

**TOWNSHIP OF OCEAN
Zoning Board of Adjustment
Minutes
September 17, 2015**

7:00 P.M.

PLEDGE OF ALLEGIANCE

The regular meeting of the Zoning Board of Adjustment was held on the above date and time;

STATEMENT: Pursuant to the provisions of the New Jersey, Open Public Meetings Act, sending copies of the notice of meeting properly provided adequate notice of the meeting to the Asbury Park Press and the Press of Atlantic City. Notice was posted on the bulletin board in the Administration Building.

ROLL CALL

Members Present:	Stan Anderson	Ronald Bruno
Edward Covitz	Brian Higgins	John Petrosilli Raymond
Roskowski	Albert Linck	

Absent: Antonio DeAlmeida

Professionals:

Brian E. Rumpf, Esq.
Patrick Jeffery, PE, PP, CME

The Chairman John Petrosilli asked for a motion for the minutes of the Regular meeting on August 20, 2015. Ronald Bruno made a motion to approve and Stanley Anderson seconded the motion. Roll Call: (Ayes) Bruno, Anderson, Covitz, Higgins, Roskowski, Petrosilli.

The Chairman asked for a motion to approve the bills Edward Covitz made a motion to approve and Brian Higgins seconded the motion. Roll Call: (Ayes) Covitz, Higgins, Anderson, Bruno, Roskowski, Linck, Petrosilli.

CORRESPONDENCE: NONE

MATTERS OF THE BOARD: NONE

BOARD COMMENTS:

NONE

RESOLUTIONS

Resolution No. 2015-14-BA
Docket#04-15-BA
Kevin Solack
Block 92 Lot 2
39 Sands Point Road
Lot coverage and rear yard setback

The Chairman asked for a motion to accept the Resolution Brian Higgins made a motion to approve and Ronald Bruno seconded the motion. Roll Call: (Ayes) Higgins, Bruno, Anderson, Covitz, Roskowski, Petrosilli.

OLD BUSINESS

NONE

NEW BUSINESS

George Mackres
Docket#05-15-BA
13 Clearwater Drive
Block 194 Lot 16
Lot width and lot area

Ron & Judith Hickerson
Docket#06-15-BA
Block 238 Lot 34
Front and rear yard setback with two encroachments

Robert Van Lenten
Docket#07-15-BA
Block 91 Lot 15
Lot coverage and rear yard setback

The first application heard was Docket No. 05-15-BA, 13 Clearwater Drive, Block 194 Lot 16, George Mackres represented by Attorney Harvey York and Bruce Jacobs, Engineer. Attorney York opened up the application by stating that this is a home proposing to be constructed on an undersized lot. There used to be a structure on the lot which had been taken down. A-1 Mr. Jacobs stated was the notice that was given out to the property owners within 200 feet. The Chairman asked if they were in receipt of the Board's Engineer letter. They stated yes. Mr. Jacobs began to describe where the property was located. There is an apartment building to the west and a residential home to the east. Attorney York asked Mr. Jacobs if he had pictures of the property before, showing the old structure, and what it looks like currently; Mr. Jacobs stated yes, they marked in those pictures as A-2. Mr. Jacobs explained that it was an aerial from 2007 when the old train station building was on the property. The other picture is the current state it is in. The chairman was addressing the picture in the Engineer's Letter; it appears that the property goes into others. Mr. Jacobs explained that is a tax map reference which is not a survey.

There were no further questions regarding the application heard. A-3 was marked in by the Attorney York where Mr. Jacobs described the picture being before the structure was taken down. The applicant requires two variances of lot area and lot width. Mr. Jacobs stated that there is no way to obtain any property to gain more land. He stated behind the property is wetlands. The general character of the neighborhood is mainly residential with commercial to the west. Mr. Jacobs added that the proposed single family dwelling meets all required setbacks for that zone. Mr. Jacobs has an approval from the Department of Environmental Agency to build within this lot, meeting their requirements. Mr. Covitz wanted to know where the wetlands were. Mr. Jacobs explained that it was to the rear. Mr. Anderson asked how many trees will be cut down. Mr. Patrick Jeffery stated that you cannot clear cut any lot in the Township. He asked Mr. Jacobs to explain their plan. Mr. Jacobs stated they are not clear cutting. He explained that the tree line is roughly 30 feet behind the existing structure. The trees have grown back in since the last survey. The Chairman asked if the significantly large tree will be saved; Mr. Jacobs stated that he has the requirements from DEP as to where the home could be wedged in. The Board Engineer stated the applicant needed relief on lot area and lot width, which the applicant had provided testimony on. The applicant provided testimony on the size of the lot. He asked where the runoff from the roof would be directed. Mr. Jacobs said it would have gutters/leaders and the grading would make it directed away from adjoining properties and to the street.

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Seeing none

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The Board Attorney asked if there was anything else they needed to add. The Attorney York stated no, and that the proposed dwelling provides adequate air, light, and space. The Board Attorney summarized the application. He explained that case law states that dealing with undersized lots, the applicant should make adequate effort to ascertain whether or not there is additional lot to cure that nonconformity or to minimize it to any degree. The council has established that testimony. He explained that all bulk requirements will be met according to the representation. If this were to be favorable the condition would be to add leaders to direct the runoff.

The Chairman asked for a motion on this application. Stanley Anderson made the motion to approve the application and Brian Higgins seconded it. Roll Call: (Aye) Anderson, Higgins, Bruno, Covitz, Roskowski, Linck, Petrosilli.

The second application that was heard was Docket No. 06-15-BA, 99 Bonita Road, Block 238 Lot 34, where the applicants Judy and Ron Hickerson were represented by Attorney Gregory Hock and their Planner, Jason Marciano. They were all sworn in by the Board Attorney. This home was a Sandy home the Attorney explained making them having to raise their home and to have proper egress to get to the new elevation. Mrs. Hickerson purchased their home in 2004. She explained that 10 inches of water came into the home from Sandy. The received a substantially damaged letter from the town, marking the document in as A-1. Mrs. Hickerson explained that the home is now in the middle of construction with building permits approved for

the raising of the home and second story addition. The project was stopped because of the then submitted entry ways to the home. The Survey marked A-2 was before Super Storm Sandy. The Attorney began to explain that the applicant would remove all items from the yard and replace it with a rear yard deck. Mrs. Hickerson explained that there was a large wooden shed, a plastic shed, a three season room on the back, and now they propose just a rear deck in the back to have a table and chairs to have dinner out on. She feels the size will serve its' purpose. She explained that their home was always very charming, they are surrounded by foreclosures, and they want to regain that value and to overlook the marina.

The Chairman stated he has a concern for the height of the property itself. Mrs. Hickerson stated that they had to put drainage because of the contractor that they had at the time, put too much fill in. Therefore, the Township put a stop work order, which now drainage is placed underground and a retaining wall. She explained that she has been working with the Professionals on that. Patrick Jeffery explained that he will go through the Engineers Letter. The house is located in the R-1 Zoning District, the applicant request a number of variances: lot coverage, 34% is proposed where 30% is permitted, front yard setback of 19.2 feet where 25 feet is permitted to the front porch they are requesting a variance, the rear deck needs relief on 13.9 feet where 20 feet is permitted, and a variance is requested for two encroachments, where one is permitted.

The Planner Jason Marciano explained those two encroachments that they are proposing. The front is a covered porch and the back is an open deck. He was referring to the enlarged survey that was submitted to the board with the original application. The front there is no variance condition on the side. He explained that the goal of 20 feet between buildings is met with 24 feet proposed. He further explained the characteristics of that area. He stated there are 37 developed parcels in the Barnegat Beach Bay area. He stated that the whole block does not conform to the current zoning district. It is typical of the block when it comes to the area. They are based on a much smaller lot. Most of the lots are only 100 feet deep lots. He explained there is no land to obtain to make it closer to the required 1 acre lot for this zoning district. The garage floor is higher at 6 feet, with the road being at 2 feet. The property has been elevated like the applicant stated. The lot will be stoned. There will be minor runoff from the roof that will be directed into the drains or it will be directed by the retaining wall. He explained that what is proposed is a typical trend for this area. The best views are from the front of the home.

The Chairman asked have you made any effort to reduce the size of the porches and landings to try and get closer to the 40 square feet; he stated he has not seen any other homes in that area coming to the board for this relief. The Planner Jason Marciano stated that because of the existing home is deeper than 30 feet deep, where the current home is 50 feet, that they loss that additional distance from the setback unlike others that have smaller homes. He further stated that the small deck proposed in the back puts them over on lot coverage by that 4%. He explained that what was there before, the three seasoned porch, is the same size as the proposed deck which would be open and it is elevated. Jason explained that there will be more air, light and open space with what is proposed, by removing all sheds and just having the rear deck which is all open.

Patrick Jeffery asked if the applicant could provide testimony regarding the height chosen for the single family dwelling because the main variances that are needed are the encroachments. The

Planner Jason Marciano stated that he became involved with the project after the foundation was put in place, therefore which was there already. The garage helps with the off street parking. The elevation of the stairs would still be coming down regardless even if the structure was pushed down where everything is meeting that outside grade. Patrick wanted to note that if the first floor was lower than fewer stairs would be proposed. He asked if that was this all proposed at the beginning of the building permit originally submitted. He asked when the second story addition was proposed. Mrs. Hickerson stated that her elderly mother-in-law will be staying with them, which triggered the second story addition. She stated that the raising of the home and the second story addition were two separate applications submitted to the building department. Higgins had asked about the parking. He stated it appears one car would always have to be parked in the garage in order to fit another. Higgins has a concern about the stairs being 10 feet from the property line. He asked if it can be closer.

The Planner stated that having the landing midway helps to have a safer stairway. Patrick Jeffery asked what was submitted to the building department original, because it has to be submitted with an egress. The Planner indicated he did not know. He stated Mrs. Hickerson would provide testimony on that. The home was raised 15 feet higher Patrick stated. Mrs. Hickerson stated that they were told that this would need a variance for the stairs and what was proposed then was a 4x4 landing and then the staircase. Higgins stated that the stairs in the rear were designed with the stairs within the deck where the front is not designed that way. He claimed if it were like the rear proposed deck, it would not be out into the setback as far. Higgins explained his idea regarding the movement of the stairs, making a setback of 15 feet from the property line would be attainable.

The Attorney explained they could work with that as long as Code allows it. The Chairman stated that would be made a condition if this were to be favorable. Jason explained that he would try to come up with that, but he is looking more at 13 feet from the property line. Mr. Covitz explained that he has a concern for the view of the aesthetic street and the safety concern as well.

Higgins explained that the stair issue comes to this board often.

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Jaime Nash, 95 Bonita Road, was sworn in. She stated that she is raising her house as well. It was a devastating time for her. It is a tremendous expense and it emotionally draining. She claims that it is hard to understand the flood changes. She stated that the Hickerson's always kept their property well maintained and always kept by the rules. The contractors have been difficult in these predicaments where some run off with the home owners' money. She explained the rental that she will be staying in on Bonita Road and how the new elevation with the narrow staircase is not safe to be that size while carrying bags up the stairs. She has a concern for the stairs being pushed back for the application. She said thank you.

Jacqueline Bonnie, 3 Lagoon View Road, for the record she stated the Hickerson's are her relatives that are living with her. They have been through a ton of hardships through this process she said. They are upside down on what the house is worth right now. She claims that this is a hardship and that the stairs encroachment is setting the precedence. The Chairman added that the board must hold each application on its own merit. She said thank you.

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Brian Rumpf, the Board Attorney, summarized the application heard before the board. The conditions, should the odds be favorable, that roughly two trends, setting back the stairs from the cover porch, which would permit that several board members suggested to be proposed, that the stair encroachment be 15 feet from the property line unless Code cannot be met, and then it can be at the 13.10 feet that the Planner Jason Marciano stated.

There was some discussion regarding the stairs between the board members.

The Chairman asked for a motion and Brian Higgins made the motion to approve the application with those conditions and Ronald Bruno seconded it. Roll Call: (Aye) Higgins, Bruno, Roskowski, Linck, Petrosilli.
Abstain: Anderson

The last application heard was, 14 Capstan Road, Robert Van Lenten, Docket# 07-15-BA, asking for a lot coverage and rear yard setback for a deck. The Board Attorney swore in the applicant. The Chairman asked if he was in receipt of the Engineer's letter, he said he was. He was hoping to propose a deck for the rear of the home because he had to raise his home due the Super Storm Sandy. He is getting help from, the REM program to reconstruct his home. He claims they use to have a patio in the rear, but now with the raised home, he proposed a deck for outdoor living space.

Patrick Jeffery went over the comments and summarized the application. The applicant requested relief from the board to construct a deck on the rear where he proposed 10 feet and 20 feet is required and the lot coverage of 33.8% where 30% is permitted. The applicant has eliminated several nonconformities that were on the property, where the new constructed home is more conforming. The applicant does not feel this will be a detriment to the adjoining properties. The exhibits A-1 through A-4 are pictures of the property where A-1 is a picture of the lagoon view, A-2 where the deck is proposed and the others are a view of the side rear. The home that was originally there it was a house and a detached garage. Since the storm, it was substantially damaged from Sandy and he was over 50% damaged. He stated that the height of the home that it is currently built at is to allow him to obtain storage under the home and park his large vehicle. The applicant shared A-5 exhibit which was a view of the front of the home. The applicant explained why he chose the size of the deck that he did at 10x30 with the stairs within that foot print so that they can fit a table and chairs to have meals out there. He further explained that the runoff from would come down onto the stone that he will be putting on the home where it will help to lead the rain water trickle down into the ground. No further questions from the board on this application.

OPEN TO THE PUBLIC

Seeing None

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The Chairman asked for a motion on this application. Edward Covitz made a motion to approve the application as heard and Brian Higgins seconded it. Roll Call: Covitz, Higgins, Anderson, Bruno, Roskowski, Linck, Petrosilli.

The Board Attorney stated that for the record should there be issues with the runoff, that the applicant place leaders on the dwelling and it will be a condition in the resolution. The applicant was in favor of that.

BOARD COMMENTS:

NONE

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Don Schon, a local builder in town, had a few things to say about how difficult it is for a builder, like himself to keep to the 40 square feet for the permitted stair encroachment. He feels it is a little difficult to try and draw something that meets the code. He claims that with having the door in the middle of the dwelling makes it difficult with making turns, which then put it out over the 40 square feet. Brian Higgins asked his opinion of a appropriate square feet for the stair encroachment, Don Schon stated roughly 54 square feet. The Chairman began to explain that the Township is currently changing the Master Plan which will help with those smaller lots in Sands Point.

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Next Regular Meeting October 15, 2015

Motion to Adjourn

All in favor

Meeting Adjourned at 9:06 PM.

Respectfully Submitted,
Renée Dronebarger
Board Secretary
RD