

TOWNSHIP OF SADDLE BROOK  
PLANNING BOARD

Following are the minutes of the Saddle Brook Planning Board's reorganization meeting, held on Tuesday, March 17, 2015.

**1. FLAG SALUTE**

**2. ROLL CALL:** Mr. Ambrogio, Councilman Camilleri, Mr. Gierak, Mr. Maniscalco, Mayor White, Mr. Mazzone and Mr. Brantner – YES Mr. Compitello, Mr. Lynch, Mr. Punzo, Mr. Sergio and Mr. Abel – ABSENT Also present were Stephen Pellino, attorney, Richard Brown, engineer and Gary Paparozzi, planner.

**3. CHAIRMAN ANNOUNCES – OPEN PUBLIC MEETINGS ACT:** Adequate notice of this meeting has been sent to all members of the Planning Board and to all legal newspapers in Accordance with the Provisions of the OPEN PUBLIC MEETINGS ACT, CHAPTER 231, P.L. 1975.

**4. NEW BUSINESS**

**A.) Site Plan Application**

**Saddle Brook 2013, LLC, 301 Mayhill Street, Block 1008, Lot 5.02**

Joseph Basralian, attorney for the applicant came forward.

Mr. Basralian – We propose 84 trailer parking spaces on this 12.5 acre warehouse property. We are looking for better access for trailer parking and access to Kenny Boulevard. If approved, we would no longer have access to the easement which currently easement allows vehicles to go across Lot 5.01.

Mr. Lubin, attorney for Saddle Phelan – Notice should be given to the property owners within 200’ of the easement.

Mr. Basralian – There are only 2 properties affected; one owned by the township, the other by the applicant. This information was confirmed by our engineer.

Mr. Pellino – The 200’ list is determined by our Tax Assessor.

Mr. Basralian – I’m comfortable with what we’ve done. If the Board would like, I can submit a request to the Tax Assessor for the additional list and notice only those that didn’t previously get noticed.

Mayor White made a motion to carry the application to the April 21, 2015 meeting, providing notice only to properties within 200’ of the easement on Lot 5.01, who were not previously noticed (if applicable).

Mr. Ambrogio seconded the motion. All in Favor - YES

**APPLICATION CARRIED**

**B.) Site Plan Application**

**Stone Brook Garden and Landscape Supply, LLC, 451 Market St., Block 705, Lot 28**

Mr. Paparozzi recused himself.

Frank Luciano, attorney for the applicant came forward.

James Ciliento, owner of Stone Garden and Landscape Supply, LLC was sworn in.

The Site Plan, revised 02/11/15, was marked Exhibit A-1.

The Lighting Plan, dated 02/26/15, was marked Exhibit A-2.

The Architectural Plan, dated 11/24/14, was marked Exhibit A-3.

Mr. Ciliento – I have been in this business for 20 years. The building will be a pre-manufactured building. We will sell bulk mulch, top soil and rock salt in the bins at the rear, left side of the property. Our hours of operation will be Monday through Saturday 7:30-7:00, Sunday 8:00 – 5:00. We will be open later during inclement weather. During non-peak seasons, we will have 3 employees and peak seasons (April-June, late November through December) will have 5 employees. They are usually high school kids who get dropped off. We will screen the property with a new fence and approximately 8' tall arborvitae. Currently, the property is used for parking.

Mr. Maniscalco – Will the building be white?

Mr. Ciliento – It will be tan and green.

Mr. Maniscalco – Where will the trash and equipment go?

Mr. Ciliento – We will park a loader in one of the bins.

Mr. Maniscalco – Was a traffic study done?

Mr. Brown – This use has pass by trips rather than traffic generation, so a traffic study is not required.

Mr. Maniscalco – Will you house chemicals or insecticides?

Mr. Ciliento – No.

Mr. Brantner – Will you sell Christmas trees?

Mr. Ciliento – Yes.

Mr. Pellino – You show an easement. Do you have a written easement?

Mr. Luciano – We don't own the property. The landlord would have it.

Mr. Pellino – The Board may want to see it.

Mr. Brown – The property survey shows the easement.

The Deed of Easement was marked Exhibit A-4. The survey was marked A-5.

Mr. Maniscalco opened the meeting to the public.

Angela Visentini, 456 Dewey Ave. – How will the mulch in the rear bins be contained?

Mr. Ciliento – The bin will have 3 sides and it will be covered. Mulch doesn't smell.

Ms. Visentini – I think it does. How will the salt runoff be contained?

Mr. Ciliento – There will be 3 catch basins.

Ms. Visentini – Will you contain critters?

Mr. Ciliento – Yes

Dennis Montelbano, 476 Dewey Ave., was sworn in.

Mr. Montelbano – If you raise the grade, will my property flood more? I'm also concerned about the smell and securing the back fence.

Michelle Ptaszynski, 470 Dewey Ave. – I'm concerned with the smell, drainage and bugs.

Mr. Ciliento – There will be no fertilizer in the back. It will be sold in bags in the store.

George Cascino, applicant's engineer was sworn in.

Mr. Cascino marked aerial view Exhibit A-6.

Mr. Cascino – The property is in the middle of a commercial area on Market St. There is a residential neighborhood to our north, at the rear of the property. We propose 30 eight foot high arborvitae to provide a landscape buffer at this rear property line. We will also replace the existing fence at this rear property line. There is an existing vegetated area that has a mound. We intend to put bins in this area.

Currently, that area drains into the backyard of the rear neighbor. We intend to cut that down to grade and have it drain into a new catch basin to 3 underground detention basins which will discharge water into the ground. The proposed building is 1700 square feet with an outside display area on 3 sides and parking in the front of the building for 12 cars (6 required). Between the parking lot and Market St. we are proposing landscaping. We have one entrance to service the garden center and a separate driveway on the left for trucks to deliver. On the side yard, there are bins for decorative stone & gravel. In the rear, there are additional bins for top soil, salt and mulch. Rainfall in these areas will be collected and discharged underground. A canvas canopy is proposed over the rear bins has created 2 of the 3 variances requested. Those variances are rear yard (12.5') and side yard (2.3' on the east) setback. The third variance requested is lot coverage. The canopy is 25' off of the ground, which includes the 7 feet of the blocks that contain the bins. We feel the canopy shields the neighbors' view of the business and keeps rain off of the product.

The site is at about 70% lot coverage now, 50% is permitted. We are proposing 8,000 square feet of additional coverage in the rear, bringing us to 92%. The additional area will be graded to the new system. Water will not go out to Market Street. The Lighting Plan was changed based on the Board engineer's recommendations.

Mr. Brown – Yes, the revised plans are okay.

Mr. Cascino – I'm proposing that we are entitled to the 3 bulk variances under the C2 criteria (benefits/detriment argument) of the Municipal Land use act. We advance two of the purposes of the MLUL: 40:55D-2.a. to encourage municipal action to guide the appropriate use or development of all land in this state in a manner which will promote the public health, safety, morals and welfare and 40:55D 2.g. to provide sufficient space in appropriate locations for a variety of agricultural residential, recreational, commercial and industrial uses and open spaces both public and private. The burden of proof is on us to make 5 findings. This is a permitted use in that zone. It is a better zoning alternative because the business is geared toward the local community. There is no substantial detriment to the public good. This project will benefit the neighborhood, including our neighbors to the rear. We share an access easement with our neighbors to the east. We go in on their property and out on our property. The fourth criteria has to do with the benefits detriment argument. Having to do with lot coverage and the side yard setbacks. Currently, the water drains to the neighbors' property. We will collect drainage and reduce impact to the neighbor. The side yard setback is de minimus and doesn't hurt anybody. Once the landscaping is done in the rear, we think the neighbors will benefit. The fifth criteria is to advance purposes of zoning regulations or Master Plan. Section 206-2A & G I believe that our proposal will advance the general welfare of the neighbors and community per zoning regulation section 206-2A & G. The Master Plan, goal 3 is to encourage the maintenance and upgrading of the business zones along Market St. This use will be better than the existing parking lot.

Mr. Brown – The freestanding sign at the bottom of page 2 is setback only 3 feet. The requirement is 15 feet. I think you have room to slide that sign back.

Mr. Cascino – That is a 5' x 7' sign. It would be no problem to move it back.

Mr. Brown – It will improve the site triangle. The canopy on the bins makes it an accessory structure.

Mr. Brown (to Mr. Ambrogio) – What is the permissible height? The principle building maximum is 30'.

Mr. Ambrogio – The code says in a commercial zone the accessory structure shall meet the height and

yard requirements of the principle building. Will the propane tank area be to fill tanks or replace tanks?

Mr. Ciliento – It will be a propane filling station.

Mr. Ambrogio – You will need bollards for impact protection.

Mr. Cascino – That’s not a problem. You want them on the front and on the side?

Mr. Ambrogio – I think you’re going to have to do them on the side and then 4 feet in off of the driveway per code. You’ll probably have to put one on the back side, then along the side and one on the front side.

Mr. Brown – The site plan shows a gate past the building on the westerly side. Is it intended to put a gate on the easterly side also to make the site secure? It’s a common easement. I’m assuming you’re not going to put a gate there.

Mr. Cascino – We’re not allowed to put a gate there under the easement agreement.

Mr. Brown – Why would you put the other gate in if you can’t have it in both places?

Mr. Cascino - It’s there to control trucks coming in.

Mr. Brown – Maybe you should put a “Do Not Enter” sign there.

Mr. Brantner – Or a “Deliveries Only” sign.

Mr. Ambrogio – Will you have a dumpster?

Mr. Ciliento – Yes.

Mr. Maniscalco – The gate from the propane tank opens into the driveway.

Mr. Ciliento – It’s for customers to bring their tank into the secured tank filling area.

Mr. Ambrogio – It might be a good idea to move it out of traffic.

Mr. Pellino – Why not put it on the other side?

Mr. Cascino – We will move it to the other side.

Dennis Montelbano, 476 Dewey Ave. – Where will the detention basin be located? The grade of your property is higher than my property. The existing catch basins by Dunkin Donuts and between my property and the neighbor’s property flood because of an underground brook.

Mr. Cascino – The former town engineer had us create a different kind of system so that no additional water will go into the Market St. system. This will go 12’ down into ground water as opposed to the surface water, which is causing the trouble.

Mr. Montelbano – You’re adding more water to the ground, which will come up.

Mr. Brown – They are required to do wither a perk or permeability test prior to construction.

Michelle Ptaszynski, 470 Dewey Ave., was sworn in.

Ms. Ptaszynski – How tall will the fence be?

Mr. Cascino – It will be 6 feet high.

Mr. Luciano summarized and read the township’s definition of an accessory building.

Mr. Luciano - I do not believe the covered bins are buildings as they are not occupied as stated in the definition.

Mr. Pellino reviewed the procedure and obligations of the Board.

Mr. Ambrogio – The ordinance states that an accessory structure is “not habitable”, like a shed.

Mayor White – Based on what I’ve heard, I think it’s a good use of the land.

Mr. Ambrogio made a motion to approve the application with the following conditions: 6’ privacy fence and 30 arborvitae 8’ high, 4’ off center to be shown on revised plans, sign moved to 15’ setback, gate to

propane area moved to the west side, bollards according to code, detention system to be tested, location and design of the detention system based on the results of the test and approved by the Building Department and the engineer, notice to be given to Ms. Ptaszynski so she may be present for the testing, revised plans to show the dumpster in a suitable location and if access to the sanitary sewer line is needed, the applicant would be responsible to move the blocks. Mr. Gierek seconded the motion.  
VOTE: Mr. Ambrogio, Councilman Camilleri, Mr. Gierek, Mr. Maniscalco, Mayor White, Mr. Mazzone and Mr. Brantner – YES

## **APPLICATION APPROVED**

### **C.) Minor Subdivision Application**

#### **Salvatore Caramanna, 44 Catherine Ave., Block 610, Lot 6**

Cliff Rotolo, attorney for the applicant came forward. He submitted notice and affidavit to Mr. Pellino. Mr. Paparozzi rejoined the Board.

Mr. Rotolo – This is a minor subdivision application of a 10,000 square foot property. Currently, there is a 1 ½ story dwelling with a detached garage on the lot. We are proposing two 5,000 square foot lots (50' x 100') in this R-A zone. The 2 bulk variances requested are minimum lot size and lot width. Engineer, Tom Stearns' Minor Subdivision plan was marked A-1.

Mr. Pellino – There was at least one prior similar application. There is a legal doctrine called res judicata, which means that it's already decided. One of the issues you'll have to decide today is whether or not the doctrine of res judicata applies. In land use context, the criteria is basically that 1.) the application was done by this applicant or someone in privity with him; 2.) the application is substantially similar; and 3.) the outside circumstances haven't changed. When the applicant is done with their presentation, if you believe the doctrine of res judicata applies, then you will deny the application based on res judicata. You don't have to decide the merits.

Mr. Rotolo – There was one prior application, resolution dated November 27, 2007. The difference in this case is that we not only seek to subdivide, but we also look to preserve the existing dwelling, which is going to be relocated. There will be no bulk variances once the house is moved. This is a different applicant. That case was Elliot D. Wexler, executor of the Estate of Lillian Meunch. Our professionals will discuss the differences in the application.

Thomas G. Stearns III, engineer for the applicant was sworn in.

Mr. Stearns – Exhibit A-1 is, dated 10/05/12 was revised on 07/19/13. This is a 100' x 100' lot. On this property, there is a 1 ½ story dwelling and a garage at the rear of the property that's less than the required setback to the rear and a macadam driveway. The proposal is to split the lot into two 50' x 100' lots. We are in an R-A zone, which requires a 6,500 square foot lot with a 65' lot width. We need variances for the lot area and lot width. The division of the property would create a bulk variance for side yard setbacks. Also, the front setback is approximately 22', which is a nonconformity. The garage rear setback is less than 3 feet, which is also a nonconformity. Our proposal is to move the house back, so it meets the 25' front setback requirement and to the east, so it meets the 5' side yard setback from that newly created subdivision line. Since we will be losing the driveway and the garage on the right side, we're creating a 2 car driveway (18' wide) on the left side of the house. The proposal on the new lot is to create a new 2 ½

story single family dwelling that will meet the bulk requirements. There will be 2 parking spaces; one in the garage, one in the driveway. It'll have a 9 ½' side yard on one side, 19 ½' combined side yards, 25' front yard and 32.5' rear yard. The architectural rendering is a conceptual drawing. The plan is dated 10/05/12, rev. 07/09/13. This has been going on for a couple of years now. The concept has changed. There are no plans for the new dwelling. We show a seepage pit in the rear. I did drainage calculations and they show we can meet RSIS criteria for stormwater management. It will be an improvement as far as runoff goes. The entire footprint of the dwelling will be stored in the seepage pit. Regarding Mr. Paparozzi's report, most comments are based on the discrepancy between the architect's plan and my plan. We'll assume that we're not considering the architect's plan. We will meet bulk requirements. We can submit the drainage calculations. In 2007, the old application proposed 2 new dwellings. The existing dwelling and the garage were to be knocked down.

Mr. Pellino – The 2007 application for two new homes were completely conforming homes, correct?

Mr. Stearns – I believe so.

Mr. Pellino – In other words, the only variances that applicant sought from the Board were the same ones you're seeking, which is the reduced lot size and lot width.

Mr. Stearns – That's correct. The existing home is probably less than a new home that you would put there (less lot coverage). Aesthetically, that lot would almost remain the same.

Mr. Paparozzi – The architect's plan is dated 2014, which is after both your original date and your revision date. Also, if the house has 4 bedrooms, the parking is not enough. RSIS asks for 2.5 spaces.

Mr. Stearns – If the fraction is .5 or less, you round down, which makes us comply.

Mr. Maniscalco opened the meeting to the public for questions for Mr. Stearns.

Dave Rosen, 45 Catherine Ave. was sworn in.

Mr. Rosen – The neighbors were here twice before. I think this will crowd the neighborhood and create parking problem.

Mr. Rotolo – The actual application that was denied is attached to this application. There was a subsequent application by Mr. Caramanna that was withdrawn. It was not heard by the Board.

Barbara Dodge-Ha, 50 Catherine Ave. was sworn in.

Ms. Dodge-Ha - How is this plan different from the last one? They are trying to put 2 houses on 50' x 100' lots. It was turned down 3 times previously. First by Elliott Wexler, second time, he appealed it, they said no and the third time, when this man owned the property, the Board said no. How is this different?

Mr. Stearns – It's different because the existing house is going to move.

Ms. Dodge-Ha – It's a 125 year old house.

Shirley Tovar, 58 Ackerman Ave. was sworn in.

Ms. Tovar – How is it different from the previous two times? How is the parking going to be better?

Mr. Stearns – These are one family houses. The existing house has 3 bedrooms, the proposed house has 4. We require 2 or less spaces for each house. We have provided 2 spaces for each.

Lisa Phillips, planner for the applicant was sworn in.

Lot Size and Lot Width Analysis was marked Exhibit A-2 and a photo montage was marked Exhibit A-3.

Ms. Phillips – You need to look at whether this is a material change when considering res judicata. The

impact of a subdivision is really the concern about any negative impact in the surrounding neighborhood. If at any time you can preserve a house that already fits into a neighborhood, that's a positive. Even if we're relocating it, I think that a positive. We are maintaining the existing residence, so the streetscape is preserved. We're improving it. We're taking 2 nonconforming conditions, the westerly side yard and the front yard and we are making them conforming. That, in and of itself, is different. One of the other two applications wasn't even pursued, so really, we're just dealing with the 2007 denial. I think in that sense, keeping that house is a positive and material change.

Mr. Pellino – Assuming the Board approved the application, what would prevent your client from knocking down the house? I don't think we could put it as a condition.

Ms. Phillips- That's the legal issue. I have enough evidence to prove that there is no substantial detriment because only 20% of the properties in this area comply. We're not going to negatively impact, when every other house is on a 50' x 100'. The exhibits show that. Only 4 other properties on that street and on Harrison Ave. conform. They are between 6,500 and 10,000 square feet. Some of the undersized lots have 2 family houses on them. 86% of the properties do not comply. There are 2 lots between 3,698-5,000 square feet in this immediate area. There are 23 lots that are between 5,001 – 6,499 square feet. Therefore, there is no negative impact to the surrounding development pattern because the pattern is 50' x 100'. I think the development proposed will comply. We will also have to comply with drainage for zero run off. As to the parking requirements, the RSIS has an exemption for parking ratio. (She read the caveat about fraction being disregarded.) We will have 2 parking spaces for each house. The Master Plan refers to the demolition of existing single homes with replacement of McMansions incompatible with the existing neighborhood. This project will comply. Another goal is to protect the established residential neighborhood and to enhance in redevelopment all the residential neighborhoods while still retaining the established neighborhood character. There's no impairment at all to the Master Plan. The variances we're seeking are for an undersized lot with a 50' width and 5,000 square feet. We're looking at C1 criteria, meaning that it's the size of the lot that's so unique. It's 1 ½ times what is required. There is only one other property that size on the block. I think the fact that we're nearly twice the size of 86% of the surrounding lots is an exceptional physical feature. The negative criteria, we have to look at is there any substantial detriment to both the public good or impairment to the Master Plan. There is no substantial impairment to the Master Plan. We have affirmed several of the goals that talk about maintaining the residential character and the scale of the neighborhood. As for the public good, there can't be any substantial detriment to the public good because all of the other dwellings are the size we are proposing.

Mr. Maniscalco opened the meeting to the public for question for Ms. Phillips.

Dave Rosen, 45 Catherine Ave. – A lot of properties are 50' x 100'. Did they change that to 65' because they didn't want it all jammed in?

Ms. Phillips – I don't know the intent.

Mr. Rotolo – Do you think these lots will eventually reach 65' x 100' in size?

Ms. Phillips – No.

Mr. Maniscalco opened the meeting to the public for comments.

Kyung Ha, 50 Catherine Ave. – When the town changed to the 65' lot width requirement, it was the plan going forward. With the snow, we could barely move cars on our street. With more houses, there

will be no room to move.

Barbara Dodge-Ha, 50 Catherine Ave. - I agree with my husband. The new lot size should be 65'.

Dave Rosen – I think this thing stinks. We're relying on you guys to protect us.

Shirley Tovar, 58 Ackerman Ave. - I like our neighborhood the way it is now.

Mr. Maniscalco closed the meeting to the public.

Mr. Rotolo – This Board has decided only one application. The 2007 application had no planner testimony, which makes this application significantly different. This is a different applicant. We plan on preserving the existing structure. Case law is intended to be liberally construed in favor of the applicant. My client is entitled to the Board's consideration of this application regardless of what happened at that prior application. Mr. Rotolo cited case law to support his findings. My client intends to live in the dwelling being relocated.

Mr. Pellino – My suggestion is that we deal with in two parts. The first part is to determine the res judicata issue. If you determine that this is substantially the same application, there's nothing else for you to decide. If you determine it is not, then you would go on to decide the application on its merits. The law says that the application is brought by the same party or by someone who is in privity of that party. In this case, it is the prior owner of the property. In my view, that serves to be someone in privity. It may not be in direct privity, it's a prior owner of the property only several years bac. The second criteria is that the circumstances have not changed significantly. I don't think the lot sizes in the surrounding area is a new phenomenon. I don't think you have anything in front of you which could lead you to say that there's substantial change in the circumstances that would permit you to hear the same application. The question really boils down to is do you feel the present application is substantially similar to the one heard back in 2007. The evidence is pretty clear. The applicant has offered that they are preserving the existing home as the difference. Mr. Rotolo pointed out that the last application didn't have the testimony of a planner, but I don't think you judge it by how the application was presented. I think you judge it by the relief sought by the applicant. The 2007 application was to divide the property exactly the same way and to put up 2 conforming homes. The only difference is that they are going to move the existing house. I don't think there's anything this Board can do that would require that home to be there. I'm not saying the property owner has any bad intentions.

Mayor White – Is it compelling that it came before the Board and was denied and then was appealed before the Superior Court and was denied?

Mr. Pellino – The only question is, is this application substantially different?

Mayor White – Why was the 2012 application withdrawn?

Mr. Caramanna – I didn't want to knock down the house and it was too close to the lot line. Now I know I can move it. I want to keep it because I already fixed it up and spent money on it.

Dave Rosen – Do you live there?

Mr. Caramanna – My sister lives there.

Mr. Ambrogio – Do you plan to live in the new or existing house?

Mr. Caramanna – The new house.

Mr. Maniscalco – I think the applications are the same.

Mayor White made a motion to deny the application based on res judicata. Mr. Brantner seconded the motion.

VOTE: Mr. Ambrogio, Councilman Camilleri, Mr. Gierek, Mr. Maniscalco, Mayor White, Mr. Mazzone and Mr. Brantner – YES

## **APPLICATION DENIED**

### **5. MINUTES**

Mr. Brantner made a motion to approve the February 17, 2015 minutes. Mr. Ambrogio seconded the motion. All in Favor - YES

### **6. COMMUNICATIONS**

Mr. Brantner made a motion to accept and file the communications.

### **7. VOUCHERS**

Mr. Brantner made a motion to pay the following vouchers provided funds are available:  
Costa Engineering Corp., 01/12/15, Saddle Brook 2013, LLC, \$375

### **8. ADJOURN**

Meeting Adjourned 10:50 p.m.

Respectfully Submitted,

Jayne Kapner  
Planning Board Secretary