to approve the construction of the 601 square foot roof and the coverage up to 25.5% for all the existing structures that are now on the property, subject to the conditions was made by Chairman Walker, which was seconded by Mr. Wilson. This was carried on the following roll call vote:

Ayes: Drift, Gamache, Gale, Thompson, Wilson, Voitach and Walker

Nays: None

Case BA-04-13

Block 30002 Lot 45

Bulk Variance

Expiration Date – 9/27/13

Affidavit of Notification and Publication Required

Applicant: James K. Macklin and Beth Macklin

Notice was found to be in order. Mr. Voitach stepped down. James Macklin, Ms. Coppola and Mr. Cline were sworn in.

Mr. Macklin testified that he is seeking a bulk variance for building and lot coverage and a submission waiver from providing a stormwater study. The house was purchased in October 2012 from the original owners. The home was built in 1997 and is approximately 4,180 square feet. The home has a courtyard style 3-car garage so it has an overly large driveway footprint of 2,164 square feet. The final survey for the original homeowner was submitted and approved by the Zoning Department on January 9, 1997. That survey indicated the total lot coverage at the time was 5,265 square feet or 6 square feet below the maximum of 5,271 square feet. At that time there were no outdoor spaces included other than a set of stairs out the back to the ground and a small walkway from the front stairs to the driveway. Later in 1997 the homeowner added a number of outdoor spaces; a 322 square foot paver patio and sitting wall on the east side of the back yard, a 380 square foot terraced paver patio and lattice screen on the west side of the back yard, a 193 square foot paver walk connecting the two patios and they enlarged the wooden stairs by 31 square feet for a total of 928 square feet of additional coverage. Back in 1997 grade level patios did not require a permit. In addition, 316 square feet of the patio, screening and stairs are constructed within the rear yard setback. As a result of these improvements, the total lot coverage was increased to 6,103 square feet or 29.4% total lot coverage.

Mr. Macklin would like to change the backyard spaces from pavers to decks. Current coverage and setback issues would be reduced or eliminated. The house sits about 4' above ground in the rear and a deck would be safer and easier access than the existing set of stairs. The 106 square foot stairway and the 380 square foot of terrace paver patio lattice screen on the west side of the home will be removed and replaced with a 135' square foot landing with a small set of stairs. The landing is 29 square feet larger than the existing stairway. The 322 square foot east paver patio and sitting wall will be removed and replaced with a 344 square foot two tiered deck. The decks will be 22 square feet larger than the existing patio on the east side. The 193 square foot walkway between the two patios will be eliminated. The perimeter of those areas will be landscaped except where access is required to the backyard. The 40 square foot walkway in the front yard will be removed. The total improvements will include the removal of 1,043 square feet of pavers and stairs and replace it with 479 square feet of decks. The building coverage will increase by 373 square feet; from 15.8% to 17.7%. The total lot coverage will decrease by 564 square feet; from 29.4% to 26.7%. All the structures in the setback will be removed. The decks will not be within the stream corridor area.

A waiver from providing a stormwater study is being requested. The property is highly graded and does not need a sump pump.

Mr. Cline said there is a significant swale on the south property line and a more gentle swale on the left side of the property. There is a significant grade drop from the back wall of the house down to the water's edge. Mr. Cline accepted Mr. Macklin's testimony that there is no drainage or flooding issues since it all flows straight back to the water. He has no object to granting the waiver.

Ms. Coppola testified that the building coverage increases to 16.95% and the lot coverage is 26.7%. Ms. Coppola discussed Mr. Bartolone's memo dated June 10th. The plantings should not be invasive species. This is a situation where the applicant is improving an existing situation. Both the negative and positive criteria have been met.

Chairman Walker opened the meeting to the public. There being no public comment a motion to close the meeting to the public was made by Vice Chairman Gamache, which was seconded by Chairman Walker. This was carried on the following voice call vote: Ayes (7) Nays (0)

Mr. Drill summarized the approval would be for C2 variances since they are reducing the lot coverage, mildly increasing the building coverage and eliminating setback deviations. Conditions would include Homeowners Association approval, a restriction that the decks will not become an enclosed area and planting of non-invasive species and the standard Board conditions of obtaining a building permit and completing construction.

A motion to approve the application was made by Vice Chairman Gamache, which was seconded by Chairman Walker. This was carried on the following roll call vote:

Ayes: Cheskis, Drift, Gamache, Gale, Thompson, Wilson and Walker

Nays: None

There being no further business to come before the Board, the meeting was adjourned at 9:15 p.m.