

**MONTGOMERY TOWNSHIP ZONING BOARD
MONTGOMERY TOWNSHIP, SOMERSET COUNTY, NEW JERSEY
REGULAR MEETING
MAY 19, 2020**

MINUTES

Chairman DeRochi called the meeting to order at 7:30 p.m. and read the opening statement: Although this meeting is the regularly scheduled meeting of the Montgomery Township Zoning Board of Adjustment, due to the State of Emergency that exists as a result of the COVID-19 Coronavirus crisis, and in accordance with Executive Order No. 104 issued by Governor Murphy on Monday March 16 limiting public gatherings, this meeting is being held virtually by webcast, simulcast on Comcast Cable Channel 29, and public participation is enabled by Zoom Meeting. Instructions for participating in this meeting are provided on the Township's website at www.twp.montgomery.nj.us

BOARD MEMBERS PRESENT: Chairman DeRochi; Mr. Blodgett; Mr. Kabis; Mr. Kristjanson; Mr. Stenull; Ms. Rosenthal, Alternate #1; Mr. Wallmark, Alternate #2; Mr. Sudol, Alternate #4

ALSO PRESENT: Mark Peck, Esquire, Board Attorney; Emily Goldman, Board Planner; Rakesh Darji, Board Engineer; Joseph Palmer, Zoning Officer;

I. SALUTE TO THE FLAG

After the salute to the flag the Board held a moment of silence in recognition of the first responders and those on the front line.

II. EXTENSION REQUEST

Case BA-02-18 Applicant: Fire Company No. 1
Block 6001 Lot 1.01 and 2 – Belle Mead Griggstown Road
Extension of Approval

Michael Fedun, Esquire and William Spohn represented the applicant. The applicant received major site plan approval with use and bulk variances. The original hearing was on January 15, 2019 and the resolution was memorialized on March 26, 2019. They are requesting a three-year extension. The estimates for the work to be performed are much higher than anticipated. The Fire Company is a volunteer organization and these costs have made it impossible for them to move quickly on the project.

The Board members had no questions for Mr. Spohn or for Mr. Fedun. There were no comments from the professionals.

Mr. Palmer read the phone number for the public to call in. After a few minutes to allow calls to come in, Chairman DeRochi opened the meeting to the public. There was no public comment and the public hearing was unanimously closed.

A motion to approve a three-year extension was made by Mr. Kabis and seconded by Mr. Blodgett. The motion carried on the following roll call vote:

Ayes: Blodgett, Kabis, Kristjanson, Stenull, Rosenthal, Wallmark and DeRochi

Nays: None

III. APPLICATIONS

Case BA-08-19 Applicant: Philip Compte
Block 9001 Lot 4 – 723 Millstone River Road
Submission Waivers and Bulk Variance
Expiration Date – 120 Days from Submission Waiver Request
Affidavit of Notification and Publication Required

Richard Schatzman, Esquire, Michael Ford, and Thomas Lee represented the applicant. Notice was in order.

Mr. Schatzman discussed the submission waiver from providing all the information within two hundred feet (200') of the property. The memos that have been generated by the Board professionals are comprehensive and the Board can make an informed decision on the application.

A motion to approve the submission waivers was made by Mr. Kabis and seconded by Mr. Kristjanson. The motion carried on the following roll call vote:

Ayes: Blodgett, Kabis, Kristjanson, Stenull, Rosenthal, Wallmark and DeRochi

Nays: None

Mr. Schatzman said most of the variances being sought are from 16-9.2d of the Land Development Ordinance. Footnote 9 of the section requires enhanced bulk requirements for a lot that abuts a scenic collector road. Mr. Palmer confirmed that Footnote 9 does not apply to this lot.

Mr. Schatzman said the minimum front yard setback required is 50 feet where 32.1 feet is proposed. The minimum non-critical area required is 43,560 square feet where the existing and proposed condition is 1,204 square feet. The lot abuts the Millstone River and is in the flood plain, flood fringe area, stream corridor area and steep slope area. The maximum accessory building coverage is 3% where the existing condition is .03% and the proposal is .35%. The lot does not meet the 205-foot diameter circle requirement since the subject property is encumbered with critical area. The requirement for a 20-foot setback for the foundation from critical areas cannot be met. Relief is being sought to allow proposed grading within the steep slope area and within the stream corridor. A design exception is requested for permission to plant trees based on area of disturbance, from planting street trees along River Road and from installing sidewalks along River Road. A variance is required to permit a 6-foot-high fence along River Road where a maximum height of 4 feet is permitted.

Michael Ford and Thomas Lee, who were in the Hillsborough Conference Room of Van Cleef Engineering, were sworn in.

Mr. Ford gave the Board his qualifications and was accepted as an expert engineering and planning witness. Mr. Lee gave the Board his qualifications and was accepted as an expert architect.

Mr. Ford referenced an aerial map that was submitted as part of the record and described the existing conditions. He then referenced a colored rendering of the variance plan and described the proposal. The existing dwelling will have a small addition to the south and the north side of the house. Immediately adjacent to the driveway is a detached garage. The existing well will remain. The existing septic system will be abandoned and a new septic will be installed. The septic has received Board of Health approval but also needs Zoning Board approval since it is within the stream corridor. The rear of the property has a wetland limit approved by NJDEP who has issued an LOI. NJDEP has also issued a verification of the flood plain and flood hazard area. Mr Ford testified that a majority of the property is within critical areas. There is only a small portion in the front of the property that is outside of the critical areas. All disturbance is within the critical areas.

Mr. Schatzman noted that the DRCC issued a staff report which approves the application subject to the applicant meeting certain conditions. He discussed the Environmental Resolutions, Inc. memo dated May 1, 2020. The architectural plans correctly show an 875 square foot addition. The engineering plans will be revised. There are only a few trees in the vicinity of the cabin. Many of the trees around the cabin were taken down during Hurricane Irene. There are a lot of logs still down in the area. They will not be removing trees of significant size. There are trees that will be removed in the area where the septic is being installed but about 80% of those trees are the Ailanthus tree which is an invasive species. Mr. Bartolone was in favor of removing as many Ailanthus trees as possible. The trees along River Road have been trimmed and will remain, with the exception of the two Ash trees and the Pin Oak that may have to be removed in the future. The plan will be revised to show the stream corridor in accordance with the Township ordinance and the resulting non-critical area will be recalculated. The zoning chart will be revised to show the correct side yard setback. The limits of fence replacement will be shown on the plan. The plan will be revised to show the size of the tank and piping of the new septic system. The seasonal high-water elevation will be provided. The basement floor and garage elevation will be provided. The note on the plan will be corrected to indicate the temporary access on the south end will be used for the installation of the septic. Mr. Darji requested the applicant install a silt fence that has a reinforcing mesh to keep the sediment from migrating down the bank. The southern driveway will be used for construction access. The limits of disturbance will be expanded to include the reserve septic area. The stormwater management elements of the project have been approved by the DRCC who has issued a Staff Report. Additional information will be provided regarding the downspouts, more spot elevations will be provided and the maintenance plan will be recorded. A deed restriction will be provided to prevent the removal of the porous pavement. Calculations have been reviewed by the DRCC and a copy will be provided to Mr. Darji. There are no stormwater management facilities currently on the property.

Mr. Schatzman discussed the Clarke Caton Hintz memo dated April 27, 2020. The building height is under 35 feet. The plans will be revised so that the engineering and architectural plans are consistent. The height of the garage is just under 14 feet. The existing cabin is cedar shake. The roof has been replaced with a metal roof. The additions will be of similar material. The windows are an architectural bronze but everything else will be cedar. All the activity will be beyond the flood hazard area and not in the flood plain. The areas of disturbance have been limited to the greatest extent possible. The lowest habitable floor elevation in the structure complies with NJDEP standards. The DRCC easement will be supplied. There is grading within the steep slopes. The structure is surrounded by steep slopes and the disturbance to those slopes will be minimal. Three trees will be planted as requested. The remediation for the steep slopes will involve the removal of the invasive species including the grape vines, the multiflora rose and the Ailanthus tree. The steep slopes will be stabilized with some type vegetation. The applicant will work with Mr. Bartolone to determine the type of vegetation. The presence of threatened and endangered species is not within the area of disturbance. A 6' high fence is proposed along the frontage because the finished first floor sits below the road elevation and the road is at eye level. They will need soil hauling approval of up to 150 cubic yards.

Mr. Schatzman discussed Mr. Bartolone's memo dated March 30, 2020. The Maple tree already has a fence around it. There are no trees within the area of construction so additional fencing is not needed. Trees will be labeled on the plan.

The gravel area will be removed. The three trees will be planted in the rear of the garage. The fence along the ridge in the rear will be removed.

Mr. Schatzman discussed Lauren Wasilauski's memo dated March 20, 2020. The landscaping will be guaranteed for two years. The applicant would like to only grant a conservation deed restriction on the areas required by the DRCC. The southerly access will be temporary to remain only during construction.

Mr. Schatzman discussed the Shade Tree Committee's memo and will defer to the recommendations by Mr. Bartolone. The Environmental Commission recommends using LEED standards. Any outside lighting will be pointed downward. The cabin was constructed by a group of artists that would visit from New York. It is important to keep these types of structures given the history of River Road and they do not want to put on a second story. No rain barrels are proposed.

Somerset County Planning Board requires a road opening permit.

Mr. Darji suggested was concerned with how close the limit of disturbance is to the foundation and said it should be at least a few feet off. Mr. Lee confirmed the limits of disturbance should be at the fence line. The plan will be revised. The southern access should be shown as temporary and the restoration of the access should be detailed on the plan.

There was no public in the "waiting room" so the public hearing was unanimously closed.

Mr. Peck summarized the conditions: use a silt fence with reinforced material, plant three trees, remove the invasive species, revegetate and stabilize the soil, design waivers from street trees, tree planting based on limit of disturbance and from installation of sidewalk. The deed restricted area will be in accordance with the DRCC.

A motion to approve the application subject to the conditions was made by Mr. Blodgett and seconded by Mr. Kabis.

The motion carried on the following roll call vote:

Ayes: Blodgett, Kabis, Kristjanson, Stenull, Rosenthal, Wallmark and DeRochi

Nays: None

Case BA-09-19 Applicant: Michael Camp
Block 8001 Lot 17 – 580 River Road
Submission Waivers and Bulk Variance
Expiration Date – 120 Days from Submission Waiver
Affidavit of Notification and Publication Required

Mr. Robert Ridolfi, Esquire and Michael Ford represented the applicant. Notice was found to be in order.

The application is for bulk variances to permit the demolition of the existing house and to construct a new pre-constructed modular home. The property is in the R-2 zone and is currently served with a well and septic system. The footprint of the new house is virtually the same as the existing house. The variances are outlined in the application and the Planner's memo dated April 27, 2020. Other memos include the Open Space Coordinator dated March 20, 2020, Richard Bartolone dated March 23, 2020, Shade Tree Committee dated May 7, 2020, Environmental Commission dated May 6, 2020, Somerset County Planning Board dated January 6, 2020 and Environmental Resolutions dated May 1, 2020.

Michael Camp and Michael Ford were sworn in.

Mr. Camp acquired the property in December 1984. The house was constructed in 1946. The house is two-story, has four bedrooms and two bathrooms, and is about 2600 to 2800 square feet. The exterior is brick veneer and cedar shake that has been painted. The garage is below the house. There is a pond at the rear side of the house. There is no pool on the property and Mr. Camp has no intention of installing one. The driveway comes off River Road and leads to the rear of the house. Alongside the driveway is a stone retaining wall. The plan is to demolish the existing house and construct a new house because the floor plan of the existing house is very peculiar and inconvenient. Mr. Camp considered renovating the house but it would take the same amount of time and money and it would still have an awkward design. The new house will be about the same size and will be in the same location. The existing house is outdated in design and function.

Mr. Camp described the floor plan and elevations of the proposed house and the construction materials.

Mr. Camp will meet with Richard Bartolone on site to discuss the landscaping comments and agrees to comply with the recommendations. The driveway is narrow in one area and it may be necessary to temporarily move the retaining wall. The retaining wall will be repaired post construction.

Mr. Ford was accepted as an expert engineering and planning witness. Mr. Ford referenced the existing condition plan and described the site. Mr. Ford referenced the proposed condition plan. The house is in the same general location and the driveway remains unchanged. A new septic system will be installed that has been approved by the Board of Health. The variances are all existing conditions. Variances are needed for lot area, frontage, width, depth and front yard setback. All but the front yard setback remains unchanged. With the slight rotation of the dwelling the front yard setback increases slightly to be more conforming. The variances can be granted without detriment to the zone plan and zoning

ordinance. The benefits substantially outweigh any detriments. There are steep slope areas that will be disturbed to the minimum extent possible. The plan shows a potential disturbance of the retaining wall but they are hoping that there will be minimal to no disturbance. A conservation deed restriction will be placed along the frontage of the property and around the pond as recommended by the Open Space Coordinator. The restriction will have to exempt out any right-of-way that may be required and clearing of sight triangles.

Mr. Palmer read the phone number for the public to call in.

The height of the new dwelling will be less than 35 feet; the calculations on the variance plan show the height at 32.8 feet. The existing intrusions into the stream corridor areas will be eliminated with the removal of the patio area and the rotation of the dwelling. The new septic system and the granting of the conservation deed restriction helps to protect the area. The steep slope areas to be permanently disturbed will be revegetated. They do not anticipate a need to import or export any soil but would like to request an amount of up to 120 cubic yards. Relief from non-critical areas is needed. Out of the 1.8 acres approximately 0.7 is non-critical. Design waivers are needed for street trees, tree planting to be calculated based on the area of disturbance and installation of sidewalks. The pond is a man-made ornamental pond and is not included in the critical area calculation.

There was no public in the “waiting room” so the public hearing was unanimously closed.

Mr. Peck summarized the conditions: the applicant will meet with Mr. Bartolone and any landscaping is subject to the approval of Mr. Bartolone, the driveway retaining wall will be replaced if it has to be removed, slopes are to be vegetated, the maximum amount of soil to be imported or exported without further Board approval is 125 cubic yards, conservation deed restricted area will be provided and details of the driveway culvert will be provided.

A motion to approve the application subject to the conditions was made by Mr. Kristjanson and seconded by Mr. Kabis. The motion carried on the following roll call vote:

Ayes: Blodgett, Kabis, Kristjanson, Stenull, Rosenthal, Wallmark and DeRochi

Nays: None

IV. RESOLUTIONS

Case BA-06-19 Applicant: Ronald Saffar
Block 15007 Lot 35 – 59 Kildee Road
Submission Waivers and Bulk Variance

A motion to memorialize the resolution was made by Mr. Blodgett and seconded by Mr. Kabis. The motion carried on the following roll call vote:

Ayes: Blodgett, Kabis, Stenull, Rosenthal and Wallmark

Nays: None

Case BA-01-20 Applicant: Joseph Stencel
Block 19003 Lot 5 – 70 Meadow Run Drive
Submission Waivers and Bulk Variance

A motion to memorialize the resolution was made by Mr. Kabis and seconded by Ms. Rosenthal. The motion carried on the following roll call vote:

Ayes: Blodgett, Kabis, Stenull, Rosenthal and Wallmark

Nays: None

V. MINUTES

February 18, 2020 – Regular Meeting

A motion to approve the minutes was made by Mr. Blodgett and seconded by Mr. Stenull. The motion carried on the following roll call vote:

Ayes: Blodgett, Kabis, Stenull, Rosenthal and Wallmark

Nays: None

There being no further business to come before the Board, the meeting was adjourned at 10:00 p.m.