



Zoning Board of Adjustment

March 7, 2011

*****Special***
Hearing
(*Minutes*)**

Prepared by:

Paul Demarest

Chairman Knee called to order, at 8:02pm, a (Special) Hearing of the Zoning Board of Adjustment for the Borough of Closter, New Jersey, convening Monday, March 7, 2011 in the Council Chambers of the Borough Hall. He stated the meeting was being held in compliance with the provisions set forth in the New Jersey Open Public Meetings Act and had been advertised in the Borough's officially-designated newspaper. He advised that the Board adheres to an 11:00pm adjournment and no new matters would be considered after such time.

He invited all persons present to join the Board in reciting the Pledge of Allegiance.



The following Board members and professionals were present at the meeting:

- Robert Knee- Chairman
- Joseph Bianco, RA/PP
- Mitchell Monaco
- Antranig Ouzoonian, PE
- Thomas Hennessey- Alternate #1
- Mark Crisafulli- Alternate #2
- Andrew Shyong, DDS- Alternate #3
- Alysia Smickley, Esq.- Board Attorney
- Paul Demarest- Board Coordinator

The following Board members and professionals were absent from the meeting:

- Lorin Sonenshine, RA/PP- Vice Chairman
- Steven Freesman, Esq.- Secretary
- Theodore West, DDS
- Marie Hartwell- Alternate #4
- Arthur Dolson- Council Liaison
- Leonard Sinowitz- Zoning Officer
- Jeffrey Morris, PE- Board Engineer



Chairman Knee opened the meeting to the public for anyone wishing to comment on matters not related to a case on the evening's agenda. No one wished to be heard.



Item #1

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| Case #Z-2011-01 | Applicant(s): | Yuval & Sarit Ron |
| 49 Colgate Street | Representation: | Selves |
| (Block 2006/Lot 4) | | |

The applicants are seeking Bulk Variance Relief for the construction of a garage addition and driveway expansion at their residence; NOTE: a construction project, consisting of a separate

addition as well as a front portico and deck, is currently underway on-site, all of which has received Building Department approval.

Mr. Ouzoonian recused himself from this case.

Yuval and Sarit Ron, applicants and owners-in-fee of the subject property, introduced themselves and were sworn in as Witness #'s 1 and 2. Ms. Ron explained they were requesting to expand their 1-car garage into a 2-car, using the front yard facing Mill Pond Road (corner lot). She noted they tried to design the project for other areas of the property, but the 1 they decided on was the best option in terms of logistics and causing minimal disturbance to both the neighbors and streetscape; she pointed out the construction would add value to the neighborhood along with an increased tax assessment for the Borough. Ms. Ron felt they needed a larger garage for the cars they own being there is no public transportation in the neighborhood. The witness pointed out that the proposed garage is similar in size to others in the surrounding area; she noted the alternative, parking in the street, would be an "eye sore" and over-night parking is prohibited, especially during the winter months. She said the view of the garage addition, from both Colgate Street and Mill Pond Road, would be masked with plenty of vegetation; the witness said a setback variance is required for only 1 of their 2 front yards (Mill Pond Road). Exhibit #'s A-1 and A-2, a series of photographs showing construction on-site currently underway, were presented. Chairman Knee commended the applicants on a well put-together Board application.

Chairman Knee opened the meeting to the public for questions of Witness #'s 1 and 2 only. No one wished to be heard.

Raul Mederos, RA, Imagen Architecture, LLC, 233 12th Street, Palisades Park, New Jersey, was sworn in as Witness #3. He stated the filed architectural, labeled R-01 to R-03, are rendered versions of the site plan and exterior elevations that depict the landscaping arrangement; he further said the filed addendum, labeled V-01.1 to V-03.3, shows landscaping as well, but more importantly, indicates the design process and how he and his clients "brain-stormed" about locating the garage addition elsewhere on-site. Mr. Mederos said they determined that many difficulties arose from the other approaches. The witness said, based on the budget and overall look of the existing home, that the proposed design, using Mill Pond Road, proved to be the best solution. He said if the proposal were situated in the rear yard, shadowing of the neighboring house would be a concern and also the façade on Mill Pond Road would then be very wide and ominous. Chairman Knee asked how many houses were on Mill Pond Road; the witness answered 3, including the Rons'. Chairman Knee asked for the distance between the subject house and the 1 located adjacent to its rear on Mill Pond Road; Mr. Ron replied it is approximately 70' and added that, with the expanded garage, the distance from the nearest house on the other side of Mill Pond Road would be reduced from 105' to 97'. Exhibit #'s V-01.1 to V-01.3, V-02.1 to V-02.2, and V-03.1 to V-03.3 (page numbers used for exhibits), 3 design options that the applicants contemplated, were presented; Mr. Bianco said such exhibits were a comparative analysis between the design that the applicants opted for versus the more extreme approach of placing the new garage further to the other end of the site. Mr. Mederos explained the so-called "V" sheets reflect 3 different layouts that the Rons considered: 1.) option that was chosen by applicants as presented to Board; 2.) option that puts new garage to rear of house; 3.) option that puts new garage to right of house and in front of existing fire hydrant. Mr. Bianco asked which of the 3 options involved the least amount of construction; the witness answered it would be the option presented to the Board since the existing garage is 14' wide and only 8' is to be added on to allow for 2 cars. Mr. Bianco asked which option creates the lowest increase in

impervious coverage; Mr. Mederos replied that their proposal does because, again, only 8' in width will be constructed, where as the other 2 options would involve building a 450 sf garage and driveway at a new location on the property. Mr. Bianco asked for the front yard setback requirements and what is being proposed; the witness said the proposed front yard setback on Mill Pond Road is 20.9' (40.5' is required based on the average calculation), resulting in a deficiency of 19.6'. Mr. Bianco asked if the existing garage is already encroaching into the front yard setback line; the witness said it currently is too close on Mill Pond Road by approximately 11'. Mr. Bianco inquired about the height of the new garage; Mr. Mederos said it is to be 1-story and roughly 16' high. Mr. Bianco asked if anything would be done to the exterior to soften the garage's profile; the witness stated that, besides landscaping, the garage's gable roof along with a fascia having a skirt roof would help. Mr. Mederos continued saying that he designed a water table to give the house more of a horizontal look by playing the appearance of being more low-lying (rather than having an all-brick façade up to the bottom of the skirt roof).

Chairman Knee opened the meeting to the public for questions of Witness #3 only. No one wished to be heard.

Frank Conci, F & C Landscaping Co., PO Box 60, Alpine, New Jersey, was sworn in as Witness #4. He said the Rons were concerned their new garage might look to be too close to the roadway and asked him to find a way to camouflage its presence; he testified he decided to virtually-hide it completely by installing Norway and blue spruce along the home's side walls and lower plants in the foreground to beautify the property. He noted the plantings would be situated to allow a certain distance between the new garage and flower beds, thereby promoting compaction. Mr. Hennessey said 1 of the proposed species, taxus plants, is a favorite of deer and thought such plantings would not survive. Mr. Conci explained that he is using the taxus plants as filler only to tie into the neighbor's existing row; he said he would also be using hydrangea, which deer do not feed on. Mr. Bianco asked about the proposed 30" hedge running along the curb line of both Mill Pond Road and Colgate Street; Mr. Ron stated he requested such a hedge that would be symmetrical to the neighbor's across the street. Mr. Bianco felt that, although the landscape plan was admirable, it was being placed too close to the residence and would lose its effect by becoming part of the house; he believed the plantings should be placed-centrally between the roadway and house to prevent calling attention to the garage. Mr. Bianco was very concerned about the proposed trees' roots growing into the house's foundation and undermining it over time; Mr. Conci understood, but he said by planting the trees closer to the street, the Rons would eventually have their entire lawn taken over by roots. Mr. Bianco stated the trees would then have more room to grow; the witness informed that his proposal calls for the landscaping to be at least 2' to 3' away from the house. Mr. Monaco concurred with Mr. Bianco, saying his suggestion would not block the sight triangle required at the street corner's intersection. Mr. Monaco asked for the species of the 30" hedge to be installed; Mr. Conci said it would be taxus plants.

Chairman Knee opened the meeting to the public for questions of Witness #4 only.

Jesse Rosenblum, 65 Knickerbocker Road, asked if a mildew problem could be expected by having plantings so close to the residence; the witness said that would be a concern only if the plants could not be maintained/trimmed. Mr. Rosenblum asked if water run off from the driveway would hinder the health of the landscaping; Mr. Conci answered it would not since the driveway is pitched away from the house.

Chairman Knee opened the meeting to the public for general comments only.

Orlando Tobia, 65 Colgate Street, said he remembered when the subject house, the 1st residence in the area, was originally-built and Colgate Street was a merely a dirt path; he said that probably explained the Rons' need for a front yard setback variance. He commended Mr. Mederos' design and fully-supported the applicant's proposal, especially since they are not knocking down the home and replacing it with a "hotel".

Benjamin Darnaby, 45 Mill Pond Road, stated his home was adjacent to the Rons' property in the rear yard (previously-mentioned as being 70' away); He also commended the applicants' architect and felt the driveway's layout facing Colgate Street is a safer approach, keeping it away from his own curb cut on Mill Pond Road. He stated having the new garage on the Mill Pond Road side did not present any "light and air" concerns to his own house.

Outcome

A motion was made by Mr. Bianco and seconded by Mr. Crisafulli, to approve the application with the following conditions: 1.) 30" hedge to be planted along perimeter of both Colgate Street and Mill Pond Road; 2.) various plantings/trees, in close proximity to house, are to be placed 10' from residence (based on using centerline of proposed 20.9' front yard setback) to ensure adequate space for growth. The motion passed (**6-0: YES**- Shyong/ Crisafulli/ Hennessey/ West/ Monaco/ Bianco/ Knee).



Item #2

Case #Z-2011-04
8 Wainwright Court
(Block 2208/Lot 12)

Applicant(s): John Yuder
Representation: Self

The applicant is seeking Bulk Variance Relief for the installation of an in-ground swimming pool (spa and waterfall inclusive) at his residence.

Mr. Ouzoonian rejoined the proceedings.

John Yuder, applicant and owner-in-fee of the subject property, introduced himself and was sworn in as Witness #1. He stated he wished to install an in-ground swimming pool and said, based on the size and shape of his lot, the proposal cannot meet the 15' setback requirement. The witness said he entertained designs from 3 different pool companies, none of which were suitable as well as compliant with the Borough's Zoning Code. Mr. Yuder said he, ultimately, chose a layout which requires a setback variance of 5' but would also be safe and not too narrow. He further explained that his residence was built in 1999 with 37.1% worth of impervious coverage, at a time when the Borough's maximum amount permitted was 40%; he said the ordinance has since been changed to 30%. He said he has put forth an application that keeps the impervious coverage at its current 7.1% excess, even with the swimming pool's inclusion, by removing an existing patio and reducing the size of the current driveway. Mr. Bianco felt the proposed layout was not practical since there would be nothing but lawn in the pool's vicinity. Mr. Yuder responded that a family friend has a similar pool layout that is surrounded by grass and felt that was a better alternative to a patio, stone, etc., which would be slippery and dangerous for his children. Mr. Bianco asked for the size of the pool; the witness said it was

about 700 sf, including the spa. Mr. Bianco asked about its outside dimensions; the witness replied the pool, which is free-form, is 42' at its longest point and 19' at its widest. Mr. Yuder said to make the pool any narrower would create a hazardous condition and said the pool company would then not do the project for liability reasons. Mr. Bianco believed the variance request to be self-imposed and, thus, wanted the applicant come up with a different layout, such as oval or kidney-shaped, to alleviate the deficiencies; Mr. Yuder felt any other option would not be practical for he and his family. Dr. Shyong stated that, even using an oval-shaped design, the 15' setback could not be met at the rear yard line. The witness said that the pool is proposed to be 5' from his house, the minimum distance his pool contractor would build to. Exhibit #A-1, a scenario portraying a pool design in compliance with all bulk requirements, was presented. Mr. Yuder emphasized that his property's irregularly-shaped lot, that is located on a cul-de-sac, is the cause of the zoning problems. Mr. Hennessey said he had issue with the design having only a 12" coping and no decking or patio around the swimming pool. Mr. Crisafulli asked if any building code mandated that a pool have an apron of certain size for safety purposes; Ms. Smickley said the Building Department has jurisdiction on such issues. Dr. Shyong, a former certified pool operator, said he could not recall of any such code, but felt if someone were drowning in the pool's back corner, it will take longer than it should for them to be tended to, unless the rescuer was an avid swimmer. Mr. Yuder said his contractor could install a small rock path to gain access to the pool's rear portion; Mr. Bianco said such access, even if made of gravel, would add to the impervious coverage. Mr. Monaco asked how deep the pool would be; the witness said it would range from 3' to 8' with no diving board. Both Mr. Ouzoonian and Mr. Bianco believed the pool to be too deep, as well as too large. Mr. Yuder reiterated that since the design is free-form, that the pool is only deficient 5' at some points, while at others, it is has a 13' or 14' setback. Mr. Crisafulli felt the design is acceptable but only was concerned about the legality of having no apron around the pool. Chairman Knee pointed out, being a swimming pool owner himself, that by not having any surface other than lawn around the pool, the applicant will constantly be cleaning grass and dirt from it. Mr. Yuder asked if wood decking could be installed to appease the Board; Chairman Knee replied that since his building coverage is already at 19.3%, he would most likely require a variance to do so. Dr. Shyong added that grass could become quite slippery around the pool and should be a safety concern. Mr. Monaco concurred with Chairman Knee, saying the applicant would be skimming and vacuuming all the time without an apron. Mr. Hennessey pointed out that the structural plan filed with the Board calls for a 4' wide walkway around the perimeter of the swimming pool.

At this time, Mr. Demarest announced that he had just spoken with Michael Sartori, the Borough's Construction Official, via telephone, and was informed that the New Jersey Uniform Construction Code (UCC) does not require an apron or any other surface to be placed around a swimming pool. Chairman Knee was satisfied and felt that issue was now a moot point.

Chairman Knee asked what the rear yard setback was to the house; Mr. Yuder said it was about 29' to the chimney's "bump-out" but stated the remainder of the home's rear wall is setback 30' as required in District #1 (Residential). Chairman Knee asked for the diameter of the spa; the witness said it was 5', which could accommodate 4 people. Mr. Monaco asked what type of pool the applicant would be installing; Mr. Yuder said it would be gunite, a mixture of cement, sand and water that is sprayed over a steel frame, wire mesh, etc. Mr. Hennessey said the filed structural plans state the design allows for a diving board; the applicant responded that diving boards were illegal in New Jersey, according to his contractor, and that his homeowner's insurance policy did not cover such. Mr. Hennessey asked about pool ladders and inquired how someone would enter/exit the deep end; the witness answered that, instead of ladders, there are several "step-outs" around the pool. Mr. Hennessey felt that, during excavation, the home's

foundation wall would most likely be exposed (being the pool will be a mere 5' from the home) and require underpinning. Chairman Knee stated that such concerns were not within the Board's jurisdiction.

Chairman Knee opened the meeting to the public for both questions of Witness #1 and general comments.

Jesse Rosenblum, 65 Knickerbocker Road, asked if the applicant's house had a poured concrete foundation; the witness confirmed it does. Mr. Rosenblum asked how the drainage was on-site; Mr. Yuder said there have not been any problems with the 2 existing seepage pits and French drains. Mr. Rosenblum asked, when winterizing the pool, where the water will be put; the applicant said a contractor will be hired to deal with the process, assuring the water does in go into the street.

Outcome

Mr. Bianco wished to have the applicant return to the Board, accompanied by an expert witness, presumably his pool contractor; he said he wanted a professional's testimony as to why the design cannot be diminished in shape and size to allow for a surface material, other than lawn, around the swimming pool. He pointed out the current design is not credible without the inclusion of area(s) to allow for entertaining guests, barbecues, etc.; the Board concurred. Mr. Ouzonian questioned if the applicant's engineer should be required to provide testimony as well. Ms. Smickley advised that such decisions on how to present a case should be left up to the applicant. The Board adjourned the case to the March 16, 2011 Hearing.



There being no further items to discuss, a motion to adjourn the meeting was made by Mr. Bianco and seconded by Mr. Monaco. All members present voted in favor. The meeting adjourned at 9:43pm.