

BRIDGEWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
 Regular Meeting
August 2, 2022
 —MINUTES—

1. CALL MEETING TO ORDER:

Chairman called the meeting to order at 7:00 pm.

2. OPEN PUBLIC MEETING ANNOUNCEMENT:

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 19, 2022 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 9:30 pm and no new testimony will be taken after 10:00 pm. Hearing Assistance is available upon request. Accommodation will be made for individuals with a disability, pursuant to the Americans With Disabilities Act (ADA), provided the individual with the disability provides 48 hours advance notice to the Planning Department Secretary before the public meeting.” However, if the individual should require special equipment or services, such as a CART transcriber, seven days advance notice, excluding weekends and holidays, may be necessary.

3. SALUTE TO FLAG:

4. ROLL CALL:

Jeff Foose	Present		Gary La Spisa	Absent
James Weideli	Present		Bruce Bongiorno	Absent
Dawn Guttschall	Present		John Gayeski	Present
Pushpavati Amin	Present		Jeffrey Sicat	Absent
Donald Sweeney	Present		John Kulak	Present
Andrew Fresco	Absent			

Others present Acting Board Attorney Richard Oller, Esq. and Zoning Officer, Roger Dornbierer

5. MEETING OPEN TO THE PUBLIC:

Members of the public wishing to comment to the Board on any matter not listed on the agenda were able to do so at that time. Please note that under the Municipal Land Use Law and case Law, any questions or comments about a pending application must be made in the hearing on that specific application.

There was no public comment.

6. MINUTES FOR APPROVAL:

December 7, 2021 Regular Meeting (pending)	February 15, 2022 Regular Meeting (pending)
December 21, 2021 Regular Meeting (pending)	March 1, 2022 Regular Meeting (pending)
January 18, 2022 Reorganization Meeting (pending)	April 5, 2022 Regular Meeting (pending)
February 1, 2022 Regular Meeting (pending)	July 19, 2022 Regular Meeting (pending)

7. MEMORIALIZING RESOLUTION(S):

- **GRAHAM, FILOMENA & KENNETH - 192 BRAHMA AVENUE (Block 160, Lot 3)
#22-004-ZB - Bulk Variance Relief**
Eligible to vote: Mr. Foose, Mr. Weideli, Ms. Amin, Mr. La Spisa, Mr. Gayeski, Mr. Kulak
Motion by Mr. Weideli, **seconded** by Ms. Amin to approve.
AFFIRMATIVE: Mr. Foose, Mr. Weideli, Ms. Amin, Mr. Gayeski,
DENIED: NONE

- **APPOINTING RICHARD OLLER, ESQ. AS NEW BOARD ATTORNEY**
Eligible to vote: All members
Motion by Mr. Weideli, **seconded** by Ms. Amin to approve.
AFFIRMATIVE: Mr. Foose, Mr. Weideli, Ms. Guttschall, Ms. Amin, Mr. Sweeney, Mr. Gayeski,
Mr. Kulak
DENIED: NONE

- **ENGAGE SERVICES OF ENGINEERING CONSULTANT**
Eligible to vote: All members
Motion by Mr. Weideli, **seconded** by Ms. Guttschall to approve.
AFFIRMATIVE: Mr. Foose, Mr. Weideli, Ms. Guttschall, Ms. Amin, Mr. Sweeney, Mr. Gayeski,
Mr. Kulak
DENIED: NONE

- **T-MOBILE NORTHEAST, LLC – ROUTE 202/206 (Block 601, Lot 107)**
Prior Applications #20-018-ZB & 21-001-ZB (Preliminary & Final Site Plan, D1 (Use) Variance,
D6 (Height) Variance & Bulk Variances) - **Amended Site Plan Approval/Amendment of Prior
Conditions of Approval**
Eligible to vote: Mr. Weideli, Ms. Guttschall, Ms. Amin, Mr. La Spisa, Mr. Gayeski, Mr. Kulak
(PENDING)

- **SAHAJ PATEL – 524 BRIDGEWATER AVENUE (Block 308, Lot 2)
#22-007-ZB – D Variance (F.A.R.)**
*Eligible to vote: Mr. Foose, Mr. Weideli, Ms. Guttschall, Ms. Amin, Mr. La Spisa, Mr. Gayeski,
Mr. Kulak*
(PENDING)

- **ENGAGE SERVICES OF PLANNING CONSULTANT
(PENDING)**

8. LAND DEVELOPMENT APPLICATIONS:

- **JENNIFER PARK – 2 WATERFORD LANE (Block 651, Lot 4.01)**
#22-006-ZB – Bulk Variance/s
Eligible to vote: All Members

Mr. Oller confirmed 200' notices were served and published in compliance with MLUL.

Mr. W. Timothy Howe, Esq. represented Jennifer Park.

Testimony would be provided by Ms. Jennifer Park, Mr. Seong Park.

Ms. Jennifer Park and Mr. Seong Park were sworn according to law.

Mr. Howe presented the application. Ms. Park sought bulk variance relief relating to the prior construction of a built-in swimming pool, shed, swimming pool equipment, and hot tub on her property in the R-50 Zone.

- A side-yard setback of 24.5 feet to the built-in swimming pool, where the minimum is 25 feet
- A side-yard setback of 22.5 feet to the shed, where the minimum is 25 feet
- A side-yard setback of 13.3 feet to the pool equipment, where the minimum is 25 feet
- Relief to permit three accessory structures, where only two are permitted in residential zones

Mr. Howe presented the following exhibits:

- A-1 Variance Application Form # 3E
- A-2 Variance Plan & Engineering Data prepared by Eric Rupnarain, P.E., of Goldenbaum Baill Engineering, Inc., dated February 9, 2022, last revised May 6, 2022, same consisting of one sheet;
- A-3 Photo board containing ten photographs of the Property from various views;
- A-4 Photo board containing twelve photographs of the Property from various views showing existing buffering and rear property line;
- A-5 As-built Survey prepared by Vincent J. Rigelon, Jr., P.L.S., dated October 1, 2021, last revised June 10, 2022, same consisting of one (1) sheet; and
- A-6 Original plot and grading plan dated July 7, 2020, submitted with Applicant's original construction permit application.

Ms. Jennifer Park, testified that she hired a pool company in September of 2020 to install a built-in swimming pool in her back yard. She applied for the necessary permits and the location on the permit plan was fully conforming to all zoning requirements.

However, unbeknownst to her, the pool contractor encountered a large rock formation which prohibited the swimming pool from being installed in accordance with the approved plan. As a result, the contractor shifted the swimming pool location and upon inspection by the Township, it was noted the swimming pool was not located in accordance with the approved plan and the revised location did not satisfy the setback requirements of 25 feet by six inches.

She stated the shed encroaches the side yard setback by approximately 2 ½ feet; and the swimming pool equipment encroaches the side yard setback by approximately twelve feet.

Ms. Park described the Property and existing buffers as being adequate to sufficiently shield neighboring property owners.

Chairman Foose asked for details on the swimming pool equipment and what buffering is in place to mask the sound.

Mr. Seong Park testified that the swimming pool equipment has variable speeds, including a quiet mode, and that the equipment is extensively buffered from the neighbors. The Chair recommended specific noise reduction options. Mr. Park agreed to install further noise reduction materials.

Board members commented that a hot tub is an accessory structure and that it was not included on the original application plan. Ms. Parks stated the hot tub and shed were part of a separate, approved permit application. Board member asked about the height of the pergola and shed. Both are twelve feet.

PUBLIC QUESTIONS ON THE PARK'S TESTIMONY

There were no questions from the public.

Mr. Howe summarized the application and stated there were no issues identified in Ms. Doyle and Mr. Burr's joint report.

Mr. Howe presented the positive criteria under the Subsection "c(1)" or "hardship" variance analysis, as it relates to the side yard setbacks. He also presented the positive criteria under the Subsection "c(2)" or "flexible c" variance analysis for the requested relief regarding the location of the shed, the swimming pool equipment, and hot tub.

Mr. Howe presented the negative criteria for the variance relief, demonstrating that the requested relief can be granted (1) without substantial detriment to the public good, and (2) without substantially impairing the intent and purpose of the Township's Master Plan and Zoning Ordinance.

PUBLIC COMMENT ON APPLICATION

There were no questions or comments from the public.

BOARD DELIBERATIONS

Mr. Oller reviewed the conditions of approval as follows:

- The Applicant shall not be required to execute a Developer’s Agreement
- Comply with the comments and requirements set forth in the July 27, 2022, joint Memorandum prepared by Scarlett Doyle, P.P. and William H. Burr, IV, P.E.
- Install additional sound abatement at the swimming pool equipment area in the form of a sound fence to the satisfaction of the Township Planner
- Revise the Variance Plan to show a sight triangle at the intersection of Mount Vernon Road and Waterford Lane
- Provide a roadway dedication deed for the area from the centerline of Mount Vernon Road to the Property line as shown on the Variance Plan. The roadway dedication deed shall to be to the satisfaction of the Board Engineer and Board Attorney prior to recording
- Complete a Simple Variance Compliance form
- Provide an updated survey of the Property, if required by the Board Engineer
- Submit electronic versions of the signed plans to the Township once all conditions and requirements set forth in the Compliance Report are satisfied
- Comply with all other outside agency permit and approval requirements in accordance with the law

Board Members commented that they believe the applicant operated in good faith and that it was the contractor who caused the non-conformity. Members stated they wished the contractor was present for the application. The Board appreciated the applicant’s efforts to create a sound buffer to the pool equipment. Members stated this was a hardship for the applicant. No members expressed objections to the application.

Motion by Mr. Weideli, **seconded** by Ms. Amin to approve.

Eligible to vote: Mr. Foose, Mr. Weideli, Ms. Guttschall, Ms. Amin, Mr. Sweeney, Mr. Gayeski, Mr. Kulak
AFFIRMATIVE: Mr. Foose, Mr. Weideli, Ms. Guttschall, Ms. Amin, Mr. Sweeney, Mr. Gayeski, Mr. Kulak

DENIED: NONE

- **GCP BRIDGEWATER, LP – 530 ROUTE 22 (Block 400, Lot 7)**
#21-003-ZB – D Variance (Use)

Eligible to vote: All Members

(To be carried to 9/6/22 with an extension of time thru 9/30/22)

Chairman Foose stated he received a letter from the applicant’s attorney requesting the matter be carried.

9. OTHER BOARD BUSINESS:

NONE

10. EXECUTIVE SESSION:

NONE

11. ADJOURNMENT

Motion by Mr. Weideli, **seconded** by Ms. Guttschall to adjourn at 7:52 PM. Motion carried without objection.

Respectfully Submitted,



Roger Dornbierer, Zoning Officer

APPROVED 9/6/22