

BOARD OF ADJUSTMENT
BOROUGH OF BERNARDSVILLE
Minutes – April 3, 2023
VIRTUAL ONLINE MEETING

1. Statement of Adequate Meeting Notice: Read by Chair Greenebaum at 7:31 pm.

2. Oaths of Office: Anthony Dello Russo (4-year term).
Mr. Dello Russo was sworn by Board Attorney Rago.

3. Roll Call.

Present – Members Dello Russo, Greenebaum, Kramer, Sailliard, Sedlak, Traynor, Slocum, and Melillo.

Absent – Members McDowell, Loeffler and Reynolds.

Board professionals present: Attorney Louis P. Rago, Engineer Robert Brightly and Planner David Novak (for Board Planner Szabo).

4. Approval of Minutes:

Review of draft minutes of 2/6/23 meeting.

Upon review, Mr. Mottola noted an error he had made in recording the attendance record. A motion to approve the minutes with the noted correction was made by Mr. Slocum and seconded by Ms. Kramer.

Voice vote:

All eligible members voted in the affirmative.

5. Communications: The Chair acknowledged the following correspondence:

A. 3/17/23 Savas/Martin Post Hearing Brief. (re #9).

B. 3/27/23 L. Rago, Esq. letter to Hon. T. Caliguire. (re #9).

C. NJ DEP Mandatory Board Members' Stormwater Training: DEP Stormwater Training Webpage; 2023 Tier A Permit excerpts; BOA Training Compliance Log; and Training Videos Links Document (re #7A).

D. The New Jersey Planner, Jan/Feb 2023, Vol. 84, No. 1.

6. Old Business:

A. Continued Application #22-04 MADDALI – Bulk Variances for Detached 3-Car Garage for Single Family Residence at 10 Chapin Road, B: 3, L: 14.03, Zone: R-1-10; Received 6/16/22; Deemed incomplete 8/15/22; Previously deemed complete and heard 2/6/23.

Appearing on behalf of the application were attorney David Brady, owner Sam Maddali, Engineer Steven Parker and planner Michael Tobia.

Exhibits introduced:

A1 – 4/3/23 Eight frame slide presentation prepared by Michael Tobia, PP.

Mr. Brady opened by recapping the application to date and stating that the applicant has returned with a revised site plan that shows the proposed garage having been rotated on the lot and reduced in size from three to two garage bays. As requested by the Board, information has been provided regarding visual buffers, drainage details and distances to structures on surrounding properties. Mr. Tobia will include the latter in his slide presentation.

Mr. Parker described the significant changes that were made in response to Board comments, which are shown on his 3/9/23 revised drawings. These include: rotating the proposed detached garage about 90°; moving the garage farther from the side property line than its prior proposed location; reducing the amount of lot coverage by about 400 S.F. by reducing the size of the proposed driveway; adding another dry well that will collect runoff from the patio area in addition to runoff from the garage; retaining the existing tree row along the side property line shared with lot 14 that were previously slated for removal; planting additional Norway spruce trees along that same side property line. The number of garage bays have been reduced from three to two, with interior storage space provided behind the two parking bays and on the 2nd floor. A measurement was added to the drawings that shows a distance of 315' from the closest corner of the proposed garage to the existing house on lot 14. Another gives the distance between the garage and the neighbor's driveway as 127'. By moving the location of the garage, the existing Norway spruce trees along the common property line with lot 14 no longer need to be removed. Six new Norway spruces will be added to that line to increase the natural screening. The existing hedgerow beyond these trees, which straddles the common property line, measures about 40' wide.

Mr. Parker's responses to members of the Board and its professionals:

Chair Greenebaum: The garage will only house two cars, the rest will be used for storage.

Questioned by Mr. Brady, Mr. Maddali stated his consent to placing a deed restriction limiting the number of cars allowed to be stored to two (2) if the application is approved. Mr. Brady also restated Mr. Maddali's stipulation from the prior meeting that the garage would never be used for living quarters.

Mr. Sedlak and Ms. Kramer opined that the use of the garage should be restricted to parking cars and storage space, with no limit to the number of cars allowed. Discussion ensued about whether the ordinance limits the number of garaged cars to four per structure or four per property. Mr. Brady was of the opinion the reading of the ordinance states the former and Chair Greenebaum felt it is the latter. Mr. Brightly believed that it is an interpretation issue and that the Board and zoning officer have been interpreting it as the latter – four garaged cars maximum per property. The Chair does not believe it is the intent of the ordinance to allow multiple structures on a property, with each housing up to four cars. Mr. Brady countered that the ordinance does not limit the number of garage buildings that are allowed on a lot. Chair Greenebaum cited the zoning report wherein it states that a variance is required for more than four motor vehicle garages in the residential zone. Mr. Brady cited Mr. Szabo's report that states it is not clear if the intent of the ordinance is to limit the number of garages on a property or simply limit the number of garage spaces to a total of four for the entire property.

Mr. Brightly commented that the drawings need to be corrected to state that this is a major stormwater development due to the amount of soil disturbance not the increase in impervious surface. This will probably require some modification to the stormwater design, which should be

a condition if the application is approved. The applicant was agreeable to Mr. Melillo's recommendation that the garage should be labeled as a 2-story, 2-car garage on the site plan.

There were no questions from the public for Mr. Parker.

Mr. Tobia was sworn and qualified. He shared his screen to present the slides he prepared that were collectively marked as exhibit A1 and dated 4/3/23. He said the photos were taken 3/21/23. Slide #2 was a photo of the entire front of the house taken from the driveway. He said that due to the size of the property and the family that lives there, plus a visiting caretaker, there is need for additional garage and equipment storage space. Slide #3 showed the front of the existing attached four car garage. With up to seven cars on site at the same time, maneuvering the driveway can get chaotic, which becomes worse during inclement weather. This is the reason for the application. Slides #4 and #5 were displayed to show the existing natural buffers along the common property line with lot 14. Based on his inspections of the property, he concludes that due to the existing and proposed buffers and the distance between structures, the visual impact on the neighboring property will be microscopic. There will be no substantial detriment from a visual standpoint. Mr. Tobia displayed slide #6 to show that placing the garage on the south side of the house is not an option. Slide #7, an aerial photograph, depicts the subject and surrounding properties. It was used to measure and show the distances to other structures from the proposed garage. He reiterated the 315' distance to the closest neighbor's home that passes through existing and proposed buffers and his conclusion that the distance is too great for the proposed structure to have any kind of visual impact. Lot 8 to the north is vacant and therefore no visual impact will occur. The distance to the house on lot 9 across Chapin Rd. scales at 695'. He concludes that the proposed garage would be very hard to see and if seen, it would only be a minor impact. The house to the west measures 442' away from the garage. The conclusion is that there is a lot of space between the proposed garage and surrounding buildings in the neighborhood. Mr. Tobia confirmed the approximate 40' width of the hedgerow to the north of the Maddali residence.

Mr. Tobia displayed Mr. Parker's 3/9/23 "Garage Plot Plan", sheet 1 of 2, and zoomed in on the zoning chart that identifies the need for three variances. A maximum floor area of 12,088 S.F. is permitted where a new total of 14,518 S.F. is proposed. This is solely for vehicle and property storage. It will not be occupied space. It will not add population to the house, nor traffic to the property, nor any kind of intensity that planners usually are concerned with in terms of impacts on the neighborhood. He said the second floor of the garage will be a large open room for storage. The maximum permitted impervious coverage is 20,330 S.F., where 23,301 is proposed. This is attributable to the garage footprint, the widening of the driveway and a small exterior staircase for entering the garage from the south. The benefits of the proposed building and impervious coverage requests are improved parking and convenience; the elimination of awkward parking and turning maneuvers on the site as it now exists, and a reflection that big homes and big families need more parking than usual. The same rationale would also apply to the request for additional garage bays if it is determined that a variance is required for same. The required side yard setback is 46.4' (2x the building height), with a proposed height of 28.9' at the closest corner of the garage and 35.3' at the farthest corner. (It was noted that the required side yard setback of 50' shown on the drawing needs changed to 46.4'.) The variances are justifiable based on the synergies of two garages sharing the same driveway pad and approach; the ease of access to the pool at the rear of the property; and the ease of moving cars, equipment and storage between the two buildings. There is not a better place on the site. The side yard variance request

has no associated visual detriment. Displaying sheet 2 of 2 of Mr. Parker's 3/9/23 "Garage Plot Plan", Mr. Tobia reiterated Mr. Parker's testimony regarding the existing and proposed Norway spruce evergreen screening and distance to the nearest neighbor's home. He said it would not be practical to move the two garages closer together as it would limit the ability to use the staircase between the two and would impede making K-turns in the driveway. Also, the ordinance requires a minimum 10' separation between buildings, with only 15' proposed. If the application is approved, the applicant stipulated to planting six (6) new Norway spruce buffer trees that are 6' to 8' in height as per Mr. Szabo's planning recommendation. They also stipulated to a condition of approval that would prohibit having living quarters in the garage and that no plumbing will be installed in the garage. The garage will only be heated.

In justifying the requested variances, Mr. Tobia opined that the application promotes goals A, C, G, I and M of the municipal land use law. While the stormwater management systems may have to be tweaked by the engineers, it will be adequate to offset the additional lot coverage. The benefits of the application outweigh any substantial detriments. The proposed garage does not create an undesirable visual impact.

Chair Greenebaum thanked the applicant for rotating the garage to lessen its overall impacts. He applauded the improved design layout and the fact that none of the existing trees now need to be moved. And with the additional evergreens buffer to be added, impacts to the neighbor should be mitigated. Mr. Sedlak, Ms. Kramer and Mr. Melillo all agreed that the proposed garage should not be moved closer to the existing garage.

Mr. Sedlak stated his appreciation for the thorough and the visually clear presentation.

Per Mr. Melillo's request, Mr. Tobia displayed the architectural drawings of the proposed garage, described the exterior finish materials to be used and compared those to the exterior finish materials of the existing residence. Mr. Melillo commented that none of the architectural appearance of the proposed garage matches the residence. He said that he did not notice any such mismatched buildings on other properties in the neighborhood and asked if the applicant would have the ability to create the same visual effect as the residence. The proposed vinyl siding is not in keeping with the architectural character of the neighborhood or the lot itself. He asked if a restriction on placing any HVAC equipment on the neighbor's side of the garage could be put in place if the application is approved. Mr. Maddali responded that they did not want to spend the money to construct a structure with the same materials as the house. What they are proposing is a storage shed for cars and equipment. He does not intend to air condition the garage. Mr. Maddali said that there is a house on Turnbull Ln. to the south of his house that he sees every day that has a detached garage with vinyl siding and a gable roof. Mr. Brady added that given the proposed location of the garage and the screening that will be in place, the garage will not be visible to the public. Chair Greenebaum concurred with Mr. Brady and noted that a variance would be required to place any HVAC equipment on the north side of the garage once built.

There were no questions for Mr. Tobia from members of the public.

Mr. Brady summarized the application stating that the applicant has been demonstratively responsive to the Board's concerns by rotating and reducing the size of the building. He stated for the record his disagreement with the Chair's interpretation of the 4-car garage limit but reiterated his client's agreement to limiting the structure to a two car garage. He argued that the

proposed location of the garage and the buffering to be provided protect the neighborhood from any impacts and asked for the Board's approval, including any variance that may be required for having more than a four garage bays.

Under public comments, Environmental Commission (EC) Chair Johanna Wissinger stated that since this application qualifies as a major stormwater application the EC would like to have the opportunity to review the final drawings before they are approved. Chair Greenebaum agreed with Mr. Brightly that EC review of the resolution compliance drawings should be made a condition of approval. There were no other comments from members of the public.

At the Chair's suggestion, Mr. Maddali agreed to consider using Hardy Plank fiber cement exterior siding material in place of vinyl siding.

Mr. Rago summarized the approval conditions discussed throughout the course of the two hearings and the conditions stipulated to by the applicant.

Mr. Sedlak expressed his appreciation for the work done by the applicant and for the clarity of their digital presentation. He stated his support for the application and urged Mr. Maddali to meet with his architect to make sure the garage blends as best possible with the residence.

A motion to approve the application as conditioned and stipulated to by the applicant was made by Mr. Sedlak and seconded by Mr. Slocum.

Roll call vote:

All in favor: Members Greenebaum, Kramer, Sailliard, Sedlak, Traynor, Slocum and Melillo.

Those opposed: None. Those abstaining: None.

B. 2022 BOA Annual Report.

Ms. Loeffler, who is preparing the draft report, was not available to attend the meeting and present the revised report. She indicated prior to the meeting that she would be able to do so by the next meeting. Chair Greenebaum said that he would add a recommendation to the report that the zoning ordinance be clarified as to its intent to regulate the number of garages permitted on a residential property.

7. New Business:

A. Continuation of Remote Meetings vs Resumption of In-Person Meetings: Chair Greenebaum broached the subject and asked Board members for their preference. After lengthy discussion on the pros and cons of both meeting methods, the Board ultimately expressed its preference for continuing remote meetings. It was requested that Mr. Mottola work with Borough administration to solve the hybrid meeting impediments that currently exist for the Board in holding in-person + remote quasi-judicial hearings in the Council Chamber.

B. NJ. DEP Mandatory Board Member Training for Tier A Municipalities: Mr. Mottola clarified that this mandatory Tier A stormwater permit training is separate and different from mandatory new Board member training, both of which are required of all Board members. In the case of the latter, only Ms. Loeffler and Mr. Reynolds will remain untrained after Mr. Melillo attends the

Somerset County Bar Association symposium on 4/15/23. As for the stormwater training, Mr. Mottola explained the two different levels of training required and the attachments he provided with the agenda to facilitate members in completing their required training. Members need only watch the required videos and self-report having completed them to Mr. Mottola.

C. Review 4/3/23 Bills List with Invoices:

Upon review, a motion to pay the listed invoices in the amount of **\$4,792.00** was made by Ms. Kramer and seconded by Mr. Slocum.

Roll call vote:

All members voted in the affirmative.

8. Pending Applications: The Chair noted the following applications and their status:

A. BOA Application #22-03 MEGALLA-SCHEID – Bulk Variances for Detached Accessory Structures for Single Family Residence at 601 Mine Brook Road, B: 90, L: 10, Zone: R-2; Received 6/16/22; Deemed incomplete 8/15/22; Awaiting supplemental application documents.

B. BOA Application #22-06 GELB-O'CONNOR – Bulk Variance for Front Porch Addition to Single Family Residence at 62 Center Street Extension, B: 111, L: 32, Zone: R-5; Received 12/7/22; Deemed incomplete 2/2/23; Waiver requests, completeness determination & public hearing scheduled for 4/17/23.

C. BOA Application #22-07 ASSAAD – Bulk Variances for Residence, Pool & Patio Additions to Single Family Residence at 141 Campbell Road, B: 9, L: 7, Zone: R-1; Received 12/15/22; Deemed incomplete 2/2/23; Waiver requests, completeness determination & public hearing scheduled for 5/1/23.

D. BOA Application #23-01 UPTON PYNES REAL ESTATE, LLC – Preliminary & Final Major (7 lot) Subdivision w/ Use & Bulk Variances & Design Waivers; 67 Ravine Lake Road, B:10, L:23, Zone: R-1-10; Originally filed with Planning Board 10/24/22; Determined to be jurisdiction of and to be heard by Board of Adjustment; Deemed incomplete 3/30/23; pending agency reviews.

E. BOA Application #23-02– 51 BERNARDS AVE. ASSOCIATES, NJP – Minor (3 lot) Subdivision w/ Variances; 51 & 53 Bernards Avenue, B:112, L: 6 & 7, Zone: R-5; Originally filed with Planning Board 11/1/22; Determined to be jurisdiction of and to be heard by Board of Adjustment; Pending new application to BOA with additional fee and escrow payments.

9. Executive Session: L. Rago Status Update re: NJAW Fenwick Tank Denial Appeal Litigation.

Chair Greenebaum read on the record Board of Adjustment Resolution **#EX 01-23** for the purpose of opening an Executive Session. A motion to close the public meeting and reconvene in executive session was made at 9:36 pm by Mr. Dello Russo and seconded by Mr. Slocum.

Roll call vote: All members voted in the affirmative.

It is anticipated that the matters discussed in closed session may be disclosed to the public upon determination of the Board that the public interest will no longer be served by such confidentiality.

A motion to close the executive session and reopen the meeting to the public was made at 9:56 pm by Mr. Dello Russo and seconded by Mr. Slocum.

Voice vote: All members voted in the affirmative.

10. Comments from Members: None.

11. Comments from Staff: None.

12. Adjournment: Motion to adjourn: Mr. Slocum. Second: Ms. Kramer.
Chair Greenebaum adjourned the meeting at 9:57 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'FM', enclosed within a large, loopy circular flourish.

Frank Mottola,
Planning & Zoning Boards
Administrative Officer

Keywords: Dello Russo-oath-Maddali-Brady-Parker-Tobia-Chapin-stormwater-training-meetings.