

TOWNSHIP OF SADDLE BROOK ZONING BOARD OF ADJUSTMENT MINUTES

Following are the minutes of the Saddle Brook Zoning Board of Adjustment's regular meeting held on Monday, August 17, 2020 held at the Saddle Brook Senior Center due to Covid-19.

1. CALL THE MEETING TO ORDER – At 7:10 pm, Chairperson Murray called the meeting to order.

2. FLAG SALUTE

3. OPEN PUBLIC MEETING ACT: adequate notice of this meeting has been sent to all members of the Zoning Board and to all legal newspapers in Accordance with all the Provisions of the "Open Meetings Act", Chapter 231, P.L. 1975.

4. ROLL CALL - Mr. Duffy, Mr. Mazzer, Mr. Schilp, Mr. Manzo, Mr. Tokosh, Mr. Marz, Mr. Burbano, Ms. Murray – PRESENT, Board Attorney Albert Birchwale sitting in for Mr. Pellino, Board Planner Gary Paparozzi and Board Engineer Anthony Kurus also in attendance.

Ms. Murray makes an announcement regarding the wearing of masks during the meeting.

5. NEW BUSINESS –

A.) 48 Rosedale Avenue, LLC, 48 Rosedale Avenue, Block 617, Lot 14

Applicant requests a new single family house in noncompliance with Municipal Code #898, Section 206.

Mr. Birchwale swears in Mr. Grutzmacher he states his name spells his last and gives his address as 30 Dunham Avenue Cranford, NJ.

Mr. Grutzmacher gives his credentials in order to testify as an expert witness. He has been an architect for over 30 years and has appeared before this Board before. The Board accepts him as a witness.

Ms. Murray – Did you provide signed and sealed drawings to the Building Department ours are not signed and sealed.

Mr. Grutzmacher – Yes. We submitted in May and we got a letter of denial from the Zoning Officer. I will run through the variances there were 5. Minimum lot size 6500 sq. ft. require 5613 is the existing. Corner lot with 2 front yard setbacks both are 25 feet. The existing in the front on Rosedale is at 22.9 ft. we are going to maintain that. The other along Claremont was showing 3.8 feet. There is also minimum side yard which is pre-existing nonconformity where 10 feet is required and 5.9 feet is existing. The new design exceeds the 26% building coverage we are at 33.8% I want to point out if this was a conforming lot of 6500 sq. ft. we would be under that 26% coverage requirement. This leads me to the hardship. The lot is non-conforming, it has a strange configuration. It is somewhat trapezoidal the front is wider than the rear. The house that was there was too small and we found there was no footing under the existing house. We have to redo the entire foundation. Does anyone have any questions for me?

Mr. Schilp – On the east side of the property there is a small wall that is falling apart. Is that your wall and is it coming down or being replaced? It should be on the survey also.

Mr. Grutzmacher – We can get you that information.

Mr. Schilp – Somewhere in the middle of the backyard it looks like there was a septic tank there. There is some cement and if you look down there is a hole inside. That has to be filled in and taken out.

Mr. Birchwale swears in the owner Frank Barber. He states his name spells his last and gives his address as 201 Banta Avenue Garfield, NJ 07026.

Mr. Barber – I am going to replace the wall because when I sell this house I want everyone to be happy. I was told the hole was a well not a septic tank. I will be removing it and filling it in

Mr. Paparozzi – You should have the wall shown on the property so you can replace it in the same spot. You want to be sure it's on your property.

Mr. Barber – I could be wrong but I don't think it's my wall. I will replace it either way.

Mr. Paparozzi – You can't replace it if it's on your neighbor's property. You would have to ask them and get their approval.

Mr. Barber – If it's mine I'll replace it if it's not I will pay to replace it anyway because I'm building there.

Ms. Murray – You should have your surveyor make sure so you know if you have to take care of it. If it's not yours you are not obligated to do so.

Mr. Barber – I don't think it is mine. Can I put wall in front of that wall?

Mr. Paparozzi – First you have to find out where it is. Your architect shows an offset of 25.7 inches which is included by the architect but not on the survey. Now being that the proposed house is only going to be 3.9 inches off of the Claremont Ave. right of way that number should be put in by the surveyor. The wall also needs to be shown on the survey.

Ms. Murray explains to Mr. Barber that the numbers put on the plan by the architect need to match the numbers that the surveyor has on his survey.

Mr. Paparozzi – There are changes you need to make to the zoning chart. You have a combined side yard but there is no combined side yard. You have some numbers that are wrong. You do have a front yard setback on Claremont and Rosedale. You are adding to the existing building which is less than 25 feet. You are exacerbating the existing non-conforming so that is a variance as well. The variances are front yard on both Claremont and Rosedale, corner yard on Claremont, maximum building coverage and maximum lot coverage. They should be noted on the zoning chart. On page A4 the elevation only shows a half story. I know you show access to the attic but you don't show what that attic is or the height. You should also show as well to avoid bedrooms in the attic.

Mr. Grutzmacher – We'll confirm the square footage up there. My calculations may be under.

Mr. Paparozzi – I'm not worried about the height there is some room up there you need to justify.

Ms. Murray – We need to know what you are putting up there. If it's storage it should be marked that way.

Mr. Barber – OK.

Mr. Birchwale – I looked over the noticing and I see that the notice requirements are satisfied.

Ms. Murray – Are you planning on putting any fences on Claremont because that would also require a variance.

Mr. Barber – If I need another variance I probably wouldn't put a fence.

Ms. Murray – You can ask for it now or you would have to come back again.

Mr. Barber – I was just going to put landscaping.

Mr. Mazzer – It's probably better if he adds it now and if he doesn't want to use it he doesn't have to.

Mr. Barber – Can I do that right now?

Mr. Mazzer – Sure.

Ms. Murray – We can allow a minimum of 3 foot 9 inches from the corner of the house for the fence all subject to the survey being correct.

Mr. Tokosh – I notice there is a telephone pole on Claremont that would be right in the middle of the sidewalk.

Ms. Murray – There is no sidewalk required on Claremont.

Mr. Tokosh – OK. Are you going to level off the property and bring dirt in?

Mr. Barber – Yes. That property needs to be leveled off.

Mr. Tokosh – If you bring in a certain quantity of dirt you would need a permit for that and maybe you should include it with this.

Mr. Barber – I will use the dirt from when I enlarge the basement and redistribute it.

Mr. Tokosh – You have to be careful that the rain is not going to flow on the adjacent properties.

Mr. Barber – Yes I agree with that. I will make sure things are pitched correctly.

Ms. Murray – I would like to bring in the Engineer for this.

Mr. Kurus – Our comment from the report is the increase in the impervious coverage you are almost doubling it. Based on the topography we will need a grading and drainage plan if approved. It will need to show whether you need a seepage pit or something to address the increase in runoff. The other item was about the foundation but the architect testified they are replacing the existing foundation.

Mr. Grutzmacher – I have a report from a structural engineer to enter into the record. We will mark it A1 from Taher Engineering, LLC dated July 23, 2020. For the record I will read their last comment “based on my observation my opinion is the existing foundation is in poor condition I think it is inadequate for the structure planned to be built I do not think it can safely support a new structure for them long term. If it is reused it is likely to lead to structural issues in the future. I would advise the client and architect to demolish the existing mismatched foundation walls and rebuild the foundation properly designed CVU or cast in pipe concrete.”

Mr. Kurus – We would ask that you revise your plans and note that so that it’s clear to the Building Department that your intent is not to use it anymore. The width of the driveway and the utility services that’s it for engineering.

Mr. Schilp – On the plans you are showing all the tree still in front and down the left side. If you leave them there, there is no means to get to the backyard. If you put the fence up there is no way to get to the backyard from the Claremont side. Fire service will have difficulty with a fence and those trees getting into the backyard. I think you need to take the shrubs down on either side.

Mr. Barber – I am taking all of them out and replace it with decorative landscaping in the front of the house and maybe on the corner for curb appeal.

Ms. Murray – You need to have that on the adjusted plans. Also because there is a height limit on the fence you can only go 4 feet high on the Claremont side.

Mr. Duffy – I’m curious about the basement and the crawlspaces. There are a number of doors going in there.

Mr. Grutzmacher – They are for venting the crawlspace.

Mr. Duffy – What is the depth?

Mr. Grutzmacher – It should be at least 24” from the bottom of the structure but I can get you that information.

Mr. Barber – It will be part basement and part crawlspace. We are expanding the basement slightly being that we are putting in a new basement to make a rec room or play space for kids.

Ms. Murray – The basement is only accessible from inside the house.

Mr. Barber – Yes that’s the plan.

Ms. Murray – Anybody else have anything

Mr. Grutzmacher – I just know that this is quite an enhancement for the neighborhood. We are using composite siding and the elevation on Claremont is much nicer. There is no negative detriment to the neighborhood only an enhancement.

Mr. Schilp makes a motion to open to the public.

Mr. Duffy wants to be clear that there is no sidewalk requirement on Claremont Avenue. Is there any requirement for the side on Rosedale? Is there a continuation of the sidewalk on Rosemont?

The Board discusses whether or not he is required to put in a sidewalk. He is not because there are no houses adjacent to this property that currently have sidewalks.

Mr. Barber – If I put a sidewalk in front of the house would you require me to follow it around and onto Claremont Avenue or can I put one in the front of the house to make it look nice?

Mr. Schilp – If you want to put one in you can we can't make you do it.

Mr. Duffy seconds the motion to open to the public. All in favor – YES.

Ms. Murray – Anyone wanting to speak come forward.

Karen Mielnicki from 102 Claremont Avenue comes forward and wants to see pictures of what it will look like. She asks if he is required to put a handicap ramp being that it is on the corner.

Ms. Murray – Is there anyone else? Seeing none.

Mr. Schilp makes a motion to close seconded by Mr. Duffy.

Mr. Schilp makes a motion to approve the application with the following stipulations. Have to update the survey to show the cinder block wall and the dimensions. That you intend to take the shrubs down. Explanation of the half story elevation ceiling heights and what it's used for, that you want to put the fence in 4 foot and open, update the zoning chart.

Mr. Barber – In the back can I do 6 foot on the property line between me and the house with the retaining wall?

Mr. Schilp – That doesn't take a variance.

Ms. Murray – Grading plan.

Mr. Kurus – Grading and drainage

Mr. Duffy seconds the motion.

ROLL CALL - Mr. Duffy, Mr. Mazzer, Mr. Schilp, Mr. Manzo, Mr. Tokosh, Mr. Marz, Mr. Burbano, Ms. Murray – YES.

Ms. Murray – Your application has been approved your resolution will be next month.

Mr. Birchwale explains to Mr. Barber that once he publishes the resolution he can sign a 45 day waiver to begin construction before the waiting period is over and that he does so at his own risk.

Mr. Karas the attorney for Curcio Realty explains that his architect who was supposed to testify is unable to attend as he is ill and that in terms of the second matter which is the 416 Lanza Avenue application letter C would like to carry to the next meeting. In regard to the first matter 156 Midland Avenue letter B we are looking for interpretation as to whether or not we need a variance. So if we can just have the interpretation done tonight and if we need a variance we will have to come back with somebody else.

Ms. Murray – Do you want to do the 416 first to carry and the deal with the other.

Mr. Schilp – Do the C first.

C.) Curcio Realty II, LLC, 416 Lanza Avenue, Block 403, Lot 8

Applicant requests to construct an open canopy which is an expansion of a nonconforming use and may also require height and setback variances.

Ms. Murray – Okay. So now we are going to do Curcio Realty II, LLC 416 Lanza Avenue. We have notification from the applicant that they would like to hold off until next meeting.

Mr. Birchwale states on the record that the noticing is in order and the Board may hear the application.

Mr. Schilp makes a motion to put it off for a month without re-noticing.

Mr. Duffy seconds the motion.

ROLL CALL - Mr. Duffy, Mr. Mazzer, Mr. Schilp, Mr. Manzo, Mr. Tokosh, Mr. Marz, Ms. Murray – YES.

Ms. Murray – The application for 416 Lanza Avenue will be carried to the next meeting which is September 21st anyone wishing to meet on this should come back then and check the website for any changes in time or venue.

B.) Curcio Realty, LLC, 156 Midland Avenue, Block 403, Lot 9

Applicant requests to convert six existing single-room occupancy units on the 2nd floor into 2 one-bedroom units in noncompliance with Township Code, Section 206, Schedule I, Attachment I, Schedule I, Part I.

Mr. Karas identifies himself as the attorney for Curcio Realty, LLC and his client Michael Curcio will be testifying.

Mr. Birchwale swears in Mr. Curcio he states his name spells his last and give his address as 1 Harvest Lane Kinnelon, NJ 07405. He also states he is the managing member of the LLC.

Mr. Karas – We are here for an interpretation as to whether or not a variance is needed. It is a multi-family residential dwelling with a nonconforming use in the OM Zone. Presently on the first floor there are 2 two bedroom units on the second floor 6 single occupancy living units. The third floor has 2 one bedroom units. The proposal is to convert 6 single family occupancy units to one bedroom apartments. The renovations will be all interior there is no expansion of the physical structure on the property. We are asking for an interpretation as to whether or not the D2 variance is required for an expansion of a nonconforming use. We ask for the interpretation because there is a case pretty much on point Lehan vs Atlantic Highlands Zoning Board an appellate division case from 1991. What that case states is nonconforming use may not be enlarged as of right except where the change is so negligible or insubstantial that it does not warrant administrative interference. The court went on to state that the inquiry was focused on the quality character and intensity of the use, the impact on the neighborhood and the need for zoning. The facts of Lehan are very constructive and are on point with what we find here. That case they had a multi-family dwelling and had 5 rental units that were single occupancy similar to what we have here. The applicant in that case planned to remodel the third floor to convert 2 of the SR units into an apartment. The effect was to reduce the total number of dwelling units although the total number of units will increase from 5 to 6. The court made a determination that there was no need for a D2 variance it was not an expansion of a nonconforming use. There is a separate issue in that case they were looking to expand the floor area and they said that they could not do. In terms of the revisions of the SR unit the court said that was not an expansion there was no increase in intensity of the property. In that case you were reducing the SRO by one here what you are doing is reducing the SRO by a lot more. You are taking the apartments and while you are increasing them from 4 to 6 in total what you are doing is reducing the living units from 10 to 6 reducing the number of bedrooms for the applicant from 12 to 8. The likelihood is the number of occupants are going to be reduced in the building. I would like to have brief testimony from my client to go through the building and renovations that he is proposing.

Ms. Murray – Can I ask a question how many apartments on the first floor?

Mr. Karas – Right now on the third floor 2 one bedroom units, the first floor has 2 two bedroom units, the only revisions are to the second floor where there are 6 single family occupancy units that is being reduced to 2 one bedroom apartments. There is a reduction of four living units. No revisions or alterations to the first or third floor.

Ms. Murray – Okay.

Mr. Karas – Mr. Curcio you are the managing member of Curcio Realty correct?

Mr. Curcio – Yes.

Mr. Karas – Curcio Realty has owned this building for how long?

Mr. Curcio – About 30 years.

Mr. Karas – You have been before the Board on other applications with regards to revisions to the property and they have all been approved correct?

Mr. Curcio – Yes.

Mr. Karas – This revision you are looking to take the 6 single room occupancy units on the second floor and convert them to 2 one bedroom units?

Mr. Curcio – Yes.

Mr. Karas – The 6 existing units have individual people living in those units?

Mr. Curcio – Yes.

Mr. Karas – You are going to have 2 one bedroom units that can be occupied by 1 or maybe 2 people at the most?

Mr. Curcio – Yes.

Mr. Karas – So you reduce the number of people living within the building correct?

Mr. Curcio – Yes.

Mr. Karas – You are not looking to expand the building change the footprint or the square footage of the building?

Mr. Curcio – No. The outside will remain the same just the interior will be renovated.

Mr. Karas – That's all I have.

Ms. Murray – It's not a full 3 stories it looks to be 2 and a half so the living space on the third floor is not to code.

Mr. Karas – It was all pre-existing.

Ms. Murray – Is there documents that show that?

Mr. Karas – I don't have that but we have been here numerous times representing the applicant.

Ms. Murray - I have been on for a while and have not heard this so I am asking if you do have the documentation to let us know this has been approved to have living space on the third floor.

Mr. Paparozzi – There is also a full basement and we don't know what is there. We don't know what's on the first floor or the third floor other than your testimony. Parking is a variance based on the number of bedrooms.

Mr. Karas – Based on the Lehan case and consider the parking and they said it is not an increase in intensity and it doesn't warrant an exchange.

Mr. Paparozzi – The Township has no way to verify what you are saying is correct.

Mr. Mazzer – You have to show us some plans. What's in the basement, what's on the first floor, what's on the second floor, what's in the attic?

Mr. Karas – There are no revisions there.

Mr. Mazzer – I don't care. You have to show us.

Ms. Murray – We can't even calculate an FAR. Gary has been hamstrung by a couple of things.

Mr. Karas – It's merely an interpretation of. That we can do but in terms of an interpretation just with regard to revising the second floor from single occupancy units to 2 one bedroom units. All we want tonight is an interpretation of whether or not the revision of those units is an expansion of a nonconforming use. That is the extent of the interpretation.

Mr. Birchwale – I understand what you are saying and it does appear that it is not an expansion of a nonconforming use but we have no documentation in front of this Board. You could take the position that based on what you have in front of you this is an expansion of a nonconforming use then the applicant can come to the next meeting and present documentation.

Mr. Karas – You are saying it is an expansion or it's not.

Mr. Birchwale – Well that's the interpretation at this point if they decide it is not an expansion then you have no reason to come back here. What I think this Board is looking for is documentation as to what you are saying is correct based on the documentation before the Board. I think they have no choice but to decide this is an expansion of a nonconforming use, then they retain jurisdiction.

Mr. Karas – Why don't we grab the other resolutions that were passed.

Mr. Birchwale – That would be fine yes. That way you still retain jurisdiction you are not making a decision.

Mr. Mazzer – We would also like to see drawings.

Mr. Karas – I believe the prior resolutions have that.

Ms. Murray – That would be helpful. Some of us were not here at that time so we need documentation supporting that.

Mr. Birchwale – My recommendation is the Board not make a decision tonight on the interpretation until you get the appropriate documentation to be able to make an informed decision. Now regarding this application I have reviewed the noticing information and it is all satisfactory and you may proceed to the next meeting with no further notice. You are preserving your right for an interpretation but this Board has to be satisfied with the information before making an informed decision.

Mr. Karas – I will get the prior resolutions and plans for the next meeting.

Mr. Schilp makes a motion to extend this to the September meeting and that they provide the documentation and plans.

Mr. Paparozzi – I don't see anything about parking on the Lehan case.

Mr. Karas – They mention that it is not an increase in the intensity and talk about the fact that it does not change the parking.

Ms. Murray – That's why we need prior documents because they would address parking. Without knowing what was decided we have nothing to say about parking. I have a motion to hold this over with the proper documentation being provided with the resolutions and plans.

Mr. Duffy – Prior to seconding the motion when will documentation be provided?

Ms. Murray – It will be provided 10 days prior.

Mr. Duffy – Based on that I will second the motion.

ROLL CALL - Mr. Duffy, Mr. Mazzer, Mr. Schilp, Mr. Manzo, Mr. Tokosh, Mr. Marz, Ms. Murray – YES.

D.) 295 Harrison Avenue, LLC, 501 North Midland Avenue, Block 1717, Lot 4

Applicant requests to build a four family house in noncompliance with Chapter 206 attachment 1, Schedule 1, (part 1) a four family house is not a permitted use in a (B-1) zone.

Mr. Tokosh recuses himself from this application as his Son in Law is the applicant. Mr. Burbano sits in for him.

Ms. Murray – The applicant or attorney needs to come forward. I also want to let anyone who is interested know that the 2 applications for Curcio Realty will be heard next meeting and you should check the website for any changes in time or venue.

Mr. Landel the attorney for 295 Harrison Avenue, LLC comes forward.

Mr. Landel – We are here in regards to 501 North Midland Avenue. Which is known as Block 1717 Lot 4 on the tax map. The property is in a B-1 Zone. We are proposing a 4 family home so that requires a use variance. The existing home is a pre-existing nonconforming legal 2 family home. If we apply the B-1 bulk requirements to our application we need no bulk variances it would be a use variance for the residential in your B-1 Zone. Pursuant to your Planner's request and I think it is the right one for the purposes of the application we show and we advertise for the RM bulk requirements and as a result we are seeking variances for lot area, lot frontage, side yard, rear yard, lot coverage and parking in front. That is because we are applying the RM bulk requirements the bulk requirements that are required by the B-1 are met. With me I have our engineer Bob Weissman, architect William Brown, landscape architect Brad Neumann and Dr. Puccio who is the principal of 295 Harrison Avenue, LLC. I would like to call Bob Weissman.

Mr. Birchwale swears in Mr. Weissman he states his name spells his last and gives his address as Weissman Engineering 686 Godwin Avenue Midland Park, NJ.

Mr. Birchwale – Can you give us your credentials.

Mr. Weissman – I am a licensed engineer and land surveyor in NJ I have been licensed since 1991. I have a masters and bachelors in civil engineering from NJIT. I have been practicing engineering in Bergen County.

The Board accepts his credentials as an expert witness in the field of civil engineering.

Mr. Landel asks about the site plan and the drawings he brought for display. The site plan is from 8/4/20 and is the same site plan that was emailed to the Board. He hands out hard copies to the Board.

Mr. Landel – Mr. Weissman would you go through the plan?

Mr. Weissman – We did originally have the zoning as B-1 and we were in compliance with the exception of the total lot coverage we were 4.1% over the allowable coverage. This version addresses the RM Zone where we need variances for lot area 160,000 sq. ft. is required we have 14,701.8, lot frontage 200 feet is required we have 100 feet, front yard 50 feet is required we are proposing 70.3 feet, side yard is 20 feet we are proposing 19.5 feet, minimum side 50 feet we have 39 feet combined rear yard 30 feet required we are 25.3 feet, we request a maximum height 2.5 stories 35 feet we are complying with 34 feet, a lot coverage of 25% is allowed we are at 55%, parking we are complying with the space requirement we have 11 spaces provided. This application is for a 2 story 4 family dwelling with 2 up and 2 down. We are proposing 11 parking spaces in the front of the building 1 being handicapped. We have 2 patios in the back a walkway on the north side leading to the rear. There is an entrance in the rear to allow access to the basement from outside. The existing dwelling is going to be demolished. There are A/C units proposed on the south side of the building. We are proposing an extension of the sidewalk to be in alignment with the building to the north and terminates at the southerly property line.

Mr. Birchwale state that that the notice is in order and the Board has jurisdiction.

Mr. Weissman – Regarding the grading and drainage. The present site does not have any onsite drainage facilities. The site drains to north northwest towards the adjacent properties. We are proposing 4 seepage pits under the parking lot capturing the roof drains and the parking lot drainage. The property slopes from southeast to northwest mild slope. We are proposing a wall along the rear and side property line to create a level area at the side and rear of the property. That would create a level recreation area and reduce the drainage that would go offsite. I prefer to keep the drainage toward the front of the building put in some drains in the back to bring the water to the seepage pits in front. The wall along the west and northerly property lines we can move the walls in to allow for plantings along the top of the wall. The wall would be a maximum of 3 feet high. The Landscape Planner will testify as to the plantings on the proposed landscaping. The plantings shown are on the property line, we can bring the wall away from the property line to allow more room for plantings or we could move it closer to allow plantings on top of the wall. Either would accomplish the goal of screening the property from the neighbors. I defer to the Landscape Architect in regards to the positioning. We have an access onto North Midland with a 24 foot driveway access concrete apron. We received twice a letter from the county stating that they do not have jurisdiction.

Mr. Landel – July 30th is the last letter is that correct?

Mr. Weissman – Yes. It says a review by the Department of Planning & Engineering site plan review team indicates the Bergen County Planning Board site plan review and approval will not be required.

Mr. Birchwale – Mark that exhibit A2. The plan is A1.

Mr. Weissman – We do propose a 4 foot sidewalk extension across the frontage for pedestrian and we do show a 10 foot proposed sidewalk easement for accommodation of the sidewalk since it is within the subject property. The access would be from a concrete apron on North Midland Avenue with 6 parking spaces on the south side and 5 on the north side one of the 5 is handicapped ADA accessible.

Mr. Landel – Is it your testimony that the runoff from the site will be reduced as a result of this project?

Mr. Weissman – Correct. The existing site has no drainage facilities all the roof drains and driveway come out to grade and drain northwesterly onto neighboring properties. With this application we will be capturing all the impervious area the dwelling the parking lot and into seepage pits for ground water recharge and we agree to provide documentation of the soil conditions and soil testing results to confirm the seepage pit requirements.

Mr. Landel – There was a question about 1 or 2 laterals coming off of the house.

Mr. Weissman – In my opinion 1 sanitary lateral is adequate to accommodate 4 dwelling units. We propose using the existing connection and we would provide a cleanup at the curb to make the connection and no need to go under North Midland Avenue to access the sewers when there is already a line there. We show utilities coming into the building from North Midland Avenue on the south side of the building water connection from North Midland Avenue. The gas, telephone, electric and cable coming in off the southerly side of the property into the side of the building.

Mr. Landel – There was a comment for a need for tree removal on the demolition plan.

Mr. Weissman – Yes again I defer to the Landscape Architect.

Mr. Landel – Can you comment on the lighting plan? What can be done to prevent glare and spillage?

Mr. Weissman – Yes we provided a lighting plan. We will provide the necessary shielding of the lighting so it does not shed onto the neighboring properties. The shielding we propose will have zero shed on the neighbors' properties. There will be some minor pavement widening to align the curb from the north as it transitions to the southerly side. The curb and pavement will be consistent with Township requirements.

Mr. Landel – Do you want to comment on what we are going to do with the recyclables from the property?

Mr. Weissman – There is an 8 by 8 screened dumpster proposed on the southerly side of the parking area that will be partitioned to allow for recycling as well as trash.

Mr. Paparozzi – You show an 8 by 8 dumpster which Neglia Engineering will determine if that's enough but you have a gate in front of a parking space how does it get emptied?

Mr. Weissman – It would be coordinated with the tenants and it would be private cartage. It could be relocated to the west to allow access from the actual sidewalk. It would be between the tenants and the private cartage.

Mr. Paparozzi – How does that work if they are on vacation. I think it would make more sense to go on the north side where the handicap accessible area is nobody could park there and they could get access when they need it. I'm not sure 8 by 8 for both will handle that but it should be shown that way and also show the separation.

Mr. Weissman – We can flip it over to the other side that is a good idea.

Mr. Paparozzi – Your minimum rear yard is 33 required you said was 25.3 but you have a rear entrance here that's 21.1. I took the number off the architect's plan so that number for your variance for the rear yard is 21.1 not 25.3 and I don't think you alluded to the fact that no front yard parking is allowed in the residential zone so that's another variance.

Mr. Landel – We advertised for the parking.

Ms. Murray – Do you have more testimony?

Mr. Weissman – I think that's it from my perspective.

Mr. Landel – We will take questions.

Mr. Kurus – With respect to North Midland Avenue I understand you don't need Bergen County site plan approval for the 4 family dwelling but the improvements within the county right of way still need to be coordinated with Bergen County. The curb has to meet County standards you are going to need a handicap ramp at the crosswalk. They explained to me that even though you don't need approval they don't turn a blind eye to this. You still have to coordinate the physical improvements within the right of way.

Mr. Weissman – Yes understood.

Mr. Kurus – What is the width of the right of way there was a question about that. The survey shows the monument with wider than 50 feet. It was unclear to me what the front property line was.

Mr. Weissman – The right of way line would be just above where it says proposed 10 foot wide sidewalk easement on the right side.

Mr. Kurus – That would be a 10 foot sidewalk easement to Bergen County?

Mr. Weissman – I think it would probably go to it doesn't matter to the client who it goes to and it doesn't detract from the property area because it's an easement. We did take into account the sidewalk in the drainage calculations since it is on the property.

Mr. Kurus – That's something that would have to be worked out with Bergen County as well.

Mr. Weissman – Understood.

Mr. Kurus – We talked about the storm drainage. You saw the comment about the overflow pipe that's going to have to be revised.

Mr. Weissman – Understood. I originally didn't show that but it was put on in response to I guess your letter. We really don't have there's no drainage along our frontage or near it on North Midland Avenue so I'm thinking overflow through the curb.

Mr. Kurus – Curb or downspout overflow. It will be contingent on your soil testing what that system is and where it will be.

Mr. Weissman – We are digging a test hole there and we will keep you informed and advise you if you would like to discuss it on site.

Mr. Kurus – You said you would incorporate some additional area drains for to address water along common property lines?

Mr. Weissman – Correct. It's going to be substantially reduced by virtue of what we are proposing but based on your comments about the drainage in the rear it would further reduce the water going onto neighboring properties.

Mr. Kurus – That covers engineering for the most part.

Mr. Schilp – You said that wall was going to be about 3 feet high. You show an 8 foot fence does that mean you are going to have 11 feet on the property line? If you're standing in the yard then you are going to have 11 feet.

Mr. Weissman – That is an existing 8 foot fence that is the neighbor's fence.

Mr. Schilp – Okay. You alluded to a rear basement entrance will it be bilco doors?

Mr. Weissman – Walk in door.

Mr. Duffy – What are the sizes of the parking spaces?

Mr. Paparozzi – 9 by 18. The handicap is 16 by 8.

Mr. Duffy – So the front 2 spaces I see the curb turn they extend into that. The car sticks out.

Mr. Weissman – The line you may be looking at is the easement line.

Mr. Duffy – Okay. It's a little confusing. Just go back to the dumpster again.

Mr. Weissman – I think Mr. Paparozzi's suggestion was a good one to put it over to the north side adjacent to the handicap space. They can have access to it and we can increase the size to 10 by 10 if necessary. We will put a divider with two separate accesses so one side is trash and the other is recyclables.

Mr. Duffy – The truck coming to collect it would come down the center?

Mr. Weissman – They are front loaders so they can just turn right into it.

Mr. Duffy – There is a lot to coordinate the truck isn't small.

Mr. Weissman – They have smaller trucks not DPW size they are basically the size of a pickup truck.

Mr. Duffy – You are going to be coordinating with a handicap person.

Mr. Weissman – They don't park there the striping is so they can open the doors.

Mr. Duffy – I'm asking because initially you spoke quickly and I want the residents to be able to hear the explanation.

Ms. Murray – Do I have any other comments from the Board?

Mr. Schilp makes a motion that we open to the public for this witness seconded by Mr. Duffy. All in favor – YES.

Don Rudbart comes forward and is sworn in by Mr. Birchwale he states his name spells his last and gives his address as 21 Walsh Court Clifton, NJ.

Mr. Rudbart – The main reason I am here is about the drainage. There is going to be a 3 foot wall backfilled. You're bringing up the ground or is it just a wall that will catch the water?

Mr. Weissman – It's to raise the grade on our property side of the wall.

Mr. Rudbart – Is this going to eliminate a lot of the runoff?

Mr. Weissman – It will, the present site doesn't have any drainage facilities.

Mr. Rudbart – I'm assuming a 3 foot wall requires a 4 foot fence if it's over 2 foot high I think it needs some kind of fence so people don't fall off it.

Ms. Murray – It's more or less like a retaining wall so they can level out the land so it doesn't run off down to the back property so no it does not require a fence. What they are proposing is plants behind the retaining wall on the side that abuts the other property. They're going to plant on that side where it slopes down to catch more of the drainage.

Mr. Rudbart – Beyond the wall is roughly 3 to 4 feet.

Mr. Weissman – Correct.

Mr. Rudbart – The south side of the building is going to be lawn?

Mr. Weissman – Yes.

Ms. Murray – Do you have any other questions?

Mr. Rudbart – I think that's it.

Ms. Murray – Anyone else from the public? Seeing none.

Mr. Schilp makes a motion to close to the public for this witness seconded by Mr. Marz.

All in favor – YES.

The next witness is the Landscape Architect Brad Neumann.

Mr. Birchwale swears in Mr. Neumann he states his name spells his last and give his address as 7 Teardrop Court Morris Plains, NJ.

Mr. Neumann gives his credentials and is accepted as an expert witness in the field of Landscape Architecture by the Board.

Mr. Neumann brought a color enlarged copy of the landscape plan provided to the Board. The image is dated 6/30/20 and is entered as exhibit A3.

Mr. Landel – Can you take the Board through the plantings?

Mr. Neumann – We have a series of about 5 trees in the front yard. We also have a challenge of overhead wires so I didn't want to plant large shade trees too close to the wires. So I am using a small compact tree. There is a buffer between the sidewalk and the parking area of some ornamental grass. On the right side along the back there are some dogwoods they are small but get very dense which will make a nice buffer for the neighbors to the right. Along the back we have a tight planting of arborvitae which will provide heavy screening and on the right we have a series of 6 foot evergreen for screening also. There is a question about the planting by the wall there is no reason we couldn't move the wall in a little bit. There might be some boulders used along the wall. We have screening trees along the dumpster area. Along the back some perennials. Try to get as many trees on the sight and provide adequate screening.

Mr. Landel – There was a comment from the engineer about the irrigation.

Mr. Neumann – It's not noted but we want to have an automatic irrigation system to water the trees and the lawns.

Ms. Murray – I don't know who is responsible but the irrigation need s to go on one of the plans.

Mr. Kurus – You should put a note on this plan would be a good place for it. Then with the dumpster moved to the other side it looks like you don't have the utilities in the way so you could add some more screening for the dumpster.

Ms. Murray – Anyone else from the Board for this witness?

Mr. Schilp makes a motion to open to the public for this witness seconded by Mr. Duffy. All in favor – YES.

Ms. Murray – Anyone want to come forward?

Susan Schneider comes forward she is the property manager for Gerda Gardens Apartments.

Mr. Birchwale swears in Susan Schneider she states her name spells her last and gives her address as 33 Gary Terrace Pine Brook, NJ.

Ms. Schneider – I am confused because the engineer said a 3 foot wall and the landscaper said no 3 foot wall.

Mr. Neumann explains that the wall will vary in height based on the grade of the property and shows her on the large color exhibit.

Ms. Murray – Anyone else? Seeing none.

Mr. Schilp makes a motion to close to the public for this witness seconded by Mr. Duffy. All in favor – YES.

Mr. Birchwale swears in the architect William G. Brown he states his name spells his last and gives his address as 241 Madison Avenue Wyckoff, NJ.

Mr. Brown gives his credentials and is accepted as an expert witness by the Board in the field of architecture.

Mr. Landel – These plans were submitted originally with our application so they don't have to be marked. What is the last revision date on those?

Mr. Brown – February 21st 2020. There is A1 through A5.

Mr. Paparozzi – I have April 21st.

Mr. Brown – Yes it is April 21st.

Mr. Brown – The base will have grey natural stone that matches the shingles and the siding. I'll go through the first and second floor first. There is 4 units each unit exits directly out the exterior there is no common space. They are 2 bedroom one bath with a laundry, kitchen, breakfast family room and mudroom. The second floor also has 2 bedrooms bath, kitchen, laundry, living room and the access to the attic will be pull down stairs from unit C and D. It won't be anything anyone can occupy.

Mr. Paparozzi – What is going in the attic?

Mr. Brown – There will be 2 air handlers for the second floor and there will be 2 air handlers in the basement for the first floor. The only reason to go into the attic will be for maintenance of the A/C and heating. The lower level is a basement with a rear entrance there is utility equipment in the back water heaters and such. We created 4 storage units for the tenants so they can store bikes and other things. Each storage area is 13 by 15. We have a partially finished basement with a window. There is no plumbing in the basement so there can't be any living down there. You have to enter the space on the lower levels you can only enter the space through the unit on the first floor. The 2 top floors don't have a finished basement only units A and B have access to the basement.

Mr. Landel – There was a question as to whether there will be walk in access to the basement or bilco doors.

Mr. Brown – There is a man door. A bilco door I don't think will be advantageous for the tenants. It is very difficult and dangerous for someone to get a bike or stroller out of a bilco door. I think a man door will be the right way for tenants to have access to the space so they can store things inside so there is nothing stored outside like kids toys or big wheels or whatever.

Ms. Murray – My question is there is a big hole to go down the stairs. There is no detail that shows any railing or any protection for anyone walking there.

Mr. Brown – On A2 we show a retaining wall. There is no need for a rail the wall will be less than 4 feet.

Ms. Murray – When you stand on the patio it's a big hole. If someone walks backward off the patio and trips they go down those stairs into a hole.

Mr. Brown – There is a requirement for a rail we will have a rail to hold onto.

Ms. Murray – It didn't show on my elevation.

Mr. Brown – We will show that.

Mr. Paparozzi – Units C and B have two accesses to the basement and A and D only have one. They all have access to the utilities but only C and B have access to the finished basement area is that correct?

Mr. Brown – Yes.

Ms. Murray – If you try to match the apartments with their storage units it is not exactly clear.

Mr. Brown – I can clarify that on the final drawings.

Mr. Burbano - When you have a finished basement and you have a separate room off the basement it's turned into a bedroom. To say they can or can't doesn't matter they will do what they want anyway. If you cut off the access then they can't do that. I would like to see additional windows for egress in the event they do make a bedroom out of it.

Mr. Brown – There will be no heating or air conditioning in the storage area so it won't be livable space. The only areas that will be heated and air conditioned are the finished parts of the basement. The idea is to make it for luggage and bicycles things like that.

Mr. Burbano – You have large rooms the tenants upstairs have attics for storage so they may not use these spaces so all four of these spaces could be used by future landlords to create livable space. The size of the room is concerning and if you just close those doorways off you could avoid it.

Mr. Duffy – Can we have Mr. Puccio sworn in as they are having a conversation out loud in regards to this application.

Mr. Birchwale swears in Fred Puccio he states his name spells his last and gives his address as 340 Crescent Avenue Wyckoff, NJ.

Mr. Landel – There has been discussion about the basement storage areas. There is concern about having 2 accesses from the 2 units and possibly being made into bedrooms in the future. Why are you requesting 2 doors to the storage room?

Mr. Puccio – I thought it was more practical for the tenant to go through the finished part of the basement to their storage unit instead of going outside and using the back door. As a licensed builder I always like to have 2 entrances to a closed basement for safety but if the Board feels that the second door is a problem I can eliminate it.

Mr. Paparozzi – Don't you have the window in the stairs for egress?

Mr. Puccio – Yes but it's easier to go through a door than a window.

Mr. Burbano – I agree with the egress but it is a concern I have. It's just a recommendation.

Mr. Puccio agrees that it may be an issue.

Mr. Landel – Mr. Puccio has testified that if it is the Board's pleasure to eliminate one of the access doors we can do that.

Mr. Schilp – C and D need to have the doors in line so you have a straight through exit.

Ms. Murray – How big are the patios?

Mr. Brown – 10 by 12.

Ms. Murray – There is an offset from the window well to the patio and the space between the patio and the stairs the wall on the stairs is 12 feet. I am not comfortable with the staircase the way it is. I think a bilco door would be just as good because we would not have anyone going down there and the stairs would be straight between the 2 patios.

Mr. Brown – On a 4 family bilco door doesn't count as an entrance or exit it can only be used by service men. We could put a 42 inch railing is my suggestion.

The applicant agrees to have a railing around the entire stairwell and a gate at the top of the stairs.

Ms. Murray - Anyone else.

Mr. Mazzer – Could you put some stone maybe halfway up on the front.

The Board discusses the aesthetics of the building.

Ms. Murray – Any other Board members have questions?

Mr. Duffy – Walk me through the rear elevation.

Mr. Brown – There are 2 window wells there will be a railing around the top of the stairwell with a gate. Two sides of the stairwell will have a rail and one side will have a gate that swings open.

Mr. Duffy – It will be a rail system that is closed so no one can climb in.

Mr. Brown – There will be a 4 inch sphere for the railing.

Mr. Duffy – Do the window wells have any protection from someone falling into them?

Mr. Brown – We will have a metal grate.

Mr. Duffy emphasizes the need for a grate over the windows for safety.

Ms. Murray – Anyone else? Can I have a motion to open to the public?

Mr. Schilp makes a motion seconded by Mr. Duffy to open to the public for this witness.

All in favor – YES.

Ms. Murray – Does anyone have any questions for this witness? Seeing none.

Mr. Schilp makes a motion to close to the public seconded by Mr. Duffy. All in favor – YES.

Mr. Landel – Dr. Puccio you are the owner of the property correct?

Mr. Puccio – Yes I am.

Mr. Landel – You are proposing to continue a residential use in a B1 zone what was your thinking in this decision?

Mr. Puccio – I feel it suits the area better it's surrounded by residential. If I lived there I wouldn't feel comfortable having a store or an office building adjacent to my property. I think it is a better fit and less traffic. Commercial property is also not doing well these days.

Mr. Landel – What are the other properties around you.

Mr. Puccio – In the rear we have 3 multifamily dwellings to the right there are 2 duplexes and on the left there is a single family home.

Mr. Landel – By trade you are a dentist.

Mr. Puccio – I have been in construction my entire life with my family. I build commercial as well as residential. I was a home improvement contractor and also a registered new home builder in the state of NJ. I built probably about 15 or 20 projects by myself and more with my family.

Mr. Landel – You plan on holding on to the property.

Mr. Puccio – Yes. I am from Saddle Brook originally so I know the town well and I would not sell this.

Mr. Landel – Can you describe the existing house?

Mr. Puccio – It's a very old 2 family that was originally a one family and had some additions to it. It was littered with asbestos which I removed. The drainage is poor we will improve that. In my opinion the application will improve the site tremendously.

Mr. Landel – I have no further questions.

Ms. Murray – Does the Board have any questions for this witness? Can I have a motion to open for this witness?

Mr. Schilp makes a motion seconded by Mr. Marz to open to the public. All in favor – YES.

Ms. Murray – Does anyone have any questions for this witness? Seeing none.

Mr. Schilp makes a motion to close to the public seconded by Mr. Marz. All in favor – YES.

Mr. Landel makes some closing remarks. We have proven that this is we are entitled to a C1 use variance or a C2 variance. With respect to the C2 variance there are several aspects that are advanced by this project. Provide appropriate use, promote the general welfare, promote appropriate population density, provide appropriate location for residential use and promoting a desirable visual environment. This will be an improvement for drainage engineering and aesthetics. The positive outweighs the detriment clearly there is no substantial detriment. The extent of the hardship is you have a pre-existing structure that predates your zoning. The existing residential building and the existing use creates a hardship for this applicant in that it is no longer permitted. With respect to the use variance the argument is the same logic that the purpose that is being promoted it's well suited surrounded by residential property to continue the residential

use in a more modern updated more aesthetically pleasing and better engineered. There is no negative impact just a continuation of the residential use. Thank you.

Ms. Murray – Any other questions? Mr. Paparozzi has reminded me for a D2 variance we need 5 affirmative votes. We like to make it clear for the Board members as well.

Mr. Schilp makes a motion to open to the public for any final comments seconded by Mr. Duffy. All in favor – YES.

Ms. Murray does anyone have anything they would like to say. Seeing none.

Mr. Schilp makes a motion to close to the public seconded by Mr. Duffy. All in favor – YES.

Mr. Schilp makes a motion to approve the application with the following stipulations railings to be put on the 3 sides of the rear stairs, dumpster to be moved from the south side of the parking to the north side are behind the handicap striping, the storage area downstairs the 2 that go through C and D will go straight through not diagonally across, the sidewalk and the curbs need to get approval from the town and county, change the design to get a little more pizzazz. I would like to add the parking calls for 8 spots and you have 11 it is nice to see because we usually have to give a variance for more parking.

Ms. Murray – The front yard parking is an additional variance, all plans must be revised and submitted to the Building Department. Engineering will get their drainage and anything else they need updated for them and landscaping plans to be updated.

Mr. Burbano seconds the motion.

ROLL CALL - Mr. Duffy, Mr. Mazzer, Mr. Schilp, Mr. Manzo, Mr. Marz, Mr. Burbano, Ms. Murray – YES.

6. RESOLUTIONS

Mr. Duffy makes a motion seconded by Mr. Burbano to approve A, B, and C.

A.) Approval for Robert & Gail Parker, 98 Kuhn Drive, Block 1204, Lot 12

B.) Approval for Bruno Geraldo, 282 Nedellec Drive, Block 1408, Lot 7

C.) Approval for Keith Platvoet, 183 Alberta Drive, Block 1503, Lot 23

Roll call – Mr. Duffy, Mr. Mazzer, Mr. Schilp, Mr. Manzo, Mr. Marz, Ms. Murray – YES.

7. MINUTES

Mr. Schilp makes a motion seconded by Mr. Duffy to read and file. All in favor – YES.

Meeting of July 20, 2020 Regular Meeting

8. COMMUNICATIONS

Mr. Schilp makes a motion to read and file seconded by Mr. Duffy. All in favor – YES.

Anthony Kurus to Zoning Board, 3/26/20

Anthony Kurus to Zoning Board, 3/26/20

Anthony Kurus to Zoning Board, 6/05/20

Anthony Kurus to Zoning Board, 6/19/20

Anthony Kurus to Zoning Board, 7/23/20 Revised from 6/05/20

Gary Paparozzi to Zoning Board, 5/30/20

Gary Paparozzi to Zoning Board, 6/01/20

Gary Paparozzi to Zoning Board, 8/01/20

9. VOUCHERS

Mr. Schilp makes a motion seconded by Mr. Duffy to pay the vouchers if funds are available. All in favor – YES.

Neglia Engineering Associates, 07/23/20, Keith Platvoet, 183 Alberta Drive, \$135
Neglia Engineering Associates, 07/23/20, 48 Rosedale Ave., LLC, 48 Rosedale Ave., \$180
Neglia Engineering Associates, 07/23/20, Midland Commons, Van Bussum Ave., \$1800
Neglia Engineering Associates, 07/23/20, Bruno Geraldo, 282 Nedellec Drive, \$180
Neglia Engineering Associates, 07/23/20, 295 Harrison Ave, LLC, 501 N. Midland Ave,\$1260
Neglia Engineering Associates, 07/23/20, McDonald's Corp., 189 Route 46, \$2172.32
Neglia Engineering Associates, 07/23/20, Kanwar Abdul, 440 North Midland Avenue, \$270
Basile Birchwale & Pellino, 08/03/20, McDonalds Corp, 189 Route 46, \$1354.17
Basile Birchwale & Pellino, 08/03/20, Tyburski, 280 Evans Place, \$218.75
Basile Birchwale & Pellino, 08/03/20, Abdul, 440 North Midland Avenue, \$250
Basile Birchwale & Pellino, 08/03/20, Patel, 55 Strathmore Terrace, \$218.75

10. OPEN AND CLOSE MEETING TO THE PUBLIC

Mr. Schilp makes a motion seconded by Mr. Marz to open to the public. All in favor – YES.

Mr. Schilp makes a motion seconded by Mr. Marz to close to the public. All in favor – YES.

11. ADJOURN – Meeting adjourned at 10:00 pm.

Frank Barrale

Zoning Board Secretary