

BRIDGEWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
Regular Virtual Online Meeting
Tuesday, April 6, 2021
—MINUTES—

1. CALL MEETING TO ORDER:

Chairman Foose called the Virtual Online meeting to order at 7:30 pm.

2. OPEN PUBLIC MEETING ANNOUNCEMENT:

Both adequate and electronic notice of this meeting specifying the time, place and manner in which such notice was provided in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6, and recently enacted Emergency Remote Meeting Protocols for Local Public Bodies, N.J.A.C. 5:39-1, et seq. Specifically, on **January 13, 2021** 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 at the Municipal Building. Public meetings are held with participants at remote locations, connected by conferencing software provided by RingCentral.com. Members of the public are invited to attend and participate in live meetings either by using the RingCentral client, which allows audio and video participation, or by phoning into a meeting for audio only participation. The required access information is provided in the notice, as well as set forth on the agenda. The procedures and requirements for making public comment are as follows: Attendees are admitted to meetings via the waiting room and microphones are muted until enabled by the host. Members of the public may participate in meetings at certain designated times as announced by the Board Chair. Members of the public will be allowed to address applicants and their experts, ask questions and/or make comments as appropriate once recognized to do so. Attendees may request to be heard by 'raising a hand', either physically or virtually. Regulation of conduct by members of the public on the remote public meeting shall be consistent with law and practices followed if a member of the public disrupts an in-person meeting. Specifically, if a member of the public becomes disruptive during any period for public comment, the member of the public shall be muted and warned that continued disruption may result in him or her being prevented from speaking during the remote public meeting or removed from the remote public meeting. Disruptive conduct includes sustained inappropriate behaviors, such as, but not necessarily limited to, shouting, interruption, and use of profanity. A member of the public who continues to act in a disruptive manner after receiving a warning may be muted while other members of the public are allowed to proceed with their questions or comments. If time permits, the disruptive individual shall be allowed to speak after all other members of the public have been given the opportunity to make their comment. Should the person remain disruptive, the individual may be muted or kept on mute for the remainder of the remote public meeting, or removed from the remote public meeting. Please be aware of the Zoning Board of Adjustment policy for public hearings: No new applications will be heard after 10:00 pm and no new testimony will be taken after 10:15 pm.

3. SALUTE TO FLAG:

4. ROLL CALL:

Jeff Foose - present
James Weideli - present
John Fallone - present
Dawn Guttschall- present
Pushpavati Amin-present

Donald Sweeney -present
Bruce Bongiorno-present
Kevin Wrobel - **absent**
Andrew Fresco -present
Gary La Spisa - present

Others present: In place of Board Attorney Mr. Steven Warner, Esq. Ms. Amanda Wolf Esq. was present, Board Engineer Mr. William Burr, IV, PE., Board Planner Ms. Scarlett Doyle, PP., and Land Use Coordinator Ms. Zuzana Karas.

5. MINUTE(S) FOR APPROVAL:

None.

6. MEMORIALIZING RESOLUTIONS:

PRASUN MAITI - 4 AMSEL CT

Block 196.01 Lot 16

20-033-ZB- SIMPLE VARIANCE

The resolution listed was approved with some changes.

Roll Call Vote:

Motion of approval was made by Mr. Weideli with a second by Ms. Amin.

AFFIRMATIVE: Mr. Foose, Mr. Weideli, Mr. Sweeney, Ms. Amin, Mr. Fresco, and Mr. La Spisa.

ABSENT: Mr. Wrobel.

ABSTAIN: Mr. Fallone, Ms. Guttschall, and Mr. Bongiorno.

DENIAL: None.

NEW CINGULAR WIRELESS PCS, LLC (AT&T) - 4801 ROUTE 202/206 (BYRD AVENUE)

Block 483 Lot 20

21-005-ZB- PUBLIC UTILITY WITH WIRELESS ATTACHMENTS – AMEND PRIOR APPROVAL PRELIMINARY & FINAL SITE PLAN WITH C & D VARIANCES

The resolution listed was approved with some changes.

Roll Call Vote:

Motion of approval was made by Mr. La Spisa with a second by Mr. Weideli.

AFFIRMATIVE: Mr. Foose, Mr. Weideli, Mr. Sweeney, Ms. Amin, Mr. Fresco, and Mr. La Spisa.

ABSENT: Mr. Wrobel.

ABSTAIN: Mr. Fallone, Ms. Guttschall, and Mr. Mr. Bongiorno.

DENIAL: None.

T-MOBILE NORTHEAST LLC /PSE&G- WASHINGTON VALLEY ROAD/ HUNTER ROAD

(pending)

Block 623 Lot 12 & 13

21-010-ZB- PRELIMINARY AND FINAL MAJOR SITE PLAN WITH C & D-VARIANCES FOR PERMANENT COLLOCATION OF WIRELESS ANTENNAS ONTO APPROVED PSE&G TRANSMISSION TOWER AND PLACEMENT OF ANCILLARY EQUIPMENT ADJACENT TO SAME.

The resolution listed was approved with some changes.

Roll Call Vote:

Motion of approval was made by Mr. Weideli with a second by Ms. Amin.

AFFIRMATIVE: Mr. Foose, Mr. Weideli, Mr. Fallone, Ms. Guttschall, Ms. Amin, and Mr. Bongiorno.

ABSENT: Mr. Wrobel.

ABSTAIN: Mr. Fresco, Mr. La Spisa, and Mr. Sweeney.

DENIAL: None.

7. MEETING OPEN TO THE PUBLIC:

Members of the public wishing to make a comment to the Board on any matter not listed on the agenda were able to do so at that time. As noted, under the Municipal Land Use Law and case Law, any questions or comments about a pending application would have to be held until the hearing on that specific application.

No member of the public wished to address the Board.

8. HEARING AND DELIBERATIONS:

**DIETER C. & SHARON R. PASEWALDT - 257 HOLLAND CT
Block 439 Lot 49
21-002-ZB- SIMPLE VARIANCE**

Mr. Dieter C. and Mrs. Sharon R. Pasewaldt came before the Board for variance relief to construct an eight-foot-tall fence at their property identified as Block 439, Lot 49, known as 257 Holland Court. The applicants proposed an 8-foot tall, black aluminum deer fence along the frontage, paralleling Holland Court, and an eight-foot-tall, chain-link fence along both sides and rear property lines.

A variance was required for the proposed fencing since front yards are only permitted at a four-foot height, while the style must have gaps of at least 50% of the width of the solid vertical portion staggered. A variance for the fencing in a rear and side yard was also needed since the maximum permitted height is six feet high. This being consistent with section(s) 196-2.B.1, 196-2.B.2 196-2.B.3 of Bridgewater's Land Use Ordinance.

The Board reviewed the following regarding the application: Survey prepared by James P. Deady, P.L.S., P.P., dated October 5, 2004, tax maps and aerial photographs, a proposal/contract, with specification sheets, prepared by York Fence Co., dated December 31, 2020, and a Review Memorandum prepared by the Board Planner, Scarlett Doyle, P.P., and the Board Engineer, William H. Burr, IV, P.E., dated March 30, 2021.

The Township Planner, Ms. Scarlett Doyle, P.P., and the Township Engineer, Mr. William H. Burr, IV, P.E., along with the applicants Mr. Dieter and Mrs. Sharon Pasewaldt, were all duly sworn to law.

Mr. Pasewaldt testified that they sought to construct an eight-foot-high fence to protect their yard from the deer. He explained they have lived at the property for sixteen years and have been unable to keep the deer from eating their landscaping. Mr. Pasewaldt further explained that he researched how high a fence would need to keep the deer out and determined that the minimum height necessary is 8 feet.

Mr. Pasewaldt testified that the fence between the dwelling and the side property lines would be black aluminum. The fencing along the sides and rear of the property would be chain link with green lamination to blend in with the existing and proposed vegetation. He confirmed that he had discussed this proposal with his neighbors and that none of them objected to it. Mr. Pasewaldt testified that the fence in the rear yard would not be located along the rear property line. Instead, it would be set back approximately 30 feet to prevent the deer from traveling.

Mrs. Pasewaldt explained that they have spent a significant amount of money on landscaping and that the deer constantly destroy it. Mr. Pasewaldt noted that the property is located approximately 500 feet from a nearby farm and that the farm also has 8-foot fencing around its vegetable gardens. During questioning whether there are some features on the property that make it easier for deer to jump, Mr. Pasewaldt testified that there is no unique grading or topographical conditions.

The applicants advised that some neighbors do have fencing around their pools but agreed that, to their knowledge, none of these fences are 8 feet in height. During questioning as to whether the proposed fence

would be out of character with the neighborhood, Mr. Pasewaldt contended that it would not be. She explained that other neighbors have deer netting. The applicants also planned to plant shrubbery and other landscaping, which would soften the appearance of the chain-link fence. As a condition of approval, the applicants stipulated to install a vegetative buffer around the proposed fence, including plantings having a height of five to six feet high. The details would be subject to the review and approval of the Board Planner. Following questioning, the applicants stipulated planting the proposed vegetative buffer within the fenced portion of the property rather than along the exterior of the proposed fence.

The applicants testified that they do not intend to install privacy slats on the proposed fence and stipulated this as a condition of approval. During questioning as to the fence's proposed location, it was confirmed that a clearance of approximately two feet would be present from the side property lines. Mr. Pasewaldt testified that maintaining the portion of the property between the fence and the property line would not be an issue. Mrs. Pasewaldt noted that there are woodchips on one side of the property, so lawn maintenance would not be a concern.

No member of the public commented on or objected to the application.

By a vote of 7 to 0, the Zoning Board of Adjustment denied granting variance relief to construct an 8-foot high fence on the residential property.

Roll Call Vote:

Motion of denial was made by Mr. Weideli with a second by Mr. Sweeney.

AFFIRMATIVE: Mr. Foose, Mr. Weideli, Mr. Sweeney, Mr. Fallone, Ms. Guttschall, Ms. Amin, and Mr. Fresco.

ABSENT: None.

ABSTAIN: None.

Approved: None.

VFV PROPERTIES, INC. - GARFIELD AVENUE

Block 458 Lot 23

21-009-ZB- C-VARIANCE

(Before the hearing began, Mr. John Sullivan, Esq. informed the Board that he had a personal dealing with board member Ms. Amin in the past. Ms. Amin confirmed it was a minor interaction and would not alter her decision-making on the application before the Board.)

Mr. John Sullivan, Esq., of Vastola & Sullivan, representing the applicant, explained the subject property to the Board. He confirmed it's a pre-existing undersized lot located in the R-40 Residential Zone District, totaling 19,987 square feet, with a lot width of 100 feet. The property consists of an existing vacant lot located on the west side of Garfield Avenue to Roosevelt Avenue. The applicant was seeking relief to construct a two-story, single-family dwelling with an attached two-car garage.

The following was submitted to the Board for review: A report from the Board Engineer, William H. Burr, IV, P.E., and the Township Planner, Scarlett Doyle, P.P., dated March 31, 2021, Variance Plans prepared by Craig W. Stires, P.E., dated February 5, 2021, last revised March 15, 2021, Architectural Plans prepared by Roger C. Winkle, A.I.A., dated February 25, 2021, and a copy of Form #3E C-Variance Application and supporting documents. The Board granted the requested checklist waivers.

The Township Engineer, William H. Burr, IV, P.E., and the Township Planner, Scarlett Doyle, P.P., were duly sworn according to law.

Mr. Craig Stires, P.E., of Stires Associates, P.A., was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in the field of civil engineering. Mr. Stires described the conditions and history of the property. He explained that the property is an undersized, narrow lot and that most of the lots in the neighborhood are similar. Mr. Stires testified that the existing shed on the property would be relocated or removed.

During discussion as to whether the property had ever been merged by operation of law with Lot 3, Mr. Sullivan contended that the lots had not. He explained that because the Loechner Merger Doctrine does not apply to lots that are not contiguous, this would not apply to lots that are back to back. He further contended that the separate identity of the lots had not been destroyed since both lots are separately improved, and none of the improvements on either lot overlap the shared rear property line.

The Board's attorney, Mr. Warner, concurred with Mr. Sullivan's analysis and conclusion that Lot 23 and Lot 3 had not merged by operation of law. This was accurate due to the lots not immediately adjacent to each other with frontage on the same street but rather constitute "back-to-back" lots. Even though the lots had been under common ownership.

Mr. Stires testified that Garfield Avenue has a 45-foot wide right-of-way with a pavement width of 23 feet. He further testified that there are no curbs or sidewalks on either Garfield Avenue or Roosevelt Street. Mr. Stires explained that the applicant is seeking variance relief for the pre-existing non-conforming lot area and lot width deviations. He testified that any dwelling constructed on the property would be fully conforming to all of the bulk requirements. Mr. Stires further testified that the proposed home would have four bedrooms, a guestroom, 3.5 bathrooms, and a two-car attached garage. The dwelling would measure 49' 8" in width and 39' in depth. He explained that the dwelling would be serviced by a new sanitary lateral and a new well.

The March 31, 2021, Review Memorandum prepared by Ms. Doyle and Mr. Burr was discussed in which Mr. Stires testified that the proposed lot area and dwelling size would be consistent with the lot area and dwelling size of other lots in the neighborhood. He noted that more than one-half of the nearby lots are 20,000 square feet or less. Whether or not a sidewalk should be installed, Mr. Stires testified that there are currently no sidewalks. Mr. Stires opined that, given the limited amount of traffic and the property's location on two dead-end roads, sidewalks would not be necessary. Mr. Stires testified that the applicant had retained Mr. Ed Kuc of Eastern States Environmental Associates, Inc. to determine whether there are wetlands on the property. The applicant stipulated, as a condition of approval, to provide a letter confirming such when received.

The applicant modified its proposal to include a 15 by 20-foot deck, and the applicant stipulated, as a condition of approval, to change the plans accordingly. The applicant further specified that the area under the proposed deck would remain permeable. Regarding the two overhangs shown on the plans, Mr. Stires testified that one of the overhangs is due to the chimney's location and that the other overhang would be removed. The applicant confirmed that the dwelling depicted on the plans submitted would be the dwelling that would be constructed.

Mr. Burr advised that Garfield Avenue is proposed to be reconstructed in 2021 and that Section 89-16 of the township ordinance prohibits the disturbance of newly paved roads for three years. Mr. Stires requested that the applicant be permitted to utilize overhead utility lines if the applicant cannot obtain a permit to open Garfield Avenue. During questioning by Mr. Burr proposed whether a sanitary sewer connection could be connected to Country Club Road rather than Garfield Avenue? Mr. Stires advised that the applicant is not the owner of the adjacent Lot 3 and, therefore, could not provide an easement across Lot 3 to allow for such a connection. The applicant agreed to Mr. Burr's request that the applicant includes a deed restriction that assigns the property owner, not the Township, to be responsible for maintaining the lateral.

Mr. Stires described the proposed stormwater management system. He testified that stormwater runoff would be directed to the south/southeast. The applicant stipulated that the design of the proposed stormwater management system would be subject to the review and approval of the Township Engineer.

Roger Bone and Roberta Parente, residing at 797 Garfield Avenue, questioned whether the applicant's proposal would increase stormwater runoff onto their property. Mr. Stires opined that the project would not increase stormwater runoff and noted that the stormwater management system would be subject to the review and approval of the Township Engineer. Mr. Bone questioned whether the installation of an additional well on the property would have a detrimental impact on his water pressure, and Mr. Burr advised that the applicant would have to obtain a well permit from the Board of Health. However, aquifer testing is likely not required, given the nature of the applicant's proposal.

Edward Kasny, residing at 809 Roosevelt Avenue, questioned whether the applicant would install a fence along the shared property line and was advised that no fencing is being proposed at this time.

Robert Kiser, P.P., of Stires Associates, P.A., was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in the field of professional planning. Mr. Kiser testified that the applicant sought variance relief for the pre-existing non-conforming lot area and lot width deviations.

Mr. Kiser testified that the applicant could not obtain additional property to make the lot conforming with the lot area and lot width requirements. He further testified that the applicant had sent letters to the adjacent property owners seeking them to either sell the property or obtain portions of their lots.

Mr. Kiser opined that the proposal would advance the purposes of the Municipal Land Use Law, promoting the general welfare, promoting the establishment of appropriate population densities, and providing sufficient space in appropriate locations for residential use. He further opined that the benefits of granting the requested relief substantially outweigh the detriment.

Mr. Bone and Ms. Parente, residing at 797 Garfield Avenue, questioned whether the applicant proposes to remove any of the existing trees or install any landscaping. Mr. Kiser advised that the trees located where the proposed dwelling would be located would need to be removed. During a landscaping discussion, the applicant stipulated to submit an informal landscaping plan to provide screening between the property and adjacent Lot 18 to the south. The plan would include the proposed species, planting height, and spacing of all of the proposed plantings, subject to the review and approval of the Township Planner.

Jonathan Grauer, having an address of 810 Garfield Avenue questioned whether the proposal would have a detrimental impact on his property and was advised that, given the location of his property across Garfield Avenue, the proposal would not have such an impact.

Mr. Bone and Ms. Parente, residing at 797 Garfield Avenue, were duly sworn according to law, and expressed their concerns about the impact of the applicant's proposal on the character of the neighborhood and stormwater runoff onto their property. Mr. Bone and Ms. Parente expressed further concerns about the impact the installation of an additional well could have on the aquifer.

By a vote of 7 to 0, the Zoning Board of Adjustment approved the application, subject to any stipulated and imposed conditions.

Roll Call Vote:

Motion of approval was made by Ms. Guttschall with a second by Mr. Weideli.

AFFIRMATIVE: Mr. Foose, Mr. Weideli, Mr. Fallone, Mr. Sweeney, Ms. Amin, Ms. Guttschall, and Mr. Fresco.

ABSENT: None.
ABSTAIN: None.
DENIAL: None.

9. OTHER BOARD BUSINESS:

The Board discussed the next upcoming meeting dates and applications scheduled.

10. EXECUTIVE SESSION:

There was no need for an Executive Session.

11. ADJOURNMENT

The meeting was adjourned at approximately 10 pm with a motion made by Mr. Weideli and a second by Ms. Guttschall.