

BRIDGEWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT

Regular Meeting
Tuesday, October 28th, 2014
—MINUTES—

CALL MEETING TO ORDER:

Chairman Vornehm called the meeting to order at 7:30 p.m. in 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 15, 2014 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:

Vice-Chairman Sweeney – present
Paul Riga – present
Pushpavati Amin – present
Chairman Vornehm – present
Evans Humenick – **absent**
Michael Kirsh – present

Beth Powers – present
Alan Fross, Alt. #1 – present
Roger Pearly, Alt. #2 – present
James Weideli, Alt. #3 – present
Dawn Guttschall, Alt. #4 – present

Others present: Board Engineer Thomas J. Forsythe, PE, Attorney Lawrence A. Vastola & Jo-Ann Petruzzello, Secretary to Planning Division.

MINUTES FOR APPROVAL:

None

MEMORIALIZING RESOLUTIONS:

None

HEARING AND DELIBERATIONS:

PENSCO TRUST COMPANY, LLC – 1507 & 1513 Washington Valley Rd.
Preliminary and Final Major Subdivision w/variances
#14-015, Block 905, Lot 6
Carried from 9/30/14

Mr. Kirsh recused himself prior to this hearing.

Mr. Vastola arrived at 7:32 pm.

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

A-3 10/28/14- Aerial Photograph (2 Sheets)

A-4 10/28/14- Composite of Tax Maps and Aerial Photographs (4 Sheets)

Attorney Frank Linnus was present to represent the applicant. Mr. Linnus reoriented the Board on the variances requested and the subdivision application. Mr. Linnus referenced the Bridgewater Township Ordinance that gives the Board jurisdiction over this application.

Mr. Michael Rosa of 1507 Washington Valley Road testified as the current occupant of the residence. Mr. Rosa provided the history of the property to the Board and stated that he researched the legality of the property with the Tax and Zoning Office's at the time of purchase. Mr. Rosa testified that both homes on the property were renovated and that he currently occupies the larger dwelling. Mr. Rosa testified that financial difficulties caused him to sell the property to his uncle in 2013 to keep the property in his family. Mr. Rosa is requesting the property be subdivided in order to sell the smaller dwelling which will allow him regain ownership of the property.

On question of the Board, Mr. Rosa stated that he spoke with the Zoning Officer prior to purchase to determine whether or not the smaller dwelling could legally be rented. Mr. Rosa testified that the Zoning Officer had confirmed both dwellings were legally on the property and the smaller could be rented. Mr. Rosa advised the previous owners purchased property in 1970. He further stated when he purchased the property, there was a title search and no issues had arisen.

Mr. Linnus confirmed that Mr. Rosa had obtained the Tax Records for the property, which Mr. Linnus requested to enter into evidence. After discussion with Board Attorney Mr. Vastola, Mr. Linnus retracted his request to enter the tax records into evidence.

On question of the Board, Mr. Rosa confirmed that a tenant currently occupies the smaller dwelling on the property.

Mr. Rosa testified that the property is one piece of property and the current owner pays one tax bill.

Board Attorney Mr. Vastola asked Mr. Rosa if he obtained anything in writing from a Municipal Official and Mr. Rosa testified he only received the property tax card as well as a list from the Zoning Officer that indicates multi-family residences in the Township, which this property is listed on. Mr. Vastola also confirmed that Mr. Rosa purchased the property knowing that he was purchasing one lot with two houses.

Chairman Vornehm confirmed the individual houses are not multi-family dwellings.

Mr. Linnus introduced David Zimmerman as the applicant's Professional Planner. The Board recognized Mr. Zimmerman as such. Mr. Zimmerman confirmed that he was previously sworn in and under oath.

Mr. Zimmerman provided the history of the property and testified that property was subdivided in 1988 which created eight lots. This lot was created as one lot in the subdivision, however prior to the 1988 subdivision, this property was two lots. As a condition of the subdivision in 1988, this dwelling was to be removed. In 1993, the previous applicants were granted use of the smaller house to utilize as an accessory dwelling.

Mr. Zimmerman introduced and explained **Exhibit A-3 10/28/14, the Aerial Photographs** obtained from the Somerset County Planning Board. Mr. Zimmerman super-imposed a subdivision line on the photograph. Page 2 indicated the existing ranch dwelling and existing smaller dwelling with the subdivision line. Mr. Zimmerman testified that the pre-existing non-conforming situation violates the Township Ordinance which only allows one principal building on a lot, this property contains two; the Improved Lot Coverage is 21.7%, although the Ordinance allows for 18%; the smaller dwelling is 22 feet from the street which infringes on the front yard setbacks; the R50 Density Requirement is 1 home for .87 acres although the Density now is 1.27 dwelling units per acre; there is currently a garage in one front yard of the smaller dwelling. Mr. Zimmerman discussed the numerous variances for the application in detail.

Mr. Zimmerman introduced and utilized **Exhibit A-4 10/28/14, the Composite of Tax Maps and Aerial Photographs**. Sheet 1 indicated in yellow the current subject property. Sheet 2 indicated the lot widths of each property and Mr. Zimmerman utilized this sheet to indicate the lot width of the ranch dwelling would be larger than two other lots located in the same zone. Mr. Zimmerman discussed Lot 2.03, which is currently owned by Somerset County has a smaller lot width than the proposed application. Mr. Zimmerman stated that Lot 4 noting that it has a higher density than the proposed application as well.

Mr. Zimmerman read C1 Variance criteria to the Board and stated, in his opinion, he feels the C1 Variance is proper because of the unique situation and that the lot cannot be expanded. Mr. Zimmerman also examined C2 variance requirements and stated the subdivision would create one principal structure on each property.

Mr. Zimmerman testified the purpose of the application is to essentially "put a line on a map," and not build or add to any structures on either property. Mr. Zimmerman testified that his conclusion for the application is that it will not have a negative impact on the greater good of the neighborhood.

Mr. Zimmerman addressed the Township's Master Plan and testified that this application would protect the established neighborhood by not proposing any changes to the properties. The applicant promotes a diversity of housing choices by providing a more modest home for a potential buyer that would prefer to live in Bridgewater Township, in his opinion.

On question of the Board, Mr. Zimmerman compared the proposed lot width of this application amongst the surrounding lots utilizing **Exhibit A-4 10/28/14**. Mr. Zimmerman confirmed that the corner lot is smaller than most in the area which would potentially create a need for variances in the future. Mr. Zimmerman further stated that the proposed lot has a narrow footprint that would conform to the Zoning Ordinances, however; any additions or rebuilding would require numerous variances.

On question of the Board, Mr. Zimmerman confirmed the ‘Detention Basin Easement’ is not included on the subject property. Mr. Zimmerman also testified that the ranch on the subject property is “in line” with the houses in the surrounding area.

On question of the Board, Mr. Zimmerman testified the COAH use for the property is not for this meeting. Mr. Linnus noted that the Zoning Plan is served by the proposed application because granting the subdivision would create only one principal structure on each lot. The current zoning does not allow for an accessory dwelling anywhere in the Township.

The Board expressed concerns with potential future hardship variance requests and Mr. Linnus stated hardship would not apply if any future applicant were to apply for a variance.

The Board discussed potentially moving the subdivision line and Mr. Zimmerman testified that the applicant would be willing to move the lot line and allowing the larger lot to become slightly smaller and the smaller lot to become slightly larger.

The Board expressed concerns with subdividing the lots that are non-conforming to the current zone and stated the current owner purchased the property knowing there were preexisting non conforming aspects. Mr. Zimmerman stated the current owner is not interested in removing the smaller dwelling and expanding the larger home.

Mr. Vastola cited case law and stated hardship is not an issue in this proposed application. Mr. Zimmerman stated this application is unique because there are two buildings on one lot.

Mr. Vastola discussed rezoning with Mr. Zimmerman and Mr. Zimmerman stated rezoning the area for a few lots would not be ideal. Mr. Zimmerman further noted other lots in the neighborhood with similar lot sizes and concluded that the small lot is within the character of the neighborhood.

Chairman Vornehm confirmed the current property is a legal and Mr. Vastola confirmed a resolution from the Planning Board that the smaller dwelling a legal accessory structure.

Mr. Vastola discussed the legal aspects of the case and defined the capacity in which the Zoning Board can act.

Mr. Zimmerman testified that adding 25 feet to the subdivision line, the lot would be .78 acres in size which is similar to surrounding lots. The larger lot would be reduced; however this lot would still be slightly larger than other lots in the area.

Mr. Linnus stated the only reason this application is before the Zoning Board is because there is a Township Ordinance that indicates this application is elevated to a Major Subdivision if there are variances. Once this occurs, the applicant must apply for a Density Variance

Chairman Vornehm opened the meeting to the public for questions or comments; there were none.

Chairman Vornehm closed the public portion of the meeting and the Board deliberated.

Motion to deny the Density Variance as presented in the application by Mr. Sweeney, second Mrs. Amin, the foregoing variance was denied based on the following roll call vote:

AFFIRMATIVE: Mr. Sweeney, Mrs. Amin, Mr. Fross, Mr. Pearly, Chairman Vornehm.
NEGATIVE: Mr. Riga, Mrs. Powers
ABSENT: Mr. Kirsh, Mr. Humenick
INELIGIBLE: Mr. Wiedeli, Mrs. Guttschall

Motion to deny the Major Subdivision and Bulk Variances by Mr. Sweeney, second by Mrs. Amin, the foregoing application was denied based on the following roll call vote:

AFFIRMATIVE: Mr. Sweeney, Mrs. Amin, Mr. Fross, Mr. Pearly, Chairman Vornehm.
NEGATIVE: Mr. Riga, Mrs. Powers
ABSENT: Mr. Kirsh, Mr. Humenick
INELIGIBLE: Mr. Wiedeli, Mrs. Guttschall

MEETING OPEN TO THE PUBLIC:

Members of the public wishing to address the Board on any matter not listed on the agenda were invited do so. No members wished to address the Board.

OTHER BOARD BUSINESS:

Motion to cancel the December 2nd, 2014 regularly scheduled Zoning Board Meeting by Chairman Vornehm, second by Mrs. Amin, the foregoing motion was approved based on the following roll call vote:

AFFIRMATIVE: Mr. Sweeney, Mrs. Amin, Mr. Riga, Mrs. Powers, Mr. Fross, Mr. Pearly, Chairman Vornehm.
ABSENT: Mr. Kirsh, Mr. Humenick,
INELIGIBLE: Mr. Weideli, Mrs. Guttschall.

ADJOURNMENT:

It was the consensus of the Board to adjourn the meeting at approximately 9:30 pm.

Respectfully submitted,
Jo-Ann M. Petruzzello

Secretary to Planning Division