

**Hillsborough Township
Board of Adjustment Meeting
September 5, 2012**

Chairman Leon Krals called the Board of Adjustment Meeting of September 5, 2012 to order at 7:30 p.m. The meeting took place at the Municipal Building in the Courtroom.

Pledge of Allegiance

Notice of Meeting

Chairman Krals announced that the meeting had been duly advertised according to Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975.

Roll Call:

Michael Volpe – Present
John Stamler – Present
Helen Haines – Present
Leon Krals – Present
Walter Dietz – Present

Frank Valcheck – Present
John Sheridan – Absent
Frank Herbert (Alt. #1) - Present
Shawn Lipani (Alt. #2) – Present
Curtis Suraci (Alt. #3) – Absent
Vacant (Alt. #4)

Also in attendance are Mark Anderson, Esq., Board Attorney, Woolson Sutphen Anderson, P.A; William H. R. White, III, PE, Engineer, Maser Consulting; David Kois, Zoning Officer / Assistant Planner; and Lucille Grozinski, CCR.

Acceptance of Minutes

July 18, 2012 – Regular Session Meeting

Mr. Dietz made a motion to approve the regular session minutes of July 18, 2012, which was seconded by Mr. Lipani. This was approved unanimously by all eligible members.

Acceptance of Resolutions

None

Board of Adjustment Business

Mr. Volpe (previously Alternate 4) was sworn in by Chairman Krals for Seat # 1.

Business from the Floor

None

Public Hearing-Applications

Chairman Krals announced the protocol for the following applications.

FOSS / MARTINEZ – File #BA-11-12 – Block 14, Lot 4 875 River Road.

Mr. Kois introduced the application.

Norby Foss and Chris Martinez, Applicants were sworn in.

Mr. Foss thanked the Board for changing the date for the application hearing.

Mr. Foss indicated that the garage was damaged by both Hurricane Floyd and Irene.

Mr. Foss described the property as oddly shaped which has a cliff on the river side. Further, he noted that the lot is shallow and very strange.

Mr. Foss described the cliff and the river as physical features uniquely affecting the property.

Mr. Foss noted that the garage is a lawfully existing structure that predates World War II. Further, he noted that the proposed garage is slightly larger than the existing structure.

Mr. Foss indicated that the purposes of the land use law would be advanced by granting a deviation because the damaged structure is being replaced with something new and pretty which is good for the public.

Mr. Foss noted that the benefits outweigh the detriments. Further, he explained that the variance would not substantially impair the purposes of the zone plan because the structure already exists.

Mr. Foss referenced case law, *Pulan vs. Township of South Plainfield*, and noted that aesthetic improvements alone have been held as sufficient benefit to approve variance.

Mr. Dietz acknowledged that he is familiar with the site. He asked the Applicant if he pursued the possibility of buying the adjacent lot owned by the State.

Mr. Foss indicated that 18 years ago they tried to buy the land and the State informed them that they would not sell because it is property is Green Acres.

Mr. Dietz noted that he is glad to see that garage will be demolished, further he indicated that this is a very good application.

Vice Chairperson Haines noted that she is concerned about the proposed structure being only 8 inches from the property line.

Mr. Foss explained that the setback of two feet would significantly change the view of the property and make it look stranger. He noted that any disturbance would be limited because the adjoining lot is Green Acres property. Further, he indicated that they would be willing to do that if the Board wanted that.

Mr. White indicated that the structure is approximately 20 feet from the house. He noted that Mr. Kois asked for the additional footage to allow room for maintenance to be conducted so that the adjoining property is not encroached.

Mr. Foss indicated that they have been in contact with the State and they know they have been on their property cutting the grass.

Mr. Dietz noted that he does not have a problem with the location of the proposed garage because it is being built on the existing foot print.

Mr. Stamler agreed with Mr. Dietz.

There were no public questions or comments.

Mr. Dietz made a motion to approve the resolution for FOSS / MARTINEZ with all the requirements from the Board Engineer, which was seconded by Mr. Stamler. The motion was approved unanimously by all eligible members.

Charles BUCKLE File #BA-12-08– Block 207.01, Lot 67 – 8 Poppy Drive.

Mr. Kois introduced the application.

Charles Buckle, Applicant, was sworn in.

Mr. Buckle explained that his concrete walkway around the pool needed to be removed and replaced. In the process the contractor discovered that the property is over the impervious coverage.

Mr. Buckle indicated that he wants to install the same walkway he had originally when he received a permit.

Mr. Dietz asked if the Applicant was previously before the Board for a variance.

Mr. Buckle indicated that this is the first time he is asking for a variance.

Mr. Stamler inquired about the existing impervious coverage improvements on the lot.

Mr. Buckle described improvements made since the pool was installed such as the shed and paver front walkway.

Vice Chairperson Haines asked if the shed (closest to the driveway) can be moved onto the driveway to reduce impervious coverage.

Mr. Buckle explained that the shed cannot be placed on the driveway due to parking.

Vice Chairperson Haines asked about permits.

Mr. Buckle indicated that the 8 x 12 shed does not have a permit.

Chairman Krals asked Mr. Kois about permit requirements.

Mr. Kois noted that all sheds require a permit.

Mr. Dietz asked if any additional adjoining land can be purchased by the Applicant.

Mr. Buckle indicated that letters were sent to the adjoining property owners requesting additional land to be purchased, but there was none available.

Mr. White shared his concern about the scale of the hand-drawn paver walkway on the plan.

Vice Chairperson asked about a walkway from the house to the pool.

Mr. Buckle explained that he has a deck, but it is not shown on the drawing.

Mr. Kois noted that the Zoning Department has a record of a permit for the deck.

There was a discussion about what is considered impervious coverage.

Mr. Dietz inquired about the notice.

Mr. Anderson explained that the binding impervious coverage percentage would be the lower of the two percentages in the notices.

Mr. Volpe asked about the accuracy of the plan.

Mr. White explained that older plans can be distorted over time.

There were no public questions or comments.

Mr. Kois requested that as a condition of approval that all required permits are acquired by the Applicant.

Mr. Dietz made a motion to approve the resolution for Charles BUCKLE with all required conditions from the Board Professionals, which was seconded by Mr. Stamler. The motion was approved unanimously by all eligible members.

Patrick DeNapoli, Jr. File #BA-12-10– Block 58, Lot 29 – 154 Johanson Avenue.

Mr. Kois introduced the application.

Patrick DeNapoli, Applicant, was sworn in.

Mr. DeNapoli explained the reasons for expanding the driveway.

Chairman Krals asked the Applicant to justify the variance.

Mr. DeNapoli explained that the driveway used to bottleneck and he extended it so that it can accommodate two cars. Further, he noted that the driveway is one foot further away from the closest neighbor.

Mr. Dietz asked if Mr. DeNapoli lives in the house.

Mr. DeNapoli affirmed that he does live in the house.

Vice Chairperson Haines asked if the paving is complete.

Mr. DeNapoli explained that Belgium blocks have been installed, but the driveway is currently unpaved. Further he noted that the Belgium blocks look nice.

Mr. DeNapoli explained that according to the previous home owner; there was a variance for the property in the 1970s. Further, he noted that the variance was for the garage and the setback of the driveway.

Mr. Dietz asked Mr. Kois for details regarding the variance.

Mr. Kois indicated he was not aware of a variance.

Mr. Anderson asked for some clarification from Mr. Kois.

Mr. Kois indicated that the subject property requires a variance for the impervious coverage only, further he noted that there are no setback requirements for driveways.

Mr. Volpe inquired about the existing impervious coverage.

Mr. Kois explained that the Belgium blocks have been installed and while the driveway is unpaved it still consists of gravel, therefore he calculated it as existing impervious coverage.

Vice Chairperson Haines asked the Applicant if there has been an attempt to buy additional land.

Mr. DeNapoli indicated that the garage has a side entrance and is the reason why he is before the Board. He noted that the expansion of the driveway now enables a car to swing into the garage.

Mr. Stamler and Chairman Krals asked if the driveway is pitched towards the road and storm sewers.

Mr. DeNapoli affirmed the inquiries.

Mr. White asked if there is a front walkway on the property.

Mr. DeNapoli indicated that the front walkway was included on the impervious coverage sheet, but not on the plan.

Vice Chairperson Haines asked the Applicant if he has seen any storm water runoff backup.

Mr. DeNapoli noted that he was unaware of any storm water backup.

There were no public questions or comments.

Mr. Dietz made a motion to approve the resolution for Patrick DeNapoli, Jr., which was seconded by Mr. Stamler. The motion was approved unanimously by all eligible members.

Karen and Peter BLOOM– File #BA-12-09– Block 13.04, Lot 4.10 – 49 Wagner Lane.

Mr. Kois introduced the application.

Peter Bloom, Applicant, was sworn in.

Christopher A. Melick, Land Surveyor & Professional Planner for the Applicant was sworn in.

Mr. Melick indicated that letters were sent to the adjoining property owners requesting additional land to be purchased, but there was none available.

Mr. Melick addressed questions in the Zoning Report. As a result, the application and plan have been amended. Further, he noted that the notice was amended to reflect the plan, including the pool shed.

The following Exhibits were marked into evidence:

- A1 – Variance Plan for Proposed Pole Barn
- A2 – Hand Sketch: Bloom Garage Plan
- A3 – Photo: Garage View Showing Steps to Basement
- A4 – Photo: Stairs to Basement
- A5 – Photo: View of Proposed Garage
- A6 – Photo: View from Street of Existing Pool Shed
- A7 – Photo: Existing Shed
- A8 – Photo: Close-up View of Proposed Garage Location

Mr. Anderson noted that all of the issues raised are in the notice.

Mr. Melick described the changes made on the application and variance plan. The impervious coverage being requested was revised 11.05%.

Mr. Melick described the property as uniquely shaped because of the extensive amount of frontage and relatively shallow lot depth. He noted that due to the location of the dwelling the area for accessory structures is limited.

Mr. Melick indicated that a 'c' variance is requested for the pool shed because it is in the front yard as noted in the Zoning Report.

Mr. Melick testified regarding the negative and positive criteria.

Mr. Melick described the neighborhood drainage system, including an existing under drain system on the subject property.

Mr. Melick testified regarding the 'd' variance.

Mr. Melick noted that there are three existing garage bays; however one of the bays is limited to function as a garage due to the location of a stairway.

Mr. Melick described the garage bay and indicated that car parking is limited. He noted that floor plates were used by the previous owner to park. The current owner does not have the ability to park a vehicle in the subject garage bay.

Mr. Dietz asked the Applicant when he purchased the home.

Mr. Bloom noted that he purchased the home in April 2012 and the garage stairwell was pre-existing.

There was a discussion regarding the configuration of the subject garage bay.

Vice Chairperson Haines asked Mr. Kois if the Township has the original plans of the home.

Mr. Kois noted that the Building Department could have them in off-site storage.

Chairman Krals indicated that the focus should be on the variances be requested.

Mr. Melick indicated that if the two car garage is permitted then there would only be garaging for three vehicles on the property, which is conforming to the ordinance.

Mr. Melick testified to the positive criteria. He indicated the following as special reasons that apply to this particular property:

- To provide sufficient space for a variety uses including residential. Garaging for vehicles is a permitted accessory use in residential districts, the owner's proposal to construct a detached two car garage is reasonable with respect to the residential use of the property.
- To promote the well being of persons, neighborhoods and communities garaging for two more vehicles on this property promotes the well being of the neighborhood by allowing two vehicles currently parked in the driveway to be enclosed.
- The issue of safety also applies, it is safer to garage a second vehicle in the proposed garage rather than to attempt to park a garage in the garage with the stairwell

Mr. Melick indicated that there are special reasons that support a departure from the zoning requirements for this property, the purposes of the Municipal Land Use Law would be advanced by granting the requested variances because in this case the benefits gained by deviating from the zoning requirements clearly outweigh any detriment.

Mr. Melick testified to the negative criteria. He indicated that all the requested variances are for permitted accessory uses for single family homes and those improvements are reasonable for this piece of property, there will be no substantial detriment to the public good and no substantial impairment to the intent and purpose of the zone plan and zoning ordinance.

Mr. Melick further noted that based on the configuration and topography of the property, the location of the shed and detached garage are the best possible locations on the property for these structures since the sheds and garage are subordinate to the principle use. The intent of the zoning ordinance is advanced because the proposed improvements do not change the character of the principle use and serve the principle. The purposes of the Municipal Land Use Law would be advanced by deviating from the ordinance requirements and the benefits outweigh any detriment.

Mr. Melick described the proposed garage.

Mr. Stamler asked about the amount of cars existing on the property.

Mr. Bloom noted a total of five.

Vice Chairperson Haines inquired about the location of the sheds.

Mr. Bloom indicated that he installed a shed by the pool for supplies.

Mr. White asked for clarification regarding the front yard setback for the zone.

Mr. Melick noted that the shed is substantially beyond the front yard setback requirement.

Chairman Krals asked about the pool shed.

Mr. Bloom explained that he added the pool shed since he purchased the property.

Chairman Krals asked if the shed required a permit.

Mr. Kois noted that all sheds require permits and asked the Board to consider as a condition of approval that anything on the property that requires a permit gets a permit.

Chairman Krals asked if an in-ground pool can be located in the front yard.

Mr. Kois noted that in-ground accessory structures such as a pool are permitted.

Mr. Dietz indicated that Norz drive was extended to the subject property at some point.

There was a discussion regarding the alignment of the intersection.

Vice Chairperson Haines asked if any of the sheds can be eliminated.

Mr. Bloom noted that he can, but he likes to do stuff and would like to have the space.

Mr. Melick described the different storage areas on the property.

Chairman Krals asked about the grading of the proposed pole barn location.

Mr. Melick described the topography, noting that the area is relatively flat.

Mr. Lipani commented, the plan for this is strictly storage. Do you have any other utilities (*with the exception of electricity*) planned to put in this garage?

Mr. Bloom answered no.

Mr. Anderson asked about the size of the lot compared to the rest of the neighborhood.

Mr. Melick indicated that the property is larger than other lots in the neighborhood.

Mr. Anderson asked for some clarification regarding the garage bay with the stairwell and if there is sufficient space to park a car.

Mr. Melick noted that it would be an awkward location and unsafe.

Mr. Bloom stated that it is not possible unless it is a small car.

Mr. Herbert asked about removing the garage door so that is not considered a garage.

Vice Chairperson Haines asked the Applicant if they can reduce the impervious coverage in anyway.

Mr. Melick indicated that they are hoping that the under drain system which allows infiltration into the ground and the uniform distribution of the surface run-off into an approved drainage system would qualify for reasons to obtain the variance.

Mr. White noted that the under drain system is something that the Board can consider, however he cannot calculate it.

Vice Chairperson Haines asked if the subject garage can be enclosed.

Mr. Melick noted that he is concerned that if the garage door is removed then it would negatively impact the aesthetics of the house.

Mr. Stamler asked about the design of the detached garage.

Mr. Melick noted that the detached garage will match the color of the home.

There was a discussion about the building materials and design of the detached garage.

Mr. Anderson shared some legal concerns regarding what the Board is approving.

Mr. Anderson noted that if the Board determines that the subject garage bay is not to be used as a garage, then the Board needs to condition that.

Mr. Melick proposed a condition in the resolution that the garage bay with the stairwell will not be used to park a vehicle.

Mr. Anderson noted that it would eliminate the need for a 'd' variance.

Mr. Anderson inquired about the proposed patio (impervious coverage) which replaces a deck (non-impervious coverage).

Mr. Melick indicated that even if the patio was eliminated, a variance for impervious coverage would still be required.

Mr. Melick explained that the deck is stained a color they don't like and the deck is deteriorating, which they prefer not to maintain. Further, it would be more aesthetically pleasing if a patio was installed in place of the deck.

Mr. Anderson noted that all improvements require some degree of maintenance.

Mr. Melick explained that the run-off created by the new impervious coverage would flow into the under drain system.

Mr. Volpe asked how replacing the deck with a patio is a benefit to the property.

Mr. Melick indicated that the benefit is the integration of the walkway to the pool.

Public Questions

- Susan Gulliford, Resident asked about the garage with the stairwell.
- Mr. Bloom indicated that the stairwell leads to the basement and there is another entrance from inside the house, further he wants to continue to use the stairwell in the garage.

Public Comments

- Carl Picazio, Resident of 47 Willow Road was sworn in.
- Mr. Picazio indicated that a GMC Envoy used to park in the garage with the stairwell.
- Mr. Picazio noted that he is concerned that the variance gives the stairwell merit, which may be illegal.
- Mr. Picazio is concerned about run-off and basements flooding in the neighborhood which occurred during Hurricane Floyd.
- Mr. Picazio indicated that he is not satisfied with special reasons provided by the Applicant's testimony. Most notably, he doubted that the amount of cars in the driveway satisfies the special reasons to be granted a variance.
- Mr. Picazio is concerned about the design of the pole barn (detached garage) proposed.
- Mr. Picazio noted that there is plenty of room to park cars on the property, most notably on the semi-circle driveway.
- Mr. Bloom, Applicant has no questions for Mr. Picazio.

Mr. Melick indicated that the Applicant requests to withdraw the request for the 'd' variance by agreeing that there will be garaging for no more than three vehicles.

Mr. Anderson asked the Board if there should be additional conditions to ensure that the garages are limited to three spaces.

Vice Chairperson Haines asked the Applicant to considering reducing the impervious coverage.

Mr. Bloom indicated that they can retain the deck instead of the patio.

Mr. White noted that the requested impervious coverage would be reduced to 10.5%.

Mr. Dietz noted that this is a good application and it would not be a real detriment to Mr. Picazio's property.

Mr. Lipani suggested adding a guardrail around the stairwell, which would preclude the garage from being used as a parking space.

Mr. Dietz made a motion to approve the resolution for Karen and Peter BLOOM with changes, increase of impervious coverage to 10.5%, parking of any vehicles in garage bay with stairwell is prohibited, existing garage with stairwell requires a guardrail to be installed and requires a permit and inspection by the Building Department, wooden deck remains instead of the proposed patio, pool shed permitted in the front yard, the color of the pole barn/two car detached garage shall match the house as closely as possible and the roof shall be shingled, Applicant is required to obtain all required approvals for any existing improvements which lack a permit, Mr. White's comments which was seconded by Vice Chairperson Haines. The motion was approved unanimously by all eligible members.

Board of Adjustment Business (Continued)

Chairman Krals announced that there has not been a narrative submitted for the Chabad Application.

Mr. Kois cautioned the Board to wait for the narrative to be submitted before reviewing the plans, which is expected to be tomorrow.

Mr. Kois indicated that the application has been amended.

There was a brief discussion about the notice requirements.

Chairman Krals asked for the deadline for submitting documents according to the Bylaws.

Vice Chairperson Haines indicated that it is 10 days.

Mr. Kois informed the Board that he will keep them informed regarding the submission of the Applicant's materials.

Mr. Anderson shared his concern regarding the notice.

Correspondence

None

Adjournment

Chairman Krals announced the next meeting is September 19, 2012. The meeting adjourned at 9:35 p.m.

Submitted by:

David Kois

Zoning Officer / Assistant Planner

Board of Adjustment Administrative Officer / Secretary

Approved