

ZONING BOARD OF ADJUSTMENT
VILLAGE OF RIDGEFIELD PARK
Bergen County, NJ

Minutes of Regular Meeting
June 19, 2007

The Acting Chairman, Mr. McCormack, called the meeting to order at 8:05 p.m. in the Municipal Building. The Acting Chairman announced notice of this meeting is being held in accordance with the Open Public Meetings Act, N.J. S. A. 10:4-6 et seq., notice of which was published in The Record on the 22nd day of December, 2006 and in the Jersey Journal on the 27th day of December, 2006.

Roll Call: Present: Messrs. McCormack, Vorhees, DellaFave, MacNeill, Wohlrab,
Spontak, and Ms. Perrotta
Absent: Messrs. Cathcart and Morton

Mr. Vorhees, seconded by Mr. DellaFave, made a motion to accept the minutes of the May 15, 2006 meeting as prepared; all in favor.

Correspondence:

- Permit Fee Log & Certificate Log from Bldg Department – May 2007
- Planning Board Minutes – May 7, 2007
- Notice from Township of Teaneck, re: adoption of ordinance # 4009
- Notice from NJ League of Municipalities, re: pending legislation regarding
Municipal land use law
- Notice of hearing on June 26, 2007, at Bogota Zoning Board, re: Billboard on North Ave.
- NJ Planner – May/June 2007 issue
- Letter from Board Attorney re: Case # 1391 – 39 Webster St.
- Letter from Ricardo Macasieb re: recommendations of attorneys

The Acting Chairman announced that the attorney for the applicant in Case # 1406 – Shaker has requested a postponement to the next meeting on July 17. The Board's attorney, Mr. DeMarrais, advised the Board that he had spoken to the applicant's attorney and that the applicant has agreed to waive the 120-day requirement for making a decision. The postponement was requested in hopes of a full Board next month.

The Chairman announced that there are three 3) cases remaining to be heard, as well as a resolution for Case # 1408, approved in May.

Case # 1402 Hosseini – Block 16.01, Lot 3 – 429 Main Street (use variance)

Case # 1392 J&M Builders – Block 133.01, Lots 4, 7, 9 & 10 – E. Winant and Hille Place
(minor subdivision, site plan, variances)

Case # 1409 Dominguez – Block 40/Lot 15 – 97 Grand Ave (variance)

Resolution for **Case # 1408 (Cuevas/Calvo)** – Block 25, Lot 18 – 40 Hazelton Street
(approved at May meeting)

The Chairman read the Rules of Procedure.

Case # 1409 – Dominguez – Block 40, Lot 15 – 97 Grand Avenue

An application requiring a variance to construct an aboveground pool in the rear yard of the property located at Block 40, Lot 15 – 97 Grand Avenue.

The applicants, Susan and Diego Dominguez, were sworn in. The Board was presented with proof of service, taxes paid, and proof of publication. The applicants testified that they have a 10-year-old son and a pool would provide a great source of recreation. They used to have a pool some years ago in the same spot that they want to put this one.

However, the setback have changed since then and if they placed the pool far enough from the rear and side yard property lines to satisfy the setbacks, the pool would be on top of a more recently constructed patio. To avoid the patio, the pool would then be too close to the house.

The case was opened to the public. No one appeared.

The Board went into work session and came out of work session with the following decision:

Mr. McCormack, seconded by Mr. Vorhees, made a motion to approve the application.

Roll Call: Mr. McCormack – Yes Mr. Vorhees – Yes
 Mr. DellaFave – Yes Mr. MacNeill – Yes
 Mr. Wohlrab – Yes Ms. Perrotta – Yes
 Mr. Spontak – Yes

The resolution was read into the record. A copy of the resolution is attached.

Case # 1402 – Hosseini – Block 16.01, Lot 3 – 429 Main Street

An application requiring a use variance to conduct auctions twice a month at Block 16.01, Lot 3 – 429 Main Street.

The applicant, Fatima Hosseini, was sworn in. The Board was presented with proof of service, taxes paid, and proof of publication. The applicant testified that she wished to run auctions of rugs and furniture at her store. The Chairman sought to clarify the proposed dates of the auctions. The application stated every other Saturday and Sunday, while a supporting letter submitted later stated 2 Saturdays per month. There was a discussion regarding the Blue Laws of Bergen County. The applicant was questioned about the expected crowd and the capacity of the building. She indicated that she was planning to set up 40 chairs. The items would be previewed prior to the auction. Customers would be able to view the items in the days before the auction, noting the item number. This would lessen the crowding at the actual event. The applicant testified that there are three fire exits: one on Main Street, one to the rear of the building and one on the side facing Route 80 which leads out to Main Street. The Board discussed the fact that part of the store is in Bogota and that they do not have jurisdiction over that part. The

Board confirmed that the applicant had sent notification of the hearing to both Bogota and Teaneck.

The applicant testified that business is slow. She needs a way to bring in more customers from other towns. Auctions are a traditional way to sell the items she specializes in. The Board asked about parking. Arthur Street and Main Street have limited parking. The applicant testified that she had approached the Church on Arthur Street about using their lot for parking for the auctions. The Board questioned whether the Church might not need the parking lot for their own functions – definitely on Sundays and maybe on Saturday evenings as well. The applicant testified that her store hours now are Saturday 11 to 5 and closed on Sunday. The proposed auctions would be from 5 – 10 pm on Saturday and Sunday nights.

The case was opened to the public. No one appeared.

The Board went into work session. The Board attorney pointed out that 10 feet of the building is in the adjoining municipality (Bogota), that the entrance to the store is actually in Bogota, and that the applicant should be aware that there is a legal possibility that Bogota could block the doors if they did not approve of the auctions.

The Board returned to regular session with the following decision:

Mr. McCormack, seconded by Mr. Vorhees, made a motion to approve the application.

The resolution will be prepared for memorializing at the July 17, 2007 meeting.

Case # 1392 – J&M Builders – Block 133.01, Lots 4, 7, 9 & 10 – E. Winant Avenue & Hille Place.

An application requiring a minor subdivision, preliminary and final site plan approval and variances, to construct two two-family dwellings at Block 133.01, Lots 4, 7, 9, & 10. Board member Philip Wolhrab, who lives within 200' of the application, stepped down. Attorney Elaine Berkenwald represented the applicant. Ms. Berkenwald acknowledged that the application was originally scheduled to be heard on May 15, 2007. As there were only four members present to vote at that meeting, the applicant asked to have the application carried to tonight's meeting. The proof of service, taxes paid and proof of publication had been provided at the earlier meeting. Ms. Berkenwald began her opening statement by explaining to the Board that this application was first filed in 2003, seeking to build four two-family homes, basically conforming, requiring minor variances. The applicant was required to obtain wetlands delineation from the Department of Environmental Protection. This took three years. When the applicant re-filed the application after receiving the DEP's report, two lots were now classified as wetlands. The application was scaled back to seek the construction of two two-family homes. The density is 4 units per acre of land.

Massimo Piazza, licensed engineer, was sworn in. The Board accepted his credentials as an expert. Exhibit A-1 was marked. (site plan C-1) The applicant currently owns lots 4, 7, 9 & 10 in Block 133.01. The proposed minor subdivision would reconfigure the lots. Lot 9 would no longer exist, being divided up and added to lots 7 and 10.

Lot 4 is 50 X 100 and will remain 50 X 100. A two-family dwelling is proposed. This lot is the widest on the block. The others range from 33.8 to 38 feet wide.

Lot 7 – the positioning of the proposed dwelling was dictated by the presence of a sanitary sewer line running north/south.

Mr. Piazza indicated he had tried to incorporate the suggestions in Mike Kelly's letter of March 30. A turnaround was suggested for lots 4 & 7. It has been provided on lot 7, but

there is not enough room on lot 4 for a turnaround. There are no plans to build on Lot 10. The majority is wetlands. Applicant would agree to it remaining as open space. Lot 7 will increase in size from approx. 8000 SF to 20,039 SF.

The Board members questioned the gray shaded triangles on the site plan on Lots 4 and 7. Mr. Piazza indicated that these were sight triangles, in which nothing could be built so that there was a clear view for cars backing out. The driveway planned for the home on Lot 7 is double wide. The Board questioned the safety of a driveway coming out onto the street right where traffic is turning for the entrance ramp to Route 46. The engineer indicated that there is actually a curb there already and that the neighbors from the adjoining lot use it to park on the property. Regarding the drainage report from Boswell, the applicant's attorney indicated that the applicant is prepared to fulfill all requirements outlined in Boswell's March 30 letter and the May 10 drainage report, except the turnaround for Lot 4.

Fred Rosen, Chairman of the RP Planning Board, asked why the applicant did not combine lot 10 with Lot 4 to create a conforming lot. The applicant's attorney indicated that the plan with the lots as shown was approved by the DEP after a significant wait. If they were to reconfigure the lots, they would be back at square one and have to reapply to the DEP for the Wetlands delineation for the newly configured lots.

Mr. Rosen questioned who would be responsible to maintain Lot 10? Would it be the property owners? Might there be a conservation easement to the Village?

The Board members were concerned that the Village might be burdened with a piece of land that might evolve into a dumping ground.

Lot 4 has a 20' wetlands setback at the rear of the property. The proposed house has no basement, due to high water table, to avoid flooding.

The Board questioned the guardrail at the curve at lot 7. How much would be removed? Applicant indicated a 22-25 foot stretch would be removed, and also indicated that this would be subject to DOT approval. The DOT would be the next step if the Zoning Board approves the construction.

Jose Carballo, architect for the project, was sworn in. The Acting Chairman accepted his credentials. The plans were first drawn in 2003 to meet the Code then in effect. Exhibit A-2 was marked – the architectural drawings of the proposed dwellings. The two houses are identical, except that one has a patio in back. They are 35' high, which was the previously allowed height. Architect stated the proposed buildings are comparable in height to the surrounding homes. The architect stated that to avoid the necessary height variance, they could have chosen to sink the house, rather than have it built on grade. However, this would allow for water intrusion in the basement. The lower levels of the homes have a two-car garage, a recreation room and a ½ bath with sliding doors to the back yard. To get the height down to 28' without digging a basement, they would have to eliminate the garage. Lot 7 has plenty of room for parking. Lot 4, however, does not have room for parking on the lot if the garage is removed from the plan. The rear of the lot is within the wetlands delineation, so a garage cannot be built back there.

Mr. Piazza spoke to the ridge elevations of surrounding houses. The proposed house would be only 4 inches higher than home on the adjoining lot. He calculated the ridge

elevations of the proposed home, as well as the existing homes on the block. The proposed home on Lot 4 would have a ridge elevation of 40.04 feet. The ridge elevation of the existing house to the East is 39.66 feet – a difference of approximately 4 inches. Continuing down the block, the ridge elevations of the homes are: 37.5', 37.2' and 37.9'.

There was concern by the Board members that the house on Lot 4 seemed to be “squished” or “shoe-horned” on the lot. A variance is required for side yard setback and for height. Applicant pointed out that the house to the west of Lot 4 (Lot 5) is the same depth front to back as the proposed dwelling.

Roger DeNiscia, licensed planner, was sworn in. The Acting Chairman accepted his credentials. Exhibit A-3 was introduced and marked, being a photo board with 7 composite photos of the site. Figures 1 & 2 show Lots 9 & 7, which wind around the ramp to Route 46. Figure 2 shows Lot 10. Figure 3 shows Lot 4. Much of the site “fronts” on Route 46, but actually there is no direct access or real frontage on Route 46. Lot 10 has substantial wetlands. Lot 7 is at the curve to Route 46, is irregularly shaped and contains the 20' sanitary sewer easement. The existing physical characteristics cause substantial development limitations, and caused the applicant difficulties in complying with the zoning standards. Therefore it was proposed to reconfigure the lots from 4 to 3. All the lots together total 41744 SF. The proposed construction would only cover 8.4% of the property. 9744 SF (23.3%) would be preserved wetlands. Three times as much land would be preserved as built upon. Two two-family homes are proposed (4 units). The proposed density is 4 units per acre. The RP Master Plan recommends 11.6 units per acre. The Master Plan recommends a density three times that of what the applicant is requesting. Mr. DeNiscia outlined the planning benefits of the application: wetlands would be preserved, needed housing would be provided, and application avoids direct access to Route 46. Mr. DeNiscia feels the site is not being over-developed. For Lot 4, the prevalent lot width on E. Winant is 33'. Lot 4 is 50' wide. In the four-block radius, there are 29 lots and 22 are non-conforming in area. Board questioned height and side yard setback of proposed home on Lot 4. Mr. DeNiscia testified that a single-family home instead of the proposed two-family might be narrower, but would probably need to be the same height. A garage cannot be built in the rear due to wetlands restrictions. Planner feels variances requested by applicant are reasonable and minimal. Each is due to unique physical characteristics of the lots. He feels this is an efficient utilization of the site. What impacts would there be? Lot 7 would have minimal impact on surrounding properties because of the distance. Also, it is across from a large auto repair/towing facility. Lot 4's primary impact would be the side yard setback of 7.7 versus 20 feet. The Board questioned the impact of this development if approved might have on the Village's COAH requirements. The Planner stated that it would be the applicant's responsibility to comply with any COAH requirements triggered by this application. The applicant's attorney indicated there were no more witnesses. The case was opened to the public. Within 200' in favor – no one appeared. Within 200' against – no one appeared.

Outside 200' the following appeared:

Frederic Rosen – 99 Hudson Avenue. Mr. Rosen questioned how many applications there are actually? It is being presented as one package, but there are two application forms – one for lot 4 and one for lot 7. Will there be two resolutions? Also, there is the overall

subdivision as well. Would the applicant still want the subdivision if lot 4 is not approved, and lot 7 is approved?

The applicant's attorney summed up by stating that the applicant desires to develop the property, and the two two-family homes being proposed are not huge McMansions. The Board has the authority to grant a hardship variance to allow the applicant to develop his property. One lot is across from an auto repair/towing facility. Regarding Boswell, items can be addressed. All requirements are doable, except the turnaround on Lot 4, as there is not enough room. This was brought out in earlier testimony.

The Acting Chairman announced that the case would be continued on July 17, 2007.

A resolution for Case 1408 (Cuevas/Calvo) which was approved at the June 19, 2007 meeting was read into the record. A copy is attached.

The meeting was adjourned at 11:10 pm.

Respectfully submitted,

Linda Quinn

Tapes 467, 468, 469.