

**BRIDGEWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
Regular Meeting
Tuesday, December 20, 2011
—MINUTES—**

CALL MEETING TO ORDER:

Chairman Vornehm called the regular meeting of the Bridgewater Township Zoning Board of Adjustment to order at 7:30 p.m. at the Bridgewater Municipal Courtroom, 100 Commons Way, Bridgewater, New Jersey

OPEN PUBLIC MEETING ANNOUNCEMENT:

Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act N.J.S.A.10:4-6. On January 20, 2011 proper notice was sent to the Courier News and the Star-Ledger and filed with the Clerk at the Township of Bridgewater and posted on the bulletin board in the Municipal Building.

Please be aware of the Zoning Board of Adjustment policy for public hearings: No new applications will be heard after 10:15 pm and no new testimony will be taken after 10:30 pm. Hearing assistance is available upon request.

ROLL CALL:

Don Sweeney – present	Jay Rosen – present (arrived 7:32 pm)
Filipe Pedroso – present (arrived 7:45 pm)	Jim Scott – present
Paul Riga – absent	William Vornehm, Chairman – present
Lee Schapiro – absent	
Pushpavati Amin, Alt. #1 - present	Evans Humenick, Alt. #2 – present (arrived 7:34 pm)
Carl Schulz, Alt. #3 – present	

Others present: Attorney Lawrence A. Vastola & Attorney Brian Schwartz, Land Use Administrator Marie L. Broughman, Board Engineer Dave Hoder, Board Planner Scarlett Doyle

MINUTES FOR APPROVAL:

November 29, 2011 – Motion by Mr. Scott, second by Mr. Sweeney, the foregoing minutes were adopted as amended on the following roll call vote:

AFFIRMATIVE:	Mr. Sweeney, Mr. Scott, Mrs. Amin, Chairman Vornehm
ABSENT:	Mr. Pedroso, Mr. Schapiro, Mr. Riga, Mr. Humenick
NOT ELIGIBLE:	Mr. Rosen, Mr. Schulz

December 6, 2011 – Motion by Mrs. Amin, second by Mr. Scott, the foregoing minutes were adopted as amended on the following roll call vote:

AFFIRMATIVE:	Mr. Sweeney, Mr. Scott, Mrs. Amin, Chairman Vornehm
ABSENT:	Mr. Pedroso, Mr. Schapiro, Mr. Riga
NOT ELIGIBLE:	Mr. Rosen, Mr. Humenick, Mr. Schulz

MEMORIALIZING RESOLUTIONS:

There were no pending resolutions to memorialize.

HEARING AND DELIBERATIONS:

GHANIME - 479 Meadow Road

Block 413, Lot 9

#33-11-ZB, Bulk Variance Application (construct 3ft portico entrance)

TIME: 120= 3/14/2012

Applicants George and Yolanda Ghanime were present and represented themselves.

That the property is known as Lot 9 in Block 413 of the Tax Map, located on the northwesterly side of Meadow Road in the R-40 Single-Family Residential Zone, and commonly known as 479 Meadow Road.

The subject property consists of a tract of land having an area of 32,540 square feet. The property is improved with a single-family dwelling. Applicants are making some renovations to the dwelling including a recreation room and front porch. Given the fact that the front porch will be under roof it must comply with the front yard setback requirements of the ordinance. The ordinance requires 50 feet and the applicant is proposing 46 feet.

Mr. Ghanime testified that a roof over the proposed porch will provide protection when entering the home during inclement weather.

The Board deliberated and discussed conditions including:

- No Developer's Agreement shall be required.
- The Applicant shall submit a Bridgewater Township Compliance Report prior to the plans and any deeds being signed, and prior to scheduling the pre-construction meeting and issuance of construction permits.

Motion by Mr. Sweeney, second by Mrs. Amin, the GHANIME – 479 MEADOW ROAD application was approved with conditions on the following roll call vote:

AFFIRMATIVE: Mr. Sweeney, Mr. Rosen, Mr. Scott, Mrs. Amin, Mr. Humenick,
Mr. Schulz, Chairman Vornehm

ABSENT: Mr. Pedroso, Mr. Schapiro, Mr. Riga

SOUTH BRANCH INVESTMENT - 78 Hillcrest Road

Block 815, Lot 27

#22-11-ZB, Bulk Variance Application (new dwelling on vacant land)

TIME: 120= 2/11/12

Attorney Jeffrey Lehrer was present to represent the applicant. Sworn testimony was presented by Professional Engineer Mitchell Ardman and Professional Planner Christine Kafone.

The Applicant submitted exhibits which were marked into evidence as follows:

- A-3 12/20/11** Colored Rendering: Variance & Tree Removal Plan, sheet SD-2, rev. 12/7/11
- A-4 12/20/11** Colored Rendering: Cross-Section of Steep Slopes, sheet EX-1, dated 12/7/11

Attorney Lehrer stated that this application is continued from 11/15/11. The Applicant, Mike Picone, Engineer Ardman and Architect Mattarazzo met with the Board's Engineer Dave Hoder to address his recommendations from the 11/15/11 Board meeting.

Engineer Ardman summarized the plan revisions and changes including: reduced driveway width, changed the elevation of the garage by two-feet, reduced the wall height along the driveway, moved the drywells away from the neighbor, adjusted the driveway grade, coordinated the architectural and engineering plans to match, reduced the floor area ratio from 0.29 to 0.27, reduction of impervious coverage from 4.79% to 4.56%, reduced the width of the sidewalk to the house, and submitted a cross-section of the steep slopes.

After the provisions of the Hillside Development sections of the ordinance are applied the developable area of this property is reduced from 96,647 S.F. to 13,541 S.F. and the maximum density to .27 units (Sec. 126-266). Applicant is seeking a variance from this limitation, as well as variances from front yard setback and improved coverage.

Engineer Ardman reviewed the report of the Township Engineer dated 12/16/11 and Township Planner's report dated 12/15/11 and agreed to comply with the outstanding issues.

Planner Kafone reviewed all of the documents, review letters, and zoning ordinance. She discussed the three c-variances and one d-variance for floor area ratio. The unique shape and topography of the property is due to the steep slopes and creates a c(1) hardship variance for front yard setback and improved lot coverage. She referenced exhibit A-3 and discussed the d-variance for floor area ratio.

Board Planner Doyle stated that it is not a d-variance, as f.a.r. applies to the gross lot coverage; therefore, the variance for f.a.r. would be either a c(1) or c(2) variance. Attorney Lehrer quoted a specific case and stated that it is a d-variance. Planner Doyle stated that she stands corrected.

Planner Kafone stated that the proposed f.a.r., d-variance, is not an overburdening design to the site and the stormwater will be contained on site. She stated that the tax records show 3,000 sf to 9,000 sf homes are in the area. The proposed 3,719-sf dwelling presents no substantial impact to the public good .

With respect to the front yard, applicant is proposing 60.1 feet where 75 feet is required. With respect to this request the zoning hardship presented is the topographical condition of the property. The front yard variance requested is necessitated by the applicant's attempt to take advantage of the developable portion of the property which is in the front. In this instance the extent of the request is ameliorated by the distance from the edge of pavement of Hillcrest Road which is

unlikely to be widened to the property set back. This distance is noticeably greater than the distance from the side line. This fact minimizes the resulting impact which the requested variance will have on the zone plan and land use ordinance as well as to the public good.

The floor area ratio limitation in the R-50 Zone is .16. The applicant is proposing a dwelling with a floor area of 3,719 S.F., 2,123 S.F. for the first floor and 1,596 S.F. for the second floor. Without the steep slope adjustment the floor are ratio would be .038. The steep slope calculations reduce the developable area of this property to 13,541 S.F. which increases the F.A.R. from .038 to .27.

The requested variances from the impervious coverage and floor area limitations of the ordinance are also necessitated by the topographical condition of the property. The Hillside Development provisions of the ordinance preclude the development of this property without variance relief, which if denied would serve to zone this property into inutility. The grant of variances will not be contrary to the purpose of the Hillside Development provisions of the ordinance and will not substantially impair the zone plan or the land use ordinance and will not be a substantial detriment to the public good.

Attorney Vastola stated that issue of res judicata has not yet been addressed by the Applicant. He stated that this is a different Applicant and a significantly different plan has been presented with different variances. In addition, the size of the proposed dwelling is significantly smaller than other applications previously presented to the Board. Attorney Vastola concluded that the doctrine of res judicata is not applicable to this matter. This conclusion is based primarily on the fact that the proposal before the Board is substantially different from prior applications. The proposed dwelling is smaller, there is less steep slope disturbance, and no fire issues have been identified. In addition there is a different applicant/owner.

Members of the public were present as follows:

Jeff Hinkle, 7 Fawn Lane, addressed concerns regarding development on the steep slopes and referenced exhibit A-4. The steeper slopes of the property were not shown as they are not being developed. The further the house is pushed back from the road, the more disturbance of the 30% slopes. He spoke in opposition to the application stating that he feels res judicata applies, it is a fire hazard, there will be a change in the ridge line, future drywell issues, and he wants the dwelling to meet the front yard setback

The Board deliberated and discussed several conditions including:

- Applicant shall place a covenant running with the land against the property requiring the owner to maintain the drywells and other drainage structures. Said covenant shall provide that failure of the owner to comply shall permit the Township to enter the property and perform necessary work. The cost thereof shall be borne by the owner and that the property may be assessed for the costs incurred by the Township. The covenant shall be prepared by the applicant and approved by the Township Attorney, Board Attorney and Township Engineer. When approved, the covenant shall be recorded in the Office of the Somerset County Clerk and once recorded filed with the Township Clerk, Board Clerk and Township Engineer. The applicant shall also file with the Township Clerk a certification

from its attorney that the only lien to which the covenant is subject is the lien for municipal taxes.

- No Developer's Agreement shall be required.
- Applicant shall comply with comment 2 of Plat Details under the Technical Section of the Township Engineer's report dated December 16, 2011.
- Applicant shall comply with comments 5 and 6 of Stormwater Management under the Technical Section of the Township Engineer's report dated December 16, 2011.
- Applicant shall comply with comment 9 of the Township Planner's report dated December 15, 2011.
- The Applicant shall submit a Bridgewater Township Compliance Report prior to the plans and any deeds being signed, and prior to scheduling the pre-construction meeting and issuance of construction permits.

Motion by Mr. Sweeney, second by Mrs. Amin, the SOUTH BRANCH INVESTMENT – 78 HILLCREST ROAD application was approved with the conditions discussed on the following roll call vote:

AFFIRMATIVE: Mr. Sweeney, Mr. Pedroso, Mr. Scott, Mrs. Amin, Mr. Humenick,
Mr. Schulz, Chairman Vornehm
ABSENT: Mr. Schapiro, Mr. Riga
NOT ELIGIBLE: Mr. Rosen

Board Member Schulz stepped down from the dais and left the meeting at 9:00 pm.

Board Attorney Vastola excused himself from the following application, stepped down from the dais and left the meeting at 9:00 pm. Attorney Brian Schwartz took a seat at the dais.

VFV PROPERTIES - 94 Pearl Street
Block 255, Lot 25.01
#15-11-ZB, Bulk Variance Application (New dwelling vacant lot)
TIME: 120= 2/12/2012

Attorney Donald Whitelaw was present to represent the Applicant. Sworn testimony was presented by Applicant/Contract Purchaser Frank Morano and Professional Engineer/Planner George Folk.

The Applicant submitted several exhibits which were marked into evidence as follows:

- A-1 12/20/11 Colored Rendering: Variance Plan, sheet 1 of 2, dated 5/18/11
- A-2 12/20/11 Photo: original residence, 90 Pearl Street
- A-3 12/20/11 Photo: 98 Pearl Street
- A-4 12/20/11 Photo: Sloan Court Subdivision with 18,000-sf lots
- A-5 12/20/11 Photo: Intersection of Sloan and Pearl directly across the street from property in question

A-6 12/20/11 Aerial Photo of the property in question and neighboring properties

Neighbor, Joe Gorski, presented several exhibits in opposition, which were marked into evidence as follows:

- O-1 12/20/11** Photo: looking northwest from 90 Pearl Street
- O-2 12/20/11** Photo: looking north on Pearl Street
- O-3 12/20/11** Photo: houses across the street with raised grade
- O-4 12/20/11** Photo: looking down Pearl Street, north
- O-5 12/20/11** Photo: 681 Kline Street backyard with drainage trench that runs east to west
- O-6 12/20/11** Photo: wetlands in backyard of 681 Kline Street
- O-7 12/20/11** Photo: different perspective of wetlands in backyard of 681 Kline Street
- O-8 12/20/11** Photo: another perspective of wetlands in backyard of 681 Kline Street

The property is known as Lot 25.01, Block 255 of the Tax Map, located on the easterly side of Pearl Street in the R-20 Single-Family Residential Zone and commonly known as 94 Pearl Street. The neighborhood in which the Subject Property is located was previously rezoned so that the lot became non-conforming with respect to lot area and setback requirements. The Applicant seeks variances from the strict requirements of the R-20 zone requirements in order to construct a single family dwelling, specifically, minimum lot area (20,000 square feet required, 10,000 provided), minimum front yard (50 feet required, 35 feet provided), minimum rear yard (50 feet required, 28.7 feet provided) and maximum floor area ratio (f.a.r.) (.16 permitted, .25 proposed).

Mr. Morano testified that the proposed dwelling would be a four bedroom colonial style with a two car garage, and that it would be similar in style and size to the newer houses in the area so that it would blend into the neighborhood. Also, the new dwelling would have the same front yard setback as other houses along Pearl Street. He addressed the Township Planner's report dated 11/21/11 and agreed that utilities would be installed underground if the Board so required; that the proposed deck would not exceed the side yards of the dwelling; and that construction would comply with the architectural plans submitted with the application.

Engineer/Planner Folk testified that the Applicant would comply with the Township Engineer's requirements as well as the Township Planner's requirements. Specifically, the Applicant will install one street tree as required by the Township Planner; will comply with the Township Engineer's technical requirements in his report; will comply with the Township Engineer's comments in the Stormwater management and Utility sections of his report; and will comply with the comment in the report of Robert Reich, P.E. regarding the connection to the existing gravity sanitary sewer in Pearl Street. The Applicant will provide a new plan showing one-half foot contours, will locate swales to prevent additional runoff onto adjacent properties, will provide a letter showing there are no wetlands or transition areas on the lot, any proposed deck will not exceed a depth of 10 feet such that the rear yard setback shall be no less than 18.7 feet, and the height of the dwelling shall not exceed 28.5 feet.

Engineer/Planner Folk also provided testimony with regard to the variances that were required. He testified that the proposed dwelling would comply with the requirements of the R-10 zoning that were in effect when the lot was created. The lot is 100 feet deep so that if the 50 foot front yard

setback were adhered to, there would be virtually no building envelope. He testified that he had conducted a survey of the houses in the area and found that they complied with the 35 foot setback in effect when the zoning for the neighborhood was R-10. The proposed dwelling will be smaller than would be allowed on a 20,000 square foot lot (2,541 square feet rather than over 3,200 square feet) and that the dwelling would be appropriate for the property as well as the neighborhood. He introduced photographs, exhibits A-2 through A-6 of residences in the neighborhood to show that the proposed dwelling will be consistent with the size and style of the newer houses in the neighborhood. He concluded that the granting of the variances will cause no detriment to the public good or zone plan since the Subject Property is a pre-existing non-conforming lot and the size and style of the proposed dwelling is appropriate for a lot of this size and dimensions as well as for the neighborhood in general. The variances are required due to the shape and size of the lot and strict enforcement of the zoning requirements would cause undue hardship to the Applicant.

Members of the public were present as follows:

Joe Gorski, 681 Kline Place, was sworn in and he spoke in opposition to the application and discussed the photos he presented, exhibits O-1 through O-8. He addressed concerns with area flooding, wetlands, and the impacts of previous development in the area regarding stormwater issues.

Ann Steinman, 681 Kline Place, spoke in opposition to the application stating that the proposed dwelling is too large for the neighborhood.

The Board deliberated and discussed several conditions including:

- All utilities shall be installed underground.
- The proposed deck shall be installed in the rear yard, shall not encroach further into the side yards than the dwelling, and shall have a depth that does not exceed ten (10) feet and a width not to exceed sixteen (16) feet.
- Construction shall comply with the architectural plans dated May 31, 2011 prepared by Roger Winkle, subject to any changes required by these conditions.
- The Applicant shall install one street tree as required by the Township Planner.
- The Applicant shall comply with the Technical comments in the Township Engineer's report dated November 22, 2011 as follows: #2 (roof gutters), #3 (walkways and patios) and #4 (contacting the New Jersey One Call System), as well as the Stormwater Management comments and Utilities comments.
- The Applicant shall not be required to enter into a Developers Agreement with the Township.
- The Applicant shall install swales in locations subject to the approval of the Township Engineer to prevent any additional runoff onto adjacent properties;
- The Applicant shall provide a revised plan showing one-half foot contours.
- The proposed Dwelling shall not exceed the dimensions shown on the engineering and architectural plans submitted with the application.
- The Applicant shall submit a letter showing that there are no wetlands or transition areas on the Subject Property.
- Revised plans shall be submitted showing any changes required by this Resolution.

- The height of the building shall not exceed 28.5 feet.
- No building permit shall be issued until all conditions are satisfied except to the extent that it is appropriate that they should be satisfied prior to issuance of a certificate of occupancy.
- The Applicant shall submit a Bridgewater Township Compliance Report prior to scheduling the pre-construction meeting and issuance of construction permits.

Motion by Mr. Rosen, second by Mr. Scott, the Board APPROVED the VFV PROPERTIES – 94 PEARL STREET application was approved with conditions discussed on the following roll call vote:

AFFIRMATIVE: Mr. Sweeney, Mr. Pedroso, Mr. Rosen, Mr. Scott, Mrs. Amin,
Mr. Humenick, Chairman Vornehm
ABSENT: Mr. Schapiro, Mr. Riga, Mr. Schulz

MEETING OPEN TO THE PUBLIC:

There were no members of the public wishing to address the Board on any matter not listed on the agenda.

OTHER BOARD BUSINESS:

Chairman Vornehm canceled the 12/27/11 meeting and stated that the next meeting is scheduled on 1/17/2012.

ADJOURNMENT:

It was the consensus of the Board to adjourn the meeting at approximately 10:45 pm.

Respectfully submitted,
Marie L. Broughman,
Board Clerk

Adopted as Amended: 3/20/12