

**ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
OCTOBER 15, 2009 AT 8:00 P.M.**

Mr. Bennett called the meeting to order by reading the following statement: “As Chairman and Presiding Officer of the Colts Neck Zoning Board, I hereby declare that the notice requirements of the law have been satisfied by prominently posting a notice of this meeting on the Township Bulletin Board, and that there has been transmitted by regular mail a copy of said Notice to the Asbury Park Press, and that a copy is on file in the office of the Township Clerk.”

Roll Call

PRESENT: Bennett, Karch, Burry, Wagar, Yodakis, Goubeaud and Hesslein

ABSENT: Barnett and Sobieski

Also Present: Michael Steib, Esq., Timothy Anfuso, P.P. and Ruth Leininger

Approval of Minutes

Motion to Approve the Minutes of September 17, 2009:

OFFER: Burry

SECOND: Hesslein

AFFIRMATIVE: Bennett, Karch, Burry, Yodakis, Goubeaud and Hesslein

NEGATIVE: None

ABSTAIN: None

RESOLUTIONS:

Application ZB815 – Trump National at Colts Neck – Block 46, Lot 1.52 - Professional Circle
Memorialization of Resolution Dismissing the Application Without Prejudice.

Motion to Memorialize the Resolution:

OFFER: Burry

SECOND: Yodakis

AFFIRMATIVE: Burry, Yodakis, Goubeaud and Hesslein

NEGATIVE: None

ABSTAIN: Bennett

Application ZB818 – Crispy – Block 10, Lot 1.03 - 7 Wyndcrest Court

Memorialization of Resolution approving the construction of a single family dwelling in the AG Zone. Variances are required to permit a building height of 38’ 10” where 35’ is the maximum permitted and an architectural feature width of 25’ where 19.5’ is the maximum width allowed.

Motion to Approve the Application:

OFFER: Hesslein

SECOND: Burry

AFFIRMATIVE: Karch, Burry, Goubeaud and Hesslein

NEGATIVE: None

ABSTAIN: None

Application ZB834 – Carroll – Block 13, Lot 81 – 9 Westminster Drive

Memorialization of Resolution approving the retention of an existing shed and inground pool.

Variances are required to permit a front setback of 68' for the shed where 100' is required and a side setback of 35' for the pool where 40' is required.

Motion to Approve the Application:

OFFER: Burry

SECOND: Hesslein

AFFIRMATIVE: Bennett, Karch, Burry, Yodakis, Goubeaud and Hesslein

NEGATIVE: None

ABSTAIN: None

ADMINISTRATIVE ITEMS:

None

APPLICATIONS: Old Business:

Application ZB793 – Meicke – Block 14, Lot 2 – 260 Heyers Mill Road

Application to reconstruct an existing detached garage. Variances are required to permit a front setback of 27' where 100' is required, side setback of 14' where 27.8' is required, total accessory building coverage of 6.9% where 5% maximum permitted, first floor area of 1,472 s.f. where 900 s.f. maximum permitted and total floor area of 1,472 s.f. where 1,200 s.f. maximum permitted.

Brian Harvey, Esq. represented the applicant. Mr. Harvey told the Board they did not feel the need to bring the architect Mr. O'Neill back to the meeting unless the town desired. Three experts were brought in with one stating the structure was 70% in tact, another stating it was only 49% and the last stating he was not qualified to give a number. Mr. Harvey summed up the application saying it was never Mr. Meicke's intent to abandon the garage. He saved the materials fully intending to rebuild and restore the structure. He felt ordinance 102-64D applied to this situation and felt case law gave the Board the authority to act on a case by case situation rather than using a fixed percentage of the structure standing. If permitted, Mr. Meicke will maintain the footprint of the garage with some minor repairs to the foundation and a slight modification of the roof line so it will drain better. Open to the public with no comments.

Mr. Steib, Esq. concurred with the case law Mr. Harvey presented, however he stated it was superseded by our ordinance. Mr. Steib's suggestion to the Board was to look at the whole picture rather than a number.

The Board felt the applicant always intended on restoring the garage, all materials were saved. Mr. Meicke restored the house so it is reasonable to believe he wanted to refurbish the garage. The Board

felt it will not only enhance the neighborhood but also keep the historical context. The Board felt the garage is a pre-existing nonconforming structure which was only partially destroyed and the partial destruction was performed for the purpose of reconstruction/repair.

Motion to Approve the Application:

OFFER: Burry

SECOND: Wagar

AFFIRMATIVE: Bennett, Burry, Wagar, Goubeaud and Hesslein

NEGATIVE: None

ABSTAIN: None

Application ZB823 – Weiss – Block 48, Lot 23.05 – 19 Rancho Polo

Application to construct a patio and outdoor kitchen. A variance is required to permit a total lot coverage of 16.39% where 15% is the maximum permitted.

Two new items were marked as exhibits – a revised variance plan and zoning review. A.J. Garito, Engineer – sworn.

Mr. Garito told the Board previously they were requesting two variances. The applicants have eliminated the arbor from their plans and are just requesting a modest patio; approximately 200 s.f. with a connection to the pool. They are now asking for one total lot coverage variance of 16.39% down from 18.09% last month. They will still install the drainage system. They tried to reduce the existing coverage from the circular driveway but it is at a minimum turning radius and there is nothing to eliminate.

Open to the public with no comments. The Board was very torn, they empathized with the applicant but felt it was a self imposed hardship. They obviously received bad advise, possibly the pool could have been smaller but they felt asking for 16.39% was too excessive. The applicant took a short recess and then requested a total lot coverage of 16% that would be approved by the Zoning Officer. The Board agreed as long as the drainage system was still provided to the Engineer's satisfaction.

Motion to Approve the Application:

OFFER: Karch

SECOND: Goubeaud

AFFIRMATIVE: Bennett, Karch, Burry, Yodakis, Goubeaud and Hesslein

NEGATIVE: None

ABSTAIN: None

APPLICATIONS: New Business

Application ZB825 – Lucarelli – Block 5, Lot 1.02 – 18 Eagle Nest Road

Application to retain existing Bocci Ball Court and BBQ structure as well as install a new 20' x 23' pergola. Variances are required to permit a Bocci Ball Court side yard setback of 43' where 50' is required and a building separation of 4' between the pergola and terrace and 6' between the BBQ and terrace where 20' is required.

Thomas and LeAnn Lucarelli, applicants and Tom LoBrow, contractor – all sworn. Eight items were marked as exhibits – zoning review, application, survey, sketch improvement, detail of BBQ, Architectural Review Committee's comments, photo of BBQ and a series of eleven photos.

In the spring of 2008 the Lucarelli's contracted Mr. LoBrow to remove an existing wooden deck and install a raised patio as well as a new paver patio around the pool with an outdoor kitchen. The Lucarelli's recently applied to construct a pergola on top of the patio and it was discovered the BBQ structure was constructed too close to the raised patio as well as a bocci ball court is too close to the side yard property line. Mr. LoBrow told the Board it was his mistake, he misunderstood Mr. Anfuso, he thought the 20' separation was between the house and the BBQ not the raised patio. Open to the public. Modesto Lucarelli, Freehold – sworn. Mr. Lucarelli told the Board he used to live in the house next door to his son. He wanted a bocci ball court but his property sloped so his son said he could build it on his property. He came to the town and found no out that no building permits were required but he must maintain 50' side and rear setbacks. He took out a tape measure and measured 50' and built the court, he must have measured wrong.

Mr. Lucarelli told the Board he is here tonight because he does not want any violations on his property. He would also like to construct a pergola over the BBQ, for protection from the sun. The Board thought the bocci ball court was di minimis. The BBQ is placed on a nonflammable surface and did not appear to interfere with any emergency services. The Board conditioned their approval of the BBQ structure and pergola on the Fire Marshall's approval

Motion to Approve the Application:

OFFER: Wagar

SECOND: Goubeaud

AFFIRMATIVE: Bennett, Karch, Burry, Wagar, Yodakis, Goubeaud and Hesslein

NEGATIVE: None

ABSTAIN: None

Application ZB826 – Kesicki I – Block 13, Lot 5.01 – 143 Heulitt Road

Application to construct a first and second story addition to an existing dwelling in the A-1 Zone. A variance is required to permit a side yard setback of 31.5' where 50' is required.

Ten items were marked as exhibits – zoning review, application, variance plan, floor plan and front elevations, elevation plan, Architectural Review Committee comments, Board of Health comments, board mounted Sketch Plat, board mounted color rendering of variance plan and a photo board with six photos.

Torre Kesicki, applicant and A.J. Garito, Engineer both sworn. A few months ago they were in front of the Planning Board regarding the possibility of moving the lot line. The Board did not like the plan and that is why they are now in front of this Board. The Kesicki's own this property and the flag lot behind it. Their overall plan is to build a larger home on the back lot and add a small addition with a full second story to the existing home on this property to look more like a carriage house. This will be a modest home; approximately 3,000 s.f. The neighboring property has a small sliver of land adjacent to the Kesicki's property and nothing could be built there. Open to the public with no comment.

The Board thought the applicant did a very nice job architecturally. The setback is a pre-existing condition and they were improving the situation. This will make an improvement to the neighborhood.

Motion to Approve the Application:

OFFER: Burry

SECOND: Karch

AFFIRMATIVE: Bennett, Karch, Burry, Wagar, Yodakis, Goubeaud and Hesslein
NEGATIVE: None
ABSTAIN: None

Application ZB827 – Kesicki II – Block 13, Lot 5.02 – 145 Heulitt Road

Application to construct a new single family dwelling in the A-1 Zone. A variance is required to permit a front yard setback of 50' where 102' is required.

Five items were marked as exhibits – zoning review, application, variance plan, architectural elevations and a review letter from the Township Engineer.

Torre Kesicki, applicant and A.J. Garito, Engineer both sworn. Mr. Garito explained this property is an existing conforming flag lot that was created approximately five years ago. The proposed house will mimic the house on lot 5.01 only it will be larger, approximately 6,300 s.f. The 90' rule is applicable and the house will be approximately 400' from Heulitt Road but 50' from the front property line. The house could be moved back however there is a large grade change with wooded area with 18"-36" trees on the rear property they are proposing the house in a clear flat area. Open to the public with no comments.

The Board was happy the applicant was planning prior to building the house where they would place amenities. The property is a unique lot and they felt it was well thought out. The Board felt the intent of the 90' rule was met, the house is not overpowering from the street.

Motion to Approve the Application:

OFFER: Burry
SECOND: Wagar
AFFIRMATIVE: Bennett, Karch, Burry, Wagar, Yodakis, Goubeaud and Hesslein
NEGATIVE: None
ABSTAIN: None

Application ZB831 – Manhire – Block 21, Lot 2 – 585 Lovett Road

Application to construct an addition to an existing single family dwelling and to remove the deck and install a raised and at grade patio in the A-1 Zone. Variance are required to permit a side setback of 34' for a raised patio and 44.6' for the addition where 54' is required and 52' exist as well as a building separation of 2' for the hot tub where 20' is required.

The applicant did not notice properly. The applicant will renote for the November 19, 2009 meeting.

Application ZB829 – Petillo – Block 16, Lot 33.10 – Homestead Drive

Application to construct a new single family dwelling in the A-1 Zone. A variance is required to permit a building coverage of 7.1% where 6% is the maximum permitted.

The applicant did not notice properly. The applicant will renote for the November 19, 2009 meeting.

DISCUSSION ITEMS:

None

EXECUTIVE SESSION

None

MOTION TO ADJOURN

A motion was made by Mr. Burry at 10:005 p.m. to adjourn the meeting, seconded by Mr. Karch and unanimously carried.

I hereby certify that the October 15, 2009 adopted by the Board of Adjustment of the Township of Colts Neck at its meeting held on November 19, 2009.

Ruth Leininger, Secretary
Board of Adjustment of the
Township of Colts Neck