

MINUTES OF THE TOWNSHIP OF PARSIPPANY-TROY HILLS
BOARD OF ADJUSTMENT MEETING
WEDNESDAY, JANUARY 23, 2019

Chairman Berkowitz called the Board of Adjustment Meeting of Wednesday, January 23, 2019 to order at 7:32 PM.

Members Present: Mr. Berkowitz, Mr. Joskowitz, Mr. Kaplan, Mr. Persaud,
Mr. Reddy, Mr. Shah, Mr. Willans

Also Present: Roman Hirniak, Board Attorney
John T. Chadwick, IV, Board Planner
Chas Holloway, Board Engineer

Absent: Ms. Snyder, Chairman Iracane

Announcement is made that adequate notice of this meeting has been given, that it is being conducted in accordance with N. J. S. A. 10:4-6 et seq. of the New Jersey "Open Public Meetings Act".

Pledge of Allegiance

Chairman Berkowitz opened the floor to the public for anyone wishing to speak.

Correspondence

Correspondence from Robert Garofalo of Garofalo O'Neill Ruggiero, LLC, dated January 15, 2019 was read to request a 90-day extension from Ordinance section 225-25 regarding Application 16:44, Kingston Commons.

Mr. Kaplan made a motion to approve the 90-day extension, second by Mr. Reddy.

Approved by All.

Correspondence received from Kellen Murphy of Murphy Partners, LLP, dated January 22, 2019 was read to withdraw an appeal regarding a Notice of Violation dated August 6, 2018 against Stanley Posthumus, 798 Lake Shore Drive, Application 18:49. The second kitchen has been removed which was confirmed from the Code Enforcement Officer.

Resolutions:

Application 18:52

Vincent Mondaro, 23 Ludlow Road, Block: 325 Lot: 5 Zone B-4 (R-4 per resolution) 'C'
Variance to construct a shed.

Motion to adopt was made by Mr. Willans, second by Mr. Reddy.

Approved by Berkowitz, Kaplan, Persaud, Reddy, Willans.

Application 18:55

Michele Valentin, 70 Minnehaha Boulevard, Block: 532 Lot: 1 Zone: R-4,
'C' Variance to install a generator in a front yard.

Motion to adopt was made by Mr. Willans, second by Mr. Reddy.

Approved by Berkowitz, Kaplan, Persaud, Reddy, Willans.

Application 18:26

Zhiyong Bao, 11 Dacotah Avenue, Block: 543 Lot: 10 Zone: R-4
'C' Variance to install an 8 x 12 ft shed; a 6 ft. high fence; 106 sq. ft. walk and legalize a
314 sq. ft. patio.

Motion to adopt was made by Mr. Willans, second by Mr. Reddy.

Approved by Berkowitz, Kaplan, Persaud, Reddy, Willans.

Application 18:61

Rik & Khusbu Godhani, 1 Waterloo Drive, Block: 18.2 Lot: 3 Zone: R-4
'C' Variance to install a 6 ft. high fence, 4 ft. solid with 2 ft. lattice, in the front yard.

Motion to adopt was made by Mr. Willans, second by Mr. Reddy.

Approved by Berkowitz, Persaud, Reddy, Willans.

Agenda

Application 18:57

Swati Desai, 90 Erica Way, Block: 734.04 Lot: 15 Zone: APRD-2
'C' Variance to construct an open deck with stairs; shed; install a walk and fence.

Swati and Vipul Desai, Property Owners, were sworn by the Board Attorney and testified that they would like to build a deck for family enjoyment; install a walk from the front of the house to the proposed deck and a shed for storage. The property is surrounded by three front yards. The Mazdabrook Road side has a 25 ft. easement for the establishment and maintenance of landscaping and buffering. A 5 ft. solid fence was requested in the front yard on the Raymond Boulevard and a 6 ft. x 8 ft. shed 1 ft. off the property line. The neighbor has a fence and tree that will block the view of the shed and does not object to the shed.

The Board questioned the type of fence to be installed.

Mr. Joskowitz made a recommendation for approval of the application.

A motion to approve the application for 'C' Variance to construct a 16 ft. x 35 ft. open deck with 4 ft. x 5 ft. stairs; install a 6 ft. x 8 ft. shed; 195 sq. ft. walk and 4 ft. solid with 1 ft. lattice fence was made by Mr. Reddy, second by Mr. Joskowitz.

Approved by all.

Application 18:58

Subhash Patel, 13 Queen Street, Block: 410 Lot: 4 Zone: R-3

'C' Variance to construct an addition and open deck expansion.

Joseph O'Neill of Garofalo O'Neill Ruggiero was present to represent the Applicant.

Subhash Patel, Property Owner, was sworn by the Board Attorney and testified he has lived in his house 20 years with an expanding family. Proposed is an expansion to the kitchen, two bedrooms and a sunroom on the lower level to the rear. Also proposed is a deck expansion.

The Board Planner asked which direction the property sloped and if there was grass or a parking lot beyond his property

Chairman Berkowitz opened the floor to the public for anyone wishing to ask questions of the Witnesses.

Mr. Reddy made a recommendation for approval of the application.

A motion to approve the application for 'C' Variance to construct a 410.34 sq. ft. addition and 72 sq. ft. open deck expansion was made by Mr. Kaplan, second by Mr. Reddy.

Approved by all.

Application 18:53

Rajesh Pipalia, 15 Phillip Drive, Block: 757 Lot: 53.03 Zone: R-2

'C' Variance to construct an addition; second story addition over proposed patio and garage; balcony; stairs; driveway expansion.

Rajesh Pipalia, Property Owner, was sworn by the Board Attorney and testified he would like to add a garage, two-story expansion to the house and open deck. He

currently has five bedrooms and would like an additional two for extended family living with him.

The Board asked about the existing home; the garage; if there were any drainage issues; questioned which side of the driveway is being expended and had concerns about coverage.

The Applicant agreed to reduce the driveway 150 sq. ft.

Chairman Berkowitz opened the floor to the public for anyone wishing to ask questions of the Witnesses.

Mr. Joskowitz made a recommendation for approval of the application.

A motion to approve the application for 'C' Variance to construct a 119.43 sq. ft. one story addition; 940.59 sq. ft. second story addition (over proposed patio and garage at basement level); 83 sq. ft. balcony; 55.15 sq. ft. stairs; 886.56 sq. ft. driveway expansion and 987.68 sq. ft. patio was made by Mr. Shah, second by Mr. Reddy.

Approved by All.

Application 18:59

K & S Real Estate, 7 & 9 North Beverwyck Road, Block: 611 Lots: 8 & 9 Zone: B-5
Preliminary and Final Major Site Plan/'C'/'D' Variance/Soil Moving Permit.

Joseph O'Neill of Garofalo O'Neill Ruggiero was present to represent the Applicant for a new building to contain commercial and residential use.

Witness, Adam Kandil, Licensed Civil Engineer, was sworn by the Board Attorney and excepted as an expert witness.

Presented was Sheet 3 from the plan set dated August 24, 2018, revision 1, last revised December 18, 2018. Existing conditions were described as well as the proposed. The first floor will hold commercial uses with a footprint of 4,284 sq. ft. The second floor proposes five residential units and a basement for storage. The lots will be consolidated upon approval of the application. There will be 19 parking spaces with a 24 ft. access aisle with one ADA space to be located at the front of the lot. In the rear a buffer will be provided, a fence 5" off the property line will be installed for a trash enclosure and two parking spaces will sit within the 15 ft. setback. Trash will be picked up 1-2 times a week by a private hauler. Stormwater will be collected into a series of drains, brought into yard inlets and into manholes. Concrete sidewalks and pavers are proposed. The building will have fire sprinkler and water service that will comply with the codes. The Witness felt the plan addressed the Board Engineers comments but will work with him if anything was open ended.

The Board Engineer felt the two parking spaces at the rear would be impacted by the trash enclosure and need to be adjusted. Construction of the retaining wall was questioned as was the proposed half basement which is now being proposed as a full and will result in a major soil moving permit. It was asked if the residential units would have assigned parking spaces and although there was not concern of conflict between the residential units and commercial uses in peak time, it will be monitored for the possibility. The need of a loading area was discussed but a waiver was requested with the application being amended.

Witness, Joseph Staigar, Traffic Engineer, was sworn by the Board Attorney and accepted as an expert. He testified that parking requirement for the residential units is 9 spaces and the retail 21. He felt the proposed 19 is sufficient due to retail and residential not peaking at the same time. He quoted statistics from the US Census data with information for rental units in the township and vehicle availability per unit. Rental units generate less parking than owner occupied units. It is felt those who rent units have less cars therefore less spaces are necessary. He also felt the number of spaces for the proposed retail is high since they are small stores where the average customer visit is 5-6 minutes. He quoted data to back up his theory.

A study of surrounding shopping centers was performed and the Witness found the peak demand was 13 parking spaces. He felt if it was later determined there were not enough spaces in the subject lot, 30 parking spaces could be found along North Beverwyck Road with the only restriction from 4 AM-6 AM on Fridays. In the process of his study from last Thursday evening through mid-day to early evening Saturday, he stated he saw a maximum of three cars parked on North Beverwyck Road at any time. He felt within 600 ft. to the north of the subject site and 600 ft. to the south, from Lakeshore Drive to Claudine Terrace, there is room for 30 cars to park.

The Board questioned the parking statistics given by the Witness who compared a large box store to the proposed which has unknown tenants. It was noted that if a tenant were a restaurant more parking could be necessary and patrons would be a lot longer than 5-6 minutes. Another concern was that a restaurant would presents peak on peak demand. It was asked if bus stops were within walking distance; if other businesses depend on the street parking and if the study took place during the cold snap causing people to stay home.

The Witness felt there is a control in the Ordinance should the parking demand not be met and that surrounding shopping centers were anywhere from 50 to 75% empty at anytime which is why parking can be found along North Beverwyck Road. It was also mentioned that permit parking is located behind the fire station and at the Lake Hiawatha parking lot which is approximately 1,000 ft. away and mostly empty.

Chairman Berkowitz opened the floor to the public for anyone wishing to ask questions of the Witnesses.

Exhibit A-1, Letter from Daetel Engineer dated December 28, 2018 addressing concerns of the Board and Township Professionals, was presented to the Board.

Mr. Kandil was called back up to resume his testimony addressing the Board Engineers comments of limit of disturbance in the soil erosion plan that should include a small section being connected to the storm drain; the spaces around the trash enclosure; building elevations of the engineering plan compared to the architectural plans; trench restoration; pavement restoration detail and rooftop equipment. The estimated soil removal is approximately 2,735 cubic yards.

Chairman Berkowitz opened the floor to the public for anyone wishing to ask questions of the Witnesses.

Witness Kenneth Fox, Licensed Architect, was sworn by the Board Attorney, accepted as an expert witness and testified to the proposed being three potential tenants with front entrances and signs. Utilities will be in the basement, access to the apartment will be on the driveway side of the building with an emergency exit out the opposite side. There would be three small, one-bedroom units toward the front and two slightly larger units at the rear. Elevations were shown, the roof will be pitch with a flat area in the center for the HVAC equipment and lighting will be coordinated with the Board Engineer. The sign height will be 15 ft. high and the width 3 ft. 7 in.

The Board questioned the stair cases and availability to the residential units, ADA accessibility, location of access and egress and ingress.

The Witness stated there is availability for a stair lift to be installed.

Chairman Berkowitz opened the floor to the public for anyone wishing to ask questions of the Witnesses.

Witness, David Karlebach, Licensed Professional Planner, was sworn and accepted as an expert. He testified to the subject lots, the proposed improvement, the requested variances and positive and negative criteria.

The Board asked where deliveries would take place.

Chairman Berkowitz opened the floor to the public for anyone wishing to ask questions of the Witnesses.

Mr. O'Neill summed his case.

The Board had questions regarding the intensity of the parking. The Applicant and their Attorney took time to speak off record.

Mr. O'Neill recalled Witness Kenneth Fox. Mr. Fox stated they considered a way to make the building smaller and improve on the parking variances. Ten feet will be removed from the rear of the building to make the retail use 630 sq. ft. smaller and reduce the apartments from five to four.

A motion to go into conference was made by Mr. Kaplan, second by Mr. Joskowitz.

Each member spoke of their reasons to vote for or against the application.

Motion to come out of conference was made by Mr. Kaplan, second by Mr. Joskowitz.

A motion to approve the application for Preliminary and Final Major Site Plan/'C'/'D' Variance/Soil Moving Permit with modification to reduce the building 10 ft. in the rear and number of apartments from five to four was made by Mr. Kaplan, second by Mr. Reddy.

Approve: Berkowitz, Joskowitz, Kaplan, Persaud, Reddy, Willans.
Oppose: Shah.

Motion to adjourn.