

# TOWNSHIP OF SADDLE BROOK PLANNING BOARD

Following are the minutes of the Saddle Brook Planning Board's Regular Meeting, held on Tuesday, November 17, 2020 at 7:30 p.m., at The Saddle Brook Senior Center.

## 1. FLAG SALUTE

**2. ROLL CALL:** Mr. Ambrogio, Mr. Browne, Mr. Compitello, Mr. Hickey, Mr. LaGuardia, Councilman Gierek, Mr. Verile, Mr. Maniscalco, Mayor White (arrived at 8:00) and Mr. Cook - PRESENT Mr. Mazzone and Mr. Camporeale - ABSENT  
Also present were Stephen Pellino, Board attorney, Chris Briglia, Board engineer and Gary Paparozzi, Board planner.

## 3. CHAIRMAN ANNOUNCES – OPEN PUBLIC MEETINGS ACT

## 4. OLD BUSINESS

### A.) Bogopa Saddle Brook, LLC 270 Market Street, Block 512, Lot 2

Mr. Pellino – The applicant has a new attorney, James D’Elia, who emailed a letter, requesting they be carried to the December 15, 2020 meeting at this location. If the Board has no objection, the matter will be carried.

No objections heard.

## APPLICATION CARRIED WITH NO FURTHER NOTICE

### B.) Subdivision Application – 76 Catherine, LLC 76 Catherine Avenue, Block 609, Lot 6

Charles Sarlo, attorney for the applicant came forward.

Mr. Sarlo – This is a continuation from the September hearing, when we presented a minor, two lot subdivision. At that point, the two lots were facing Central Ave. There was a lot of feedback from the Board, it’s professionals and opposition, who would prefer to have the lots face Catherine Ave. The plans were revised, consistent with the Board members’ feedback and we minimized the variances as much as possible. It’s an oversized, odd shaped lot with frontage on Catherine.

David Fantina, engineer, was reminded that he continues to be under oath.

Mr. Fantina – We basically turned the subdivision 90 degrees. We have two proposed houses now, both fronting on Catherine Ave. We took the frontage on Catherine Avenue and divided it in half. Each house has a driveway on Catherine. Because of the nature of the lot, there are some variances, which are pointed out in Mr. Paparozzi’s November 10, 2020 letter. The corner lot is 6.02 and the interior lot is 6.01. Both lots have slightly insufficient area. Ordinance requires 6,500 square feet; lot 6.02 has 6,192 sq. ft. and lot 6.01 has 5,000 sq. ft. In addition, both lots are deficient with lot width: lot 6.01 is 50 feet; lot 6.02 is 61.92 feet, where 65 feet is required. Lot 6.02 has a 5.5-foot setback, where 10 feet are required. In order to make space for that, we increased the setback on lot 6.01 to 10 feet where 5 feet is required so that there’s sufficient space between the two houses. Lot 6.01 has two additional variances because of the size of the lot. In order to make these houses functional, we are requesting a building coverage variance for 29.7%; 26% allowed. Maximum lot coverage proposed is 46.4%, 44% is allowed. The utilities will come off of Catherine Ave. We’re going to knock down the existing building, which was supposed to remain. Each lot will have a dry well with roof leaders draining into it.

Each lot will be graded properly. Essentially, each house will have garages and you can park another car in front.

Mr. Paporozzi – Your zoning chart shows a variance is needed for minimum combined setback and there is no variance required.

Mr. Fantina – That was a typo. I'll take it out.

Krzysztof Strzepek, applicant, was reminded that he continues to be under oath.

Mr. Strzepek – I am a licensed realtor. I worked with the architect to develop the floor plans for the houses based on my knowledge of marketability in the area. We propose a 4 bedroom, single family house on each lot. Almost all new construction has 4 bedrooms. We tried to minimize variances as much as possible. Due to the lot size on Lot 6.02, the house exceeds the coverage allowed.

Mr. Briglia – Will both houses be the same size?

Mr. Strzepek – They are close, but not the same size. The house on the corner lot will be bigger.

Mr. Briglia – Is what you're showing on the map, the maximum size of the area of the house?

Mr. Strzepek – Yes.

Mr. Pellino – So we're clear, you're asking for the subdivision and for approval to build the houses within the envelope that's shown on the survey.

Mr. Sarlo – That's correct.

David Troast, planner for the applicant, was reminded that he continues to be under oath.

Mr. Troast – Proposed Lot 6.01 has four variances: 2 based on the subdivision and 2 based on house placement and the size of the house. Proposed Lot 6.02 has 2 variances: lot size and lot frontage, along with the side yard setback. The big advantage of this application is the removal of the existing house, which is not compliant with ordinances because it is right on the road and has no parking. That in itself is a positive attribute for granting this subdivision. The property is bounded by two commercial uses: real estate office and nursery school. Of the 44 lots in the immediate area, 36 were nonconforming in lot area and lot width, based on the tax maps. The average lot size and lot width of those 44 homes is 5,000 square feet and 50 feet, which was probably the zoning years ago, but the zoning changed. The proposed lot size, lot width, setbacks and coverage is not inconsistent with what you have in that neighborhood. Goal #1 of the current Master Plan Reexamination Report talks about sustaining and protecting the character of existing residential neighborhoods. That's what we're proposing to do. A problem identified in the Master Plan Reexamination Report is "demolition of existing single family homes and the replacement with McMansions incompatible with the prevailing character of the existing neighborhood." That would be the case if there was no subdivision. This would be the largest lot in the neighborhood and you could build a very large home on this lot, counter to what the Master Plan is calling out. Our proposal is more consistent. In my opinion, the application of the Master Plan to the c variances that are being requested will further the goals of the Master Plan. Also, building two houses will create another ratable. The applicant is requesting variances based on NJSA 40:55D-70-(c)1, known as the hard c variance in the Municipal Land Use Law. An applicant requesting a c(1) variance must demonstrate one of the three situations. I am proposing C:1a "by reason of exceptional narrowness or shape of a specific property". Some of the variances are caused by the shape of the property. There is also some topography involved, reason b. I don't think it applies now. The largeness of the lot under C:1c, by reason of exceptional situation uniquely effecting this piece of property. It puts a hardship on the development of one of the houses on this property. Under C:1a – shape/oversized lot and the limitations of a corner lot, there is also the unique situation of it being bounded on two sides by commercial district and uses. The approval would permit the property to develop with the intent and purposes of the Zone Plan, consistent with the neighborhood. Granting the variances sustains the neighborhood residential character and quality of life, health, safety and welfare. There are two different approaches you can take. If you do not find hardship, you can find under 40:55D-70-(c)2, known as a soft c variance, and

there I must prove to you that granting variances advance the intent and purposes of the Municipal Land Use Law, that the benefits of granting such variances will substantially outweigh any detriments. Then I need to address the negative criteria. Under purposes of zoning, section a, of NJSA 40:55D-2, to encourage municipal action to guide the appropriate use of development in a manner which promotes the public health, safety, morals and general welfare. The testimony presented and plans submitted support the variances requested to improve the residential property for its intended residential use is at a scale and character envisioned in the Master Plan. Furthermore, the application is in the interest of the general welfare of the neighborhood. Section E, to promote the establishment of appropriate population densities, concentrations that will contribute to the well-being of persons, neighborhoods, etc. The community benefits from the proposed development because it fits into the neighborhood scheme. Section I - promote a desirable visual environment through creative development. As shown by the plans, the architectural character established is consistent and complimentary in size and scale to the surrounding homes. Any variance granted is negative to the Master Plan. However, in this situation, the only negative criteria is we're asking for minor deviations. In my opinion, the average person riding down the street will see no visible impact. I submit to you that the removal of the existing, nonconforming house on this oversized lot and replacing it with two new homes, consistent with the neighborhood, is a better plan than leaving the house the way it is or replacing it with a McMansion on the oversized lot. That would have a substantial negative impact. Case law cited: Kaufmann v Planning Board for Warren Tp. 1988 and Pereira v Randolph Planning Board 2002. It is my professional opinion that the benefits (positive criteria) outweigh any negative impact. The "c" variances can be granted under C-1a or C 2 with the advancement of the purposes of planning and zoning and without any substantial detriment to the public good and without substantially impairing your zone plan/ordinance.

Mr. Maniscalco – I think this is what the Board suggested.

Mr. Sarlo introduced Mr. Troast's report, revised 11/09/20 as Exhibit A-1.

Mr. Compitello – As far as elevations, this property is a lot higher than Nursery Rhymes. Will there be any problem with water runoff? Will the existing basement be filled?

Mr. Fantina – The property adjacent to the nursery is designed to drain away from their property. The basement will be filled.

Mr. Pellino – This is an application to grant the subdivision, as shown on the subdivision plat and to grant the variances that would allow the construction of two homes within the footprint shown on the survey.

Mr. Compitello made a motion; seconded by Mr. Hickey to approve the subdivision and variances that would allow the erection of the homes within the footprint shown on the survey.

VOTE: Mr. Ambrogio, Mr. Browne, Mr. Compitello, Mr. Hickey, Mr. LaGuardia, Councilman Gierek, Mr. Verile, Mr. Maniscalco and Mr. Cook – YES

## **APPLICATION APPROVED**

Mr. Compitello made a motion; seconded by Mr. Browne to open the meeting to the public. All in Favor – YES

No public participation.

Mr. Compitello made a motion; seconded by Mr. Browne to close the meeting to the public. All in Favor – YES

## **5. MINUTES**

Mr. Compitello made a motion; seconded by Mr. Browne to approve the minutes of the October 20, 2020 meeting. All in Favor - YES

## **6. CORRESPONDENCE**

Mr. Maniscalco to Mr. Briglia – (regarding the memo from the neighbors of 222 Floral Lane) The neighbors aren't happy. Has this been addressed?

Mr. Briglia – I haven't signed off on it yet. I want to go out and take one more look to make sure it was seeded and mulched properly. When I was there, I saw everyone pleased with what was happening out there.

Mr. Hickey – In the first paragraph, they say they removed three loads and they dumped seven.

Mr. Ambrogio – I would suggest we ask for the manifest of what they moved. The neighbors may be referring to mason dumps, which are less than tandems.

Mr. Briglia – They brought it down to existing conditions, as much as you can without tearing the whole place apart. They pulled existing stumps out, which goes to show you that they were down to the existing ground surface. I could ask the contractor if he has a manifest.

Mr. Hickey – Do you think that the dirt they took out is going to make their water problem better or worse?

Mr. Briglia – I didn't know there was a water problem to begin with. I haven't seen it. There is an old drainage line that goes along the easement (rear yards of other properties). I'm not sure where it goes. Whatever drainage problem they're experiencing back there, that can't be helping it. Then you have the way the ground is back there. It's a low spot. It's not going to get any better, whether or not anybody changes the grade of their property back there. I really don't know that that's a factor.

Mr. Pellino – Our requirement with the site plan was that they remove the dirt to the reasonable satisfaction of our engineer. Mr. Briglia is reasonable satisfied. I don't know that there's anything else we can do.

Mr. Compitello made a motion; seconded by Mr. Browne to read and file the communications.  
All in Favor – YES

## **7. VOUCHERS**

Mr. Compitello made a motion; seconded by Mr. Browne to pay the following vouchers, provided funds are available:

Paparozzi Associates Inc., 10/29/20, GBAR Consolidated, d/b/a Greater Bergen Realtors, \$371.25

Basile Birchwale & Pellino, 11/02/20, 76 Catherine LLC, \$250

Basile Birchwale & Pellino, 11/02/20, Bogopa Saddle Brook, LLC, \$250

## **8. OPEN AND CLOSE THE MEETING TO THE PUBLIC**

Mr. Compitello a motion; seconded by Mr. Browne to open the meeting to the public. All in Favor - YES

No public participation.

Mr. Compitello made a motion; seconded by Mr. Browne to close the meeting to the public. All in Favor - YES

## **9. ADJOURN**

Mr. Compitello made a motion; seconded by Mr. Browne to adjourn the meeting. All in Favor - YES

Meeting adjourned 8:47 p.m.

Respectfully Submitted,

Jayne Kapner, Planning Board Secretary