

BOARD OF ADJUSTMENT
BOROUGH OF BERNARDSVILLE
Minutes – February 7, 2022
VIRTUAL ONLINE MEETING

1. **Statement of Adequate Meeting Notice:** Read by Chair Greenebaum at 7:31 pm.
2. **Oaths of Office:** Administered by Board Attorney Rago to repositioned members Rich Traynor (to full member) and Edward McDowell (to alternate #1).
3. **Roll Call:**

Present – Members Dello Russo, Greenebaum, McDowell, Sailliard, Sedlak and Traynor.
Absent – Members Carton and Kramer.
Board professionals present: Attorney Louis P. Rago, Engineer Robert C. Brightly and Planner John P. Szabo, Jr.
4. **Election of Vice Chair:**

Upon discussion and there being no nominations, Mr. Traynor volunteered to serve as Vice Chair. A motion to nominate Rich Traynor as Vice Chair was made by Mr. McDowell and seconded by Mr. Sailliard. The Chair cast one vote for Mr. Traynor as Vice Chair.
5. **Approval of Minutes:**

Review draft minutes of 1/17/22 meeting.
Upon review, a motion to approve the minutes as presented was made by Mr. McDowell and seconded by Mr. Sailliard.
Voice vote:
All eligible members voted in the affirmative.
6. **Communications:** Copies of the following documents were distributed to the Board; the Chair briefly touched on each of them:
 - A. 2/3/22 D. Brady Esq. email re: Request for adjournment of application #21-12 Jepsen to 2/22/22 (re 7A).
 - As requested by the applicant, Chair Greenebaum announced that application #21-12 Jepsen, scheduled to be heard this evening, is adjourned to the 2/22/22 meeting without further notice to the public.
 - B. 1/31/22 G. Price memo to D. Greenebaum re: application #21-11 Vigneault - pool inspections (re 6B).
 - C. 1/31/22 Somerset County Bar Association email re: 4/9/22 Land Use Law Symposium.
 - D. The New Jersey Planner, November/December 2021, VOL. 82, No. 6.
 - E. Revised draft 2022 BOA Roster.

7. Old Business:

A. Continued application #21-08 INCARNATO – Bulk Variances for In-ground Pool w/ Patio & Detached Shed at 7 Oak Place, B: 46, L: 17, Zone: R-2; Previously heard 12/6/21 and 1/17/22.

Appearing on behalf of the application were owner/applicant Keron Incarnato and engineer Jeffrey Egarian, both of whom remained under oath from their prior appearances.

Ms. Incarnato stated that the plans have been amended based on the Board's feedback. In addition to the revised site plan a landscape plan was also submitted. An enlarged drawing of the pool area and a trench drain were added to the site plan per the Board's comments. All of the Board's comments have been addressed.

Mr. Egarian described the plan revisions made in response to the Board's comments including, removal of the shed and step stones on the west side of the property, which results in the elimination of the previously requested variances for excessive impervious coverage and nonconforming side yard for the shed. An added 12" wide trench drain across the driveway will collect runoff from the driveway and 1,000 S.F. of roof area and be directed to the dry wells. These plan modifications will collect 424 S.F. more runoff than the area of new impervious coverage. Responding to questions from Environmental Commission Chair Johanna Wissinger, Mr. Egarian said that the purpose of the stone apron in the lawn is to prevent erosion and will handle only small flows of storm runoff, no chlorinated pool water. It is placed 10' in from the curb line as per Borough regulations.

Mr. Brightly commented that although the dry wells are oversized for the project, they do not need to be as deeply placed. If calculations are revised as per Borough requirements, the depth could be reduced to 5.5'. The two dry wells need to be interconnected and the bottom filter cloth should be eliminated. The numbering on sheet 1 should be corrected to read sheet 1 of 2. Ms. Incarnato and Mr. Egarian stated they had no objections to Mr. Brightly's recommended changes. Responding to his question, Ms. Incarnato stated that the fence that will be placed on top of the retaining wall will be their existing wood fence, which is in excellent condition.

There were no questions or comments from the public. Ms. Incarnato summarized the application stating that the only variances now required are for side yard setbacks for the pool. She has no objections to revising the plans per Mr. Brightly's and the Board's comments. Given that all of the Board's concerns have been addressed, she requested that her application be approved.

Mr. Sedlak commented that he was appreciative of the applicant's cooperation with the Board and felt the plan was improved as a result of it. He stated his support for approval. Vice Chair Traynor and Chair Greenebaum expressed their concurrence with Mr. Sedlak. A motion to approve the application as conditioned by the Board was made by Mr. Sedlak and seconded by Mr. Sailliard.

Roll call vote:

All in favor: Members Greenebaum, Sailliard, Sedlak, Traynor and McDowell.

Those opposed: None. Those abstaining: None.

B. Continued application #21-11 VIGNEAULT – Bulk Variances for (existing) In-ground Pool at 31 Garibaldi Street, B: 113, L: 10, Zone: R-5; Completeness determined & hearing commenced 12/6/21.

Appearing on behalf of the application were owner/applicant Thomas Vigneault, Esq., engineer Jeffrey Egarian and pool installer & owner of Metro Pools, Phil Picarello. All remained under oath from their prior appearances.

Mr. Vigneault stated that the plan has been revised based on the Board's comments at the last meeting. He introduced his engineer, Mr. Egarian, to explain them.

Mr. Egarian shared the site drawing on his screen and described the changes that had been made in response to the Board's requests for additional information on grading and drainage.

Responding to Mr. Brightly's questions about the grading of the drainage swale, he said it is meant to take runoff coming from the neighbor's property and discharge it behind the garage. The depth of the stone in the 3' wide swale is 8" to 12". He will add more spot elevations to demonstrate it works as intended per Mr. Brightly's request. He confirmed that the walks in the rear yard will be removed as noted on the plan.

Chair Greenebaum briefly discussed the memo sent by Mr. Price. Mr. Mottola informed the Board of his conversation with Mr. Price wherein he stated that the stamped and signed drawings released by the Building Department with the construction permits did not include a site plan drawing but were comprised of the technical pool construction drawings.

Catherine Scappetto 33 Garibaldi St. asked if the proposed drainage plan would cause water to flow onto her property which is next door to the south. She claimed that her property is lower than the applicant's and that his development is causing water to enter their basement. Mr. Egarian said he had never heard of and was unaware of the situation and that he was unable to testify as to the grades on the adjoining property since the fence and trees were removed and the pool construction completed.

Johanna Wissinger asked the pool contractor, Mr. Picarello questions regarding surface drainage in the areas at and around the pool. She also pointed out that water falling on the surface of a pool is captured and evaporates rather than recharging into the subterranean aquifer.

There were no other questions or comments from members of the public.

Mr. Vigneault summarized the application stating that there is less overland stormwater runoff since the installation of the pool than prior to its construction. Moving the pool is not an option because due to the neighbor's intransigence there would not be enough room for his contractor to do the work. He asked that the Board grant the minor setback variance and approve the application.

Mr. Rago and Mr. Szabo confirmed that the only variance required is for a deficient side yard setback. Conditions of approval would include revising the drawings to include the drainage swale spot elevations discussed. A motion to approve the application as conditioned was made by Mr. Traynor and seconded by Mr. McDowell.

Roll call vote:

All in favor: Members Greenebaum, Sailliard, Sedlak, Traynor and McDowell.

Those opposed: None. Those abstaining: None.

C. BOA 2021 Annual Report – Status update:

Chair Greenebaum stated that he had received a revised draft Mr. Sailliard but had not yet review it. He said he would do so and forward the draft to Mr. Mottola for distribution to all members. The Board and its professionals discussed the idea of recommending in its 2021 annual report that property line and construction location stakeouts be made a condition of zoning permit

approvals for in-ground pools, septic systems and dry wells. The recommendation would be for anything that requires excavation should require a survey related stakeout. As requested by the Board, Mr. Szabo said he would compose a draft for such a recommendation for inclusion in the annual report and Mr. Mottola will circulate a copy of the draft report to members of the Board.

8. New Business: Review 2/7/22 Bills List with Vouchers:

Upon review, a motion to pay the listed invoices, in the amount of **\$1,162.50**, was made by Mr. McDowell and seconded by Mr. Sedlak.

Roll call vote:

All members voted in the affirmative.

9. Pending Applications: The Board acknowledged and/or briefly discussed the following applications and their status:

A. Application #21-12 JEPSEN – Request for D68 Certificate of Nonconforming Use at 161-163 Mount Airy Road; B:119, L:7 & 8; Received 10/4/21; Deemed complete 12/20/21; Announced at tonight's meeting as adjourned to 2/22/22.

B. Application #21-13 SELLERS - Conditional Use Variance for Detached Caretakers Cottage at 140 Post Kennel Road, B: 27, L: 1, Zone: R-1; Received 12/3/21; Pending completeness review.

10. Comments from Members: None

11. Comments from Staff:

Mr. Rago briefly updated the Board on the status of NJAW's appeal of its denial of its water tower application.

12. Adjournment:

Motion to adjourn: Mr. McDowell.

Second: Mr. Sedlak.

Chair Greenebaum adjourned the meeting at 8:58 pm.

Respectfully submitted,



Frank Mottola,
Planning & Zoning Boards
Administrative Officer

Keywords: Oaths-Incarnato-Oak-Place-Vigneault-Garibaldi-pool-annual-report-recommendations