

**MINUTES OF THE
SPRING LAKE PLANNING BOARD
APRIL 11, 2012**

The regular meeting of the Spring Lake Planning Board was held on the above date at 7:00 PM in the Municipal Building, 423 Warren Avenue, Spring Lake, NJ.

Vice Chairman Walter Judge called the meeting to order, led everyone in the Pledge of Allegiance to the Flag and announced that this meeting is being held in accordance with the Open Public Meetings Act and adequate notice has been published and posted per Chapter 231 P.L. 1975.

The Board Secretary called the role for attendance. Present were Larry Iannaccone, Michael Burke, Ph.D., Cindy Napp, Walter Judge, Priscilla Reilly, Melissa Smith Goldstein and Matt Sagui.

Vice Chairman Judge called for a motion to approve the minutes of the March 14, 2012 meeting.

Motion by Burke, seconded by Reilly, that the minutes of the March 14, 2012 meeting be adopted. On roll call Board Members Iannaccone, Burke, Judge, Reilly, Smith Goldstein and Sagui voted Aye. None No. Motion carried.

Board Attorney McGill read the resolution to be adopted.

Resolution #12-2012 WELTE

Motion by Sagui, seconded by Reilly, that Resolution #12-2012 be adopted. On roll call Board Members Iannaccone, Burke, Judge, Reilly, Smith Goldstein, and Sagui voted Aye. None No. Motion carried.

**CAL# 8-2011 KELLY
1111 OCEAN AVENUE
BLOCK 66, LOT 4**

Jeffrey Gale, Esq. the applicant's attorney pointed out that the original application was filed by a different firm and asked the Board to note that amendment and substitute his name for that of Christopher Stevens, Esq.

Brian Kelly, home owner, was sworn in and questioned by Mr. Gale. Mr. Kelly purchased the home in 2005; in 2010 he had some major renovations done. Apart of the renovations was a gate on the Morris Avenue side as well as widening of the driveway. Mr. Kelly lives directly across from the Bath & Tennis Club in the summer there is a lot of traffic, he wanted to put a gate in to protect his four children. Mr. Kelly widened his driveway enough to fit three cars; however he only has a two garage. He wanted a wider driveway so that he can turn his vehicles around and pull out facing the street without having to back up. Mr. Kelly relied upon the contractor to do the project properly of obtaining the proper permits, Seasonal World Pools. He believed that the requirements were fulfilled; after the project was completed he received a violation notice and

then contacted the contractor and legal assistance. After receiving the violation notice he filed an application with the Planning Board.

Mr. Kelly was questioned by the Board Members.

Mr. Burke stated that there is another gate located on the property to the south, which is not in the application. Mr. Burke asked if that fence was there when Mr. Kelly purchased the property. Mr. Kelly said that the Morris Avenue walkway gate is a new gate but he believes that it replaced an older gate. Mr. Burke stated that the gate he is talking about is not on the plan and does not open on to the side walk; the gate is on Ocean Avenue but faces the property to the south. Mr. Kelly that there is an interior gate on the southeast corner that is used to gaining access to Ocean Avenue. Mr. Gale asked that the application be amended to include that gate. Mr. Kelly stated that this gate is based on convenience because he is on the corner; access to the beach is several blocks away.

Mr. Gale called Anthony Schivone; employed by Seasonal World Pools and entered into a contract between Mr. Kelly and Seasonal World Pools was sworn in and accepted by Board. Mr. Gale questioned him; Mr. Schivone stated that the nature of the project started as an in-ground pool installation and an automatic cover. Patio pavers where added around the pool for functional use. An electric sliding gate was installed along Morris Avenue with columns and the driveway was increased for recreational and safety purposes. Seasonal World Pools was responsible for obtaining all necessary permitting for this job. Mr. Schivone explained that he obtained the necessary permits and as the scope of work changed he spoke with Borough Officials to discuss the nature of the project. Mr. Schivone explained that the lights on top of the columns required an electrical permit and the power to the electrical gate. The columns are for support of the steel mounted brackets and the gate could not exist without the columns. He stated that the three dimensional rendering was taken to the Zoning Officer to make sure that they were not overstepping any ordinances and the only inspection required on these that they were advised of was an electrical permit. Mr. Schivone has worked within Spring Lake before on projects such as pools, pavers, and gates and columns around a pool. Mr. Schivone added that Mr. Kelly has in no way participated in the permitting process.

Mr. Schivone was questioned by the Board Members.

Mr. Judge asked if Mr. Schivone met with the Zoning Official, showed him plans, and he said that Seasonal World did not need permits for this part of the project. Mr. Schivone explained that the permit personnel from Seasonal World went to the Borough and met with the Zoning Official and showed him a three dimensional software program that prints out screen shots which were not engineered approved drawings.

Mr. Burke asked if Mr. Schivone has a building permit that is approved. Mr. Schivone answered for the gate on Morris Avenue there is approval for the electrical portion of the project. Mr. Schivone added that they may have made a mistake by not properly filing for the project. Mr. Burke asked what the reason was for the gate. Mr. Schivone explained that Mr. Kelly's primary concern was the safety of his children. Mr. Burke asked if Seasonal World applied for construction permits for any of the structures in the front yard; the driveway, gate or fence. Mr.

Schivone answered no. Mr. Burke asked if Seasonal World installed the gate in south east corner. Mr. Schivone answered yes they did install that gate and he believes there was a preexisting gate, possibly not in the exact location.

Mrs. Reilly asked if Seasonal World has done any fence or driveway areas with any kind of columns in Spring Lake. Mr. Schivone answered on driveways no, not to his recollection.

Mr. McGill asked what transpired with the Zoning Officer. Mr. Schivone explained that from what our logs read, our permitting department set up a meeting with the Zoning Officer. Mr. McGill asked what the purpose of meeting with Mr. Zahorsky, Borough Zoning Officer was. Mr. Schivone explained that he wanted to get an interpretation of what permits would be required. Mr. McGill asked if Seasonal World asked Mr. Zahorsky particularly about the gate and the pillar construction. Mr. Schivone answered yes that they showed him exactly what they were going to build which is there now. Mr. Schivone added that from what Seasonal World understood the only thing that needed to be filed for, as long as the gate did not exceed four feet in height, was the electrical portion of the project. Mr. McGill added that no gates or fencing are permitted in the front yard area by our Borough Code.

Mr. Iannacone asked if Seasonal World showed Mr. Zahorsky a plot plan of where the pillars and the gate were located. Mr. Schivone answered no.

Mr. McGill asked what exactly was approved and inspected by the Borough. Mr. Schivone answered that the swimming pool and the proper inspections for that and the perimeter fence around the pool.

Mr. Burke asked if an as-built drawing was submitted after the project was finished. Mr. Schivone answered that an as-built was prepared but he is unsure when that would have been submitted.

There were no questions from the audience.

Mr. Gale called Chester DiLorenzo; Professional Engineering and Planner was sworn in and accepted by the Board as an expert. Mr. Gale questioned him; Mr. DiLorenzo prepared the final as-built plans for this property. Mr. DiLorenzo submitted the as built plans to Seasonal World on October 31, 2011 and he believes that they were submitted to the Borough. In Mr. DiLorenzo's opinion there are two variances necessary, the stone columns are a part of the gate which should be one variance. Mr. DiLorenzo explained that the gate does not swing open it slides closed which would not be hazardous to other people. Mr. Gale stated that it is always wise to ingress and egress a property facing forward instead of backing out onto a busy roadway.

Mr. DiLorenzo was questioned by the Board Members.

Mr. Burke asked if the pillars are outside of the gate, the photos clearly reflect that and the rendering shows the opposite. Mr. DiLorenzo stated that the pillars are on the property.

Mr. McGill marked the photograph exhibits into evidence.

Mr. Iannacone asked if any of the other houses along Morris Avenue have any gates on the driveways. Mr. DiLorenzo answered that there are no gates that go across the driveway, but there are columns on other properties, also wrought iron fencing along another property. The Board Members added that fence has been there a long time.

Mr. Burke asked how the as-built could have been submitted to the Borough since the Code Official letter is from April 2011 and the as built was prepared October 2011. Mr. DiLorenzo stated that he gave the as-built to Seasonal World to submit.

There were no questions or comments from the audience.

Mr. McGill stated that the application contained two requests for zoning interpretations; the first one was in reference to light pillars, whether the pillars with lights on top actually were structures or did they fall under our exception to front yard structures as incidental items. The pillars are a part of the gates; they are not an incidental item. Mr. Gale stated that they abandoned that part of the application. Mr. McGill stated that the second interpretation was for the driveway, there is an ordinance that prohibits parking in the front yard. Mr. Gale stated that the ordinance prohibits parking and the testimony was that the applicant is not going to park the vehicle but will be using it for the purposes of making a k-turn.

Motion by Reilly, seconded by Burke, that the Board go into caucus. On roll call all Board Members voted Aye. Motion carried.

Motion by Reilly, seconded by Burke, that the Board come out of caucus. On roll call all Board Members voted Aye. Motion carried.

Motion by Judge, seconded by Burke, that the applicants proposed driveway area includes an area that can be used as a front yard parking area, therefore comes under the prohibition against front yard parking Ordinance No. 225-34f, therefore a variance would be required as determined by the Zoning Official. On roll call all Board Members voted Aye. Motion carried.

Motion by Reilly, seconded by Burke, that the Board go into caucus. On roll call all Board Members voted Aye. Motion carried.

Motion by Burke, seconded by Reilly, that the Board come out of caucus. On roll call all Board Members voted Aye. None No. Motion carried.

Motion by Iannacone, seconded by Sagui, that the driveway surface configuration be approved. On roll call Board Members Iannacone, Burke, Napp, Reilly, Goldstein, and Sagui voted Aye. Judge voted No. Motion carried.

Motion by Judge, seconded by Sagui, that the pillars be approved. On roll call Board Members Iannacone, Napp, Judge, Reilly, Goldstein, and Sagui vote Aye. Burke voted No. Motion carried.

Motion by Iannaccone, seconded by Burke, that the gate at the end of the driveway be denied. On roll call Board Members Iannaccone, Burke, Judge, Reilly, Goldstein and Sagui voted Aye. Napp voted No. Motion carried.

Motion by Reilly, seconded by Napp, that the man gate on Morris Avenue be denied. On roll call Board Members Iannaccone, Burke, Napp, Reilly, Goldstein, and Sagui voted Aye. Judge voted No. Motion carried.

Motion by Sagui, seconded by Judge, that the man gate on south east property line along Ocean Avenue be approved. On roll call Board Members Iannaccone, Napp, Judge, Goldstein, and Sagui voted Aye. Burke and Reilly voted No. Motion carried.

**CAL #2-2012 SWIATEK
300 MONMOUTH AVENUE
BLOCK 39, LOT 20**

Mike Rubino, Esq. applicants' attorney had the exhibits marked into evidence.

Mike Rubino, Esq. attorney for the applicants gave an opening statement; the Swiatek's purchased the house and it is currently five feet off of the property line. Mr. Rubino stated the Swiatek's would like to take down the existing house and put up a new house. They would like the house to be a little wider than is allowed.

Jason Swiatek was sworn in and questioned by Mr. Rubino. Mr. Swiatek contracted to purchase the property in September 2011. He spoke with an architect and a builder about renovating the home, the feedback was consistent that it would be very difficult to do. Mr. Swiatek is asking the Board to allow him to build a house closer to Third Avenue than the ordinance allows. Since it is a corner lot, there are twenty five foot setbacks and he would like to have a wraparound porch which would be more attractive to the area. Mr. Swiatek added that he would like to keep the garage, even though it is in an existing non-conforming location, it has unique sliding doors and windows and is located in a good area. Mr. Swiatek added that he would change the garage and driveway apron if needed.

There were no questions from the audience.

Mr. Rubino called Jason Lusardi; Professional Architect was sworn in and accepted by Board as an expert. Mr. Rubino questioned him; Mr. Lusardi stated that the condition of the existing house is quite old and has a brick foundation which is not structurally sound. It is a three story home which violates both front yard setbacks and is not worth keeping. He explained that the house which is being proposed complies with the Monmouth Avenue setback and on the Third Avenue side they are asking for eight feet of relief. He added that they could build a conforming house; however it would be a long house and would have a lot of façade on Third Avenue. Mr. Lusardi described his model, which was marked into evidence. Mr. Lusardi explained that there would not be a negative impact if this variance relief was approved.

Mr. Judge asked what the elevation to the west would be. Mr. Lusardi answered that it can be colored up to be quite attractive and sometimes the house will look better in the back then the front. He added that there will be some trim horizontally along the house to break up the height of it and there is also a bay window in the study.

Mr. Lusardi explained the floor plan renderings.

Mr. Lusardi explained that there is a high water table at this property, the first floor would be just under four feet above the proposed grade and they would like to raise the grade a foot. The current grade sinks down towards the house; they are allowed an eighteen inch grade adjustment, this will help to obtain a full basement. He added that water management is under control.

Mr. Burke asked if the new house will be farther back then all of the other houses on Monmouth Avenue. Mr. Lusardi answered yes it will.

There were no questions from the audience.

Comments:

Dr. Vincent Zales, 501 Third Avenue stated that he has had the opportunity to see this gentlemen's work and the home was beautiful.

Steve Rosa, 304 Monmouth stated that his parents live west of the property and they are also happy with the home.

Motion by Burke, seconded by Reilly, that the Board go into caucus. On roll call all Board Members voted Aye. Motion carried.

Motion by Burke, seconded by Iannaccone, that the Board come out of caucus. On roll call all Board Members voted Aye. None No. Motion carried.

Motion by Judge, seconded by Iannaccone, to approve the variance for the front yard setback on Third Avenue. On roll call Board Members Iannaccone, Burke, Napp, Judge, Reilly, Goldstein, and Sagui voted Aye. None voted No. Motion carried.

Motion by Judge, seconded by Burke, to approve the garage and the rear yard setback. On roll call Board Members Iannaccone, Burke, Napp, Judge, Reilly, and Goldstein voted Aye. Sagui voted No. Motion approved.

**CAL #3-2012 MLZ CORPORATION
401 MONMOUTH AVENUE
BLOCK 36, LOTS 1 & 2**

Mike Rubino, Esq. attorney for the applicants gave an opening statement; this is an application for a minor subdivision. The property is on the corner of Fourth Avenue and Monmouth Avenue. The applicant has an application that proposes a minor subdivision that would take

down the existing structure and subdivide the property to make two lots. Each lot would be 7,500 square feet. This is a corner lot; the applicant realizes that if he wants to build a house wider than nineteen feet, he would have to back to obtain a variance.

Mr. Rubino called Robert Burdick; Professional Engineer and Planner was sworn in and accepted by Board as an expert. Mr. Rubino questioned him; Mr. Burdick stated that this is a request for a minor subdivision, the property is in the R-2 zone and the subdivision complies with the requirements of the zone. The property currently has a single family home and garage.

There were no questions from the audience.

Comments:

Michael Grzelak, 409 Monmouth Avenue stated that he finds the intrusions of developers coming and carving up corner lots and holding the Board at bay with the threat of a nineteen foot house or a variance would be needed which he feels goes against the Master Plan of 2010.

Motion by Burke, seconded by Napp, that the Board go into caucus. On roll call all Board Members voted Aye. Motion carried.

Motion by Burke, seconded by Sagui, that the Board come out of caucus. On roll call all Board Members voted Aye. None No. Motion carried.

Motion by Judge, seconded by Burke, that the conforming subdivision be approved. On roll call Board Members Iannaccone, Burke, Napp, Judge, Reilly, Goldstein, and Sagui voted Aye. Motion carried.

Motion by Reilly, seconded by Burke, that the meeting adjourn. On roll call all Board Members voted Aye. None No. Motion carried. Time: 9:50 P.M.

Respectfully submitted:


Board Secretary

RESOLUTION NO. 12 - 2012
(Cal 9 - 2011)

RESOLUTION OF THE PLANNING BOARD OF THE
BOROUGH OF SPRING LAKE, COUNTY OF
MONMOUTH, STATE OF NEW JERSEY.

WHEREAS, Alfred Welte (hereinafter referred to as the "applicant") has applied to the Planning Board of the Borough of Spring Lake for variance relief pursuant to N.J.S.A. 40:55D-70(c), from the provisions of the Spring Lake Zoning Ordinances, for permission to renovate and remodel an existing dwelling with relief from the side yard setback and aggregate side yard requirements at property located at 314 Pennsylvania Avenue, Spring Lake, New Jersey, and known as Block 22, Lot 13 on the Spring Lake Tax Map, and

WHEREAS, a public hearing was held at the regularly scheduled meeting of March 14, 2012, in the Municipal Building, and testimony having been presented on behalf of the applicant and objectors to the application having been given an opportunity to be heard; and,

WHEREAS, such proof of service as may be required by New Jersey Statutes and Municipal Ordinances has been furnished; and,

WHEREAS, the Board, having considered the application, testimony, and exhibits submitted, makes the following findings:

1. The property is located in an R-2 Zone.
2. The property consists of an rectangular-shaped lot that has 7,500 square feet of area, 50 feet of frontage on Pennsylvania Avenue and 150 feet of depth. Presently the property contains a 1 ½ -story frame dwelling, and a driveway to an attached garage with access to Pennsylvania Avenue.
3. The applicant proposes to construct a partial second floor addition to the existing structure to accommodate four bedrooms and an adjoining balcony. The proposal is more fully described in the plans presented by the applicant prepared by La Luna Design Group dated September 27, 2011, and last revised February 21, 2012,

signed by Catherine M. Flores, A.I.A.

4. The proposed addition would vertically exacerbate pre-existing side yard setback encroachments on both sides of the dwelling and would exacerbate the property's aggregate side yard deficiency accordingly. The applicant is seeking the following variance relief:

A. Side yard setback relief for the left (west) side of the property where 6 feet is required and 3.55 feet exists and is proposed.

B. Side yard setback relief for the right (east) side of the property where 6 feet is required and 2.8 feet exists and is proposed.

C. Aggregate side yard setback where 16 feet is required and 6.35 exists and is proposed.

5. The Board finds that the relief requested may be granted. The Board finds that the principal dwelling structure on the property presently encroaches into the side yard setbacks areas as such side yards are presently required by the Borough's Ordinances. The Board finds that this placement and location of the present structure on the property presents the applicant with peculiar and exceptional practical difficulties in the further development of the property and as such effects an undue hardship on the applicant. The Board finds that the proposal will be an aesthetic benefit to the community. The Board finds that the properties on either side of the subject property have been developed with large dwelling structures which make the existing dwelling appear incongruous with the neighborhood. The Board finds that by increasing the height of the subject dwelling that the property as a whole will come into greater conformity with the neighboring structures. The Board finds that the encroachments presently exist at the property and therefore the continuation of the encroachments will not represent a substantial impairment of the zone plan. The Board finds that the applicant has amended his plans to decrease the bulk of the proposed structure on the westerly side and thus minimized the impact on the air light and open space in reference to that neighbor. The Board finds that there is sufficient open area to the east, particularly when the easterly neighbor's property layout is considered, and that no detriment to the air, light, and open space of said neighbor will occur accordingly. The Board finds that the aesthetic and conformity benefits that may be achieved by granting the variance outweigh any of the detriments that may accrue by granting the

variances in question. The Board notes that each side yard is further encroached by the respective overhangs, as shown on the plans, in reference to either side of the new construction and includes such features in its consideration and approval of the plans presented.

6. The application as proposed is in keeping with sound planning and zoning and does not present any detriment to the public good nor does it impair the intent and purpose of the zoning plan. The variance relief may be granted because the aesthetic benefits and other benefits to be gained by the community substantially outweigh any detriments and the new structure will advance the purpose of Zoning.

WHEREAS, The Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinances of the Borough of Spring Lake and the benefits of this application do substantially outweigh the detriments and that certain hardships exist.

NOW THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Spring Lake on this 11th day of April, 2012, that the application be and is hereby granted subject to the following conditions.

1. That all existing taxes, water and sewer assessments be paid current prior to the issuance of a certificate of occupancy.
2. That all construction be completed in accordance with Borough Ordinances, the Building Codes, and Uniform Construction Codes.
3. That all legal fees, engineering fees, inspection fees, or performance bonds set by the Board Engineer be paid by the applicant prior to the issuance of a building permit.
4. That a copy of this Resolution be given to any subsequent owner of this property.
5. The applicant shall remove all pavers and fences that presently encroach upon the property of the adjoining neighbors as stipulated by the applicant at the hearing.
6. The applicant shall remove a sufficient amount of driveway surface from the driveway so as to comply with the Borough's ordinance controlling the distance permitted between a driveway and a property line.

7. The applicant shall reduce its driveway opening to a total of no more than 12 feet.
8. The applicant shall provide plans to the Board Engineer to confirm that the upper floor of the proposed dwelling complies with the Borough's ordinance controlling half-stories.
9. That plans be submitted for review and approval by the Board Engineer in conformity with this resolution.

CERTIFICATION

I, Dina Partusch, Secretary of the Planning Board of the Borough of Spring Lake, in the County of Monmouth, State of New Jersey, do hereby CERTIFY that the foregoing is a true copy of a resolution adopted by the Planning Board at its regular meeting held on April 11, 2012.



DINA PARTUSCH