

**MANALAPAN ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
Thursday, September 16, 2021
TOWNSHIP OF MANALAPAN
Manalapan, NJ 07726
PUBLIC MEETING~ HD OFFICE SUITES**

HD-Office Meeting Number: 111 811 9884 Password: 091621

Open Public Meetings Act: Stephen Leviton

Roll Call: Janice Moench

In attendance at the meeting: Robert Gregowicz, Terry Rosenthal, David Schertz, Basil Mantagas, Robert DiTota, Stephen Leviton

Absent from the meeting: Larry Cooper, Mollie Kamen, Adam Weiss, and Joshua Shalika

Also, present John Miller, Zoning Board Attorney
Brian Boccanfuso, Township Engineer
Nancy DeFalco, Zoning Officer
Janice Moench, Recording Secretary

MINUTES:

A Motion was made by Mr. Rosenthal, Seconded by Mr. Gregowicz, to approve the Minutes of **August 19, 2021** as written.

Yes: Gregowicz, Rosenthal, DiTota, Leviton
No: None
Abstain: None
Absent: Cooper, Kamen, Weiss, Shalika
Not Eligible: Schertz, Mantagas

RESOLUTIONS: There were no resolutions offered.

Board Attorney, John Miller swore in Brian Boccanfuso, Township Engineer- CME Associates.

Basil Mantagas entered the proceedings virtually at 7:45 PM.

PUBLIC HEARINGS:

Application No. ZBE2108

Applicant: Dr. James Courey
Proposal: Generator
Request: Amended Site Plan & Bulk variance
Location: 224 Taylors Mills Rd
Block/Lot: 10/26
Zone: OP

Mr. Miller advised, the Board does not have jurisdiction to hear application ZBE2108 (Dr. James Courey) due to a deficiency in the public notice. The Application has been re-scheduled on the October 21, 2021 agenda, subject to the Applicant complying with the noticing requirements of the Municipal Land Use Law.

Application No. ZBE2125

Applicant: Kimberly Perez
Proposal: New single family home
Request: Bulk variances
Location: 226 Smithburg Rd.
Block/Lot: 76/32
Zone: R40

Board Attorney John Miller, Esq. swore in John Ploskonka, PE PP and the Applicant, Kimberly Perez of 93 Lamb Lane, Manalapan, NJ.

Mr. Ploskonka explained his client; Kimberly Perez owns a vacant lot located at 226 Smithburg Rd. Ms. Perez would like to build a two-story single family home with a basement. Variances are required due to the lot being undersized. The property is located in the R40 zone and the lot is approximately 25,000 sf. which is consistent with the homes in the area. The five pre-existing variances are:

- Area: 40,000 sf required and 24,607 sf provided
- Lot frontage: 200 ft required and 61.58 ft. provided
- Lot width: 200 ft required and 96.53 ft. provided
- Improvable area : 11,000 sf required and 4,000 ft. provided
- Improvable area diameter: 70 ft and 31 ft is provided

Mr. Ploskonka explained to build a conforming house on this lot the home would be 26 feet in width.

The two are variances requested the for building side-yard

- South side: 35 ft required and 21.91 ft provided
- North side: 35 ft required and 23.56 ft provided

The proposed plan meets the front and rear yard setbacks along with the lot depth and building coverage.

The third variance requested is for the proposed driveway to be at 0 feet from the property line for only one foot. The remaining portion of the 130-foot driveway is conforming. The non-conformity is due to an irregular portion of lot 42 adjoining into the Applicant's property.

Mr. Ploskonka further testified the property is unique in shape and size. Resulting in variance relief.

Mr. Boccanfuso testified that Mr. Ploskonka provided additional information regarding the FAR. Based on the additional information it appears that the FAR complies with requirements of the zone.

Ms. DeFalco testified she has not reviewed the architectural plans. Ms. DeFalco further explained the FAR numbers would be reviewed during the permit process. If there are any discrepancies, the Applicant will either adjust the plans to meeting the FAR requirements or be back before the Zoning Board.

Mr. Boccanfuso explained CME issued two Plot Plan reports. Mr. Boccanfuso identified the relief that was needed in the August 30, 2021 report. In response to the report, Mr. Ploskonka provided CME with updated information on the lot closure calculations. Mr. Boccanfuso stated for the record, his August 30, 2021 report did not have the updated information regarding the variances and Mr. Ploskonka's

testimony should be considered. Mr. Boccanfuso testified he takes no exception to the application.

Chair Leviton opened to meeting to the Board members for questions or comments.

Mr. Schertz asked if the Applicant approached their neighbors about building the proposed home.

Mr. Ploskonka explained the neighbors were noticed by certified mail and they are not in attendance.

Mr. Mantagas asked if there had ever been a home built on the lot. Mr. Ploskonka and Ms. Perez testified the lot has been vacant for some time. Mr. Mantagas asked the square footage of the proposed home. Mr. Ploskonka testified the home would be approximately 2000 square feet of the habitual floor area.

Chair Leviton explained the lot is adjacent to Ms. Perez's current property. Chair Leviton asked when the property was subdivided. Ms. Perez testified she purchased the lot from her Father. Mr. Ploskonka explained Ms. Perez is currently residing at her Father's home on Lamb Lane until the proposed home is completed.

Mr. Miller asked Mr. Ploskonka provided testimony with regard to the C2 variance. Mr. Ploskonka testified with regard to the hardship and added the home will add to the aesthetics of the neighborhood.

Mr. Ploskonka testified the access between the two properties of Lamb Lane and Smithburg road would be removed.

Mr. Miller testified the following conditions would be in place:

- The Applicant would have to comply with all FEMA and FAR requirements.
- There would be no driveway access from any adjacent lots to this property.
- The proposed driveway would not encroach on lot 24.

Chair Leviton opened the meeting to the public for questions or comments on this application. Seeing there were no comments, Chair Leviton closed the public portion.

A Motion of approval was by made by Mr. Schertz and Seconded by Mr. Gregowicz for application ZBE2125

YES:	Gregowicz, Rosenthal, Schertz, DiTota, Mantagas
NO:	Kamen, Weiss, DiTota, Leviton
ABSENT:	Cooper, Kamen, Weiss, Shalika
ABSTAIN:	None
NOT ELIGIBLE:	None

Application No. ZBE2137

Applicant: Lawrence Bastone
Proposal: Legitimize front porch
Request: Bulk variance
Location: 66 Taylors Mills Rd.
Block/Lot: 20/11.01
Zone: R40/20

Mr. DiTota received Notice via certified mail of this Application; therefore, he recused himself from the Application.

Board Attorney John Miller, Esq. swore in the Applicant, Lawrence Stephen Bastone and Matthew Wilder, PE and PP of Morgan Engineering.

Peter Licata, Esq. of Sonneblich, Parker and Selvers was present on behalf of the Applicant. Mr. Licata requested a poll prior to the Board members vote due to the fact there was not a full Board in attendance.

Mr. Licata explained the Applicant was before the Board in 2018 for Bulk Variance relief prior to building the home. Mr. Bastone has returned to the Board to legitimize a portion of the front porch located in the front setback.

Mr. Wilder explained the Applicant was before the Board in 2018 to request relief from Ordinance 95-2.18 that pertains to the buffer of the stream corridor. Mr. Wilder shared Exhibit A1- an aerial photo of 66 Taylors Mills Rd. with two photos of the subject property inset on the exhibit. Photograph number one showed the front of the dwelling with the front porch shown. The applicant applied for a permit based on the plot plan to construct the dwelling. There was a discrepancy between the plot plan and the architectural plan as it related to the front porch. The architectural plan depicted the porch extending 7 feet from the front of the home. The foundation was built exactly 75 feet from the property line therefore; a small portion of the porch is located in the front setback. A 75-foot setback is required and 68.8 feet exists. Mr. Wilder also referred to the initial survey (the survey was not marked as an exhibit because it was part of the original submission) showing the portion (103 square feet) of the porch that required variance relief. Due to the angle of the property and the environmental restraints of Milford Brook in the rear there is a hardship on the property. The Applicant is seeking a C1 hardship variance. Mr. Wilder cited case law where lawfully constructed dwellings were built with variance conditions that were overlooked or missed. Mr. Wilder testified the adjacent home to the Southwest is significantly closer to the Taylors Mills than the small portion of the porch. Mr. Wilder further testified there was no detriment associated with the variance relief and would not rise to the level of substantial. Mr. Wilder reviewed the goals advanced by the Municipal Land Use Law, specifically Goal E and Goal I. Considering the *de minimis* nature of the variance being sought, Mr. Wilder testified this variance could be granted under the C1 hardship or the C2 flexible criteria.

Mr. Miller recommended the Board consider the proofs set forth by the Applicant for both the C1 and C2 variance relief.

Chair Leviton opened the meeting to the Board members for comments and questions.

Mr. Rosenthal asked for an explanation as to why the applicant is unable to comply. Mr. Wilder explained the porch is pre-existing. Due to the angle of the property in order to bring the property into conformance, the front porch would have to be eliminated.

Chair Leviton confirmed with Mr. Wilder the encroachment was a little over six-foot encroachment into the front setback.

Mr. Miller asked Mr. Wilder if there were any site line issues relating to the front porch encroachment. Mr. Wilder testified there were no site line

issues entering or exiting the property. The property has a circular driveway to avoid backing out onto Taylors Mills Road all together.

Chair Leviton confirmed the Applicant would require three affirmative votes. Mr. Licata had asked for a poll to see where the application stands and to see if the application should be carried to a later date, when the Board is in full attendance. The Board members took no exceptions to the Application.

Chair Leviton opened the meeting to the public for questions or comments on this application. Seeing there were no comments, Chair Leviton closed the public portion.

A Motion of approval was by made by Mr. Rosenthal and Seconded by Mr. Gregowicz for application ZBE2137

YES:	Gregowicz, Rosenthal, Schertz, Mantagas
NO:	Leviton
ABSENT:	Cooper, Kamen, Weiss, Shalika
ABSTAIN:	None
NOT ELIGIBLE:	DiTota

Chair Leviton, Ms. Moench and the Board discussed the future agenda dates.

Chair Leviton opened the meeting to the public for any non-agenda items. Being there were no comments Chair Leviton closed public.

ADJOURNMENT:

A Motion was offered by Mr. Schertz to adjourn the meeting at 8:35 PM. All were in favor and none opposed.

Respectfully Submitted,

Janice Moench
Recording Secretary

RECORDED COMPACT DISCS OF THE ZONING BOARD OF ADJUSTMENT ARE AVAILABLE FOR REVIEW, IN THE PLANNING/ZONING BOARD OFFICE BY APPOINTMENT.