

**MINUTES OF THE
SPRING LAKE PLANNING BOARD
JUNE 13, 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.

Chairman Nicholas Sapnar 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 roll for attendance. Present were Joseph Rizzo, Larry Iannaccone, Michael Burke, Ph.D., Cindy Napp, Priscilla Reilly, Melissa Smith Goldstein, Matt Sagui, Kathleen Scotto and Chairman Sapnar.

Chairman Sapnar called for a motion to approve the minutes of the May 9, 2012 meeting.

Motion by Sagui, seconded by Burke, that the minutes of the May 9, 2012 meeting be adopted. On roll call Board Members Rizzo, Burke, Goldstein, Sagui and Sapnar voted Aye. None No. Motion carried.

Board Attorney McGill read the resolutions to be adopted.

Resolution #16-2012 RIGNEY

Motion by Burke, seconded by Sagui, that Resolution #16-2012 be adopted. On roll call Board Members Rizzo, Burke, Goldstein, Sagui, and Sapnar voted Aye. None No. Motion carried.

WARREN AVENUE AFFORDABLE HOUSING PROJECT REVIEW

Andrew Bayer, the Borough's Affordable Housing Attorney explained that as part of the Borough's third round of Affordable Housing obligation dating back originally to 2004 and then 2008. The Borough purchased property at 623 Warren Avenue to construct a four unit rental apartment complex which would be available to low and moderate income renters. The Governing Body approved a developer's agreement with the Affordable Housing Alliance, which is a not-for-profit, who will develop and manage the project. The funding is coming out of a Affordable Housing Trust fund, which purchased the property and is leasing it to the Affordable Housing Alliance at no cost. The funding will also cover a portion of the construction cost as well through the developers' agreement.

Tim McCorry, Director of Capital Projects and Construction for the Affordable Housing Alliance explained that the Alliance is a 501C3 not-for-profit Corporation they have been in existence for twenty years. The Alliance owns and operates approximately 380 Affordable Housing Units in and around Monmouth County. This is a four unit rental building, the ground floor will have a one bedroom unit and a three bedroom unit and the second floor will have two, two bedroom units.

Donna Blaze, CEO of the Affordable Housing Alliance explained that they were asked to come up with a design with four units which have architecture and appearance that would blend into the character of Spring Lake. She explained that there is a preliminary construction estimate is \$900,000. Since the units will be rented to low and moderate income residents there is a lottery held, they accept applications for a sixty to ninety day period. The applications are provided locally at the Municipality, it is posted on the States Affordable Housing website, and then there is a public drawing. A criminal records check and credit records are done as well as a prior land lord check. It is in the Alliance interest to maintain harmony in the community, the fewer problems they have with the rental properties the less problem they have managing them. They are entered into a lease developer's agreement for the period that COAH requires which is thirty years, after that time it can be renewed or extended if the obligations remain the same under the state law for New Jersey.

Mr. Iannaccone asked if there is an easement on the property to get to the rear of the adjacent property. Mr. Feldman, Architect for project answered that there is an easement for the property to the east to bring cars in one way around the back of the property and back out the other side.

Mr. Burke stated that he is concerned fire access, the code is eighteen feet wide and there is only ten feet provided. Mr. Feldman explained that they are not able to have an eighteen feet wide fire access since the property does not have enough room; the building is only sixteen feet from the property line. Mr. Burke asked if there is going to be landscaping along the railroad. Mr. Feldman answered yes there is vegetation there currently and they will try to save as much as possible and it will be filled with such plants as arborvitae.

Mr. Iannaccone asked if this plan was reviewed for drainage and the effect on other properties. Mr. Feldman answered that this site flows toward the railroad and there is an adequate swell facility.

Mr. Rizzo stated that in the rear of the lot there is an eight foot walkway. He asked if the walkway could be reduced to six and the parking could be moved back so that a buffer could be maintained. Mr. Feldman stated that it is a good idea and they will take a look at it.

Mr. Rizzo added that the walkway should be continued to the front walk so that people do not walk across the lawn.

The Planning Board recommendations are to consider reducing the eight-foot-wide sidewalk located behind the structure to six feet, and use the two feet gained by such a reduction to move the parking forward and plant buffering landscaping along the rear of the property. Also, to consider extending the walkway on the west side of the structure to the front of the property.

Motion by Reilly, seconded by Rizzo, to have Mr. McGill to write letter of recommendations and comments from the Planning Board. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Reilly, Goldstein, Sagui, Scotto and Sapnar voted Aye. None No. Motion carried.

**CAL# 5-2012 BENZ
520 BRIGHTON AVENUE
BLOCK 101, LOT 15**

Keith Henderson, Esq. applicants' attorney had the witnesses sworn in and accepted by the Board. Charles Benz, homeowner; Mark Fessler, Professional Architect, Allison Coffin, Professional Planner; and George D'Amico, Real Estate Broker.

Keith Henderson questioned Mr. Benz. Mr. Benz explained that the home has been in the family since 1890 when his wife's great-grandfather built the house on the property. Mr. Benz added that they applied to the Planning Board in 1997 to expand the house; they were approved for a small addition in the back of the house. When the application was approved it was for a variance for building coverage of 35.6%. At that time there was no discussion about the parking issue. He added that currently he has a temporary arrangement for parking at Brighton Plaza, to the west of the property; he has an annual lease for a parking space. The owner of Brighton Plaza would not sell a parking spot to Mr. Benz.

Mr. Benz was questioned by the Board.

Chairman Sapnar asked if the property is rented out. Mr. Benz answered that it is currently being rented out temporarily. He added that they have been trying to sell the home for the past two years.

Mrs. Napp asked how many bedrooms are in the house. Mr. Benz answered that there are two bedrooms.

There were no questions from the audience.

Mr. McGill stated that he was advised that Timothy Middleton, Esq. an attorney was to be here tonight on this application to represent possible objectors who expected representation. He added that Mr. Middleton was not able to attend due to a family emergency.

Stewart Patterson, 522 Brighton Avenue was sworn in and question by Mr. McGill. Mr. McGill asked if Mr. Patterson retained Mr. Middleton to represent him and oppose this application. Mr. Patterson answered yes.

Mr. McGill stated that there is fairness due on all sides here and since the applicant has their professionals here, the Board should go ahead with the testimony and deal with the issue at the end.

Keith Henderson questioned George D'Amico, Real Estate Broker. Mr. D'Amico stated that he is a managing partner of D'Amico McConnell Realtors and he has been a broker for approximately ten years. He added that he is the listing broker on this property and the property was listed in July of 2010. There has been one offer in the past two years; the offer was significantly less and it was contingent upon the buyer receiving a variance for raising the building and putting a garage underneath with a driveway. The buyer withdrew the transaction

quickly because in speaking with neighbors he found out that the neighbors would fight the application. Mr. D'Amico added that the house is not marketable without parking and parking is not allowed over night on the street.

Mr. D'Amico was questioned by the Board and the audience.

Darren Gilbert, 512 Brighton Avenue asked if a parking place in front of the house would raise or lower the property values of the surrounding homes. Mr. D'Amico answered that he does not think that it would lower the property value. Mr. Gilbert asked if Mr. Benz ever asked for a variance for parking in the street overnight. Mr. Benz answered no. Mr. McGill explained that the Board does not have the ability to grant people the right to park in the street overnight.

Mr. Henderson, Esq. applicants' attorney had the exhibits marked into evidence.

Mr. Henderson explained that there was access to the property from St Clair, his client parked there for a number of years thinking there was an easement, a title search was performed and there is no easement. He added that subdivision was perfected and it reconfigured the property and the alley way disappeared.

Keith Henderson questioned Mark Fessler, Professional Architect who was accepted by the Board as an expert. Mr. Fessler is the current tenant in this house while his house is being built. Mr. Fessler explained that the property is only 25 feet wide and 120 feet long. He was also the architect when the addition was approved. He explained that to put this parking spot in the front, the building coverage would be reduced by 53 square feet. He explained that they can only fit one parking spot in front of the house since there is no room on either side of the house to park in the back.

Mr. Fessler was questioned by the Board.

Mr. Burke asked if they could just place a garage in the existing foot print of the house. Mr. Fessler answered that a variance would be needed for a front loading garage and there would be major renovations if the house was raised.

Mr. Fessler was questioned by the audience.

Carol Patterson asked about impervious surface. Mr. Fessler answered that impervious surface includes everything, the driveway and half of the walkway between the two properties.

Mr. Patterson asked if he knew the distance between the two houses. Mr. Fessler answered six foot eight inches. Mr. Patterson asked what the distance is between the house and Brighton Avenue sidewalk. Mr. Fessler answered that it is exactly twenty two feet to the sidewalk and nineteen and a half feet to the property line and is currently sixteen feet from the sidewalk.

Keith Henderson questioned Allison Coffin, Professional Planner who was accepted by the Board as an expert. Ms. Coffin explained that the application purposes to provide an off street parking space for a resident that currently has no parking off street or on street. The property is

significantly undersized for the R-2, single family residential zone where off street parking is required as an accessory use within in the Borough ordinance. The application is reducing the magnitude of two of the variances that currently exist, building coverage and the parking variance.

Ms. Coffin was questioned by the Board.

Mr. Iannaccone asked how wide each lot is on both sides of the property. Ms. Coffin answered that the one to the west is twenty five feet with an easement for their driveway and the one to the east is fifty feet.

Mrs. Napp asked if people are allowed to park in the Spring Lake Heights Municipal parking lot over night. Ms. Coffin answered that she did not know but it would be inconsistent with the Municipal Land Use Law, that what happens in one town does not have a negative impact on the adjacent towns.

Mr. Burke asked if she reviewed the ordinance on front yard parking and what is the base or benefit for not in the front yard. Ms. Coffin answered that it is not stated in the ordinance; she infers that it is for aesthetics.

Ms. Coffin was questioned by the audience.

Colleen Panzini asked about the safety of the driveway. Ms. Coffin answered that she does not see how having a driveway would have any greater impact of the safety of children, there are other driveways in the area and cars can park on the street during the day.

Carol Patterson asked if decreased safety in any way would alter a property. Ms. Coffin answered yes. Ms. Patterson asked if decreased safety would be a deterrent to the public good. Ms. Coffin answered yes. Ms. Patterson asked is it true that Municipal Land Use Law is specific that no relief can be granted unless there is no substantial deterrent to the character of the property or the public good. Ms. Coffin answered only to the public good not the character of the property.

Comments:

Brendan Sullivan, 518 Brighton Avenue stated that he believes that this is an inconvenience not a hardship, the inconvenience is that the applicant cannot get the price they want for the property. He added that he has allowed them to use his driveway as long as the property is not being rented out. Mr. Sullivan also added that he was never approached to buy the house; he was approached if he would sell an easement on the driveway and if there was an easement on the driveway he felt that both homes would be hard to sell.

Chairman Sapnar asked if Mr. Sullivan would ever buy the property. Mr. Sullivan answered no not at this price. Chairman Sapnar asked if he would let them use his driveway to get to the back of the property to park without an easement. Mr. Sullivan answered it would have to be on a case by case basis.

Katherine Doyle, 2008 Fourth Avenue stated that if the applicant does not receive the variance then the owner would have the right to rent the property to anyone.

Carrie Patterson, 522 Brighton Avenue stated that she lives next door with three boys and she thinks that there is a safety issue, since there is approximately five feet between the car and their front door.

Stewart Patterson, 522 Brighton Avenue stated that he thinks it is unfair that the case is proceeding right now without his representation. He added that he grew up in Spring Lake then moved back because of the look and feel of the community, the same look and feel he would like for his children. Mr. Patterson added that if he knew that there was to be a variance granted next to the lot that they purchased, he would not have. He added that this is a major gateway into town. He does not understand the hardship, since there are a variety of different alternatives to parking. Mr. Patterson believes that this is a safety issue and he does not think that this is without substantial detriment to the public good and the surrounding properties.

Chairman Sapnar asked if Mr. Patterson is the property to the west and only twenty five feet wide. Mr. Patterson answered yes it is. Chairman Sapnar asked where he parks. Mr. Patterson answered that he parks to the side; they have an easement for the driveway.

Colleen Panzini, 7 Jersey Lane stated that the five points that should be understood by the Board under the C-2 variance are, that it relates to a specific piece of property, that the purposes of the MLUL will be advanced by a deviation from the zoning ordinance requirement, the variance can be granted without substantial detriment to the public good, that the benefits of the deviation would substantially out way any detriment, and the variance will not substantially interfere with the intent and purposes of zone plan and zoning ordinance. She added that she just built a house and her driveway is eight feet wide because she had to keep a two foot buffer. She does not have a garage and she does not pull all the way to the back but they do have the parking on the side of the house. There is a reason for the not parking in the front and it is an aesthetic quality to the town.

Carol Patterson, 316 Sussex Avenue stated that it seems that financial gain is the motivating factor.

Chairman Sapnar stated that the application Benz will be carried to July 11, 2012.

CAL#6-2012
110 FIRST AVENUE
BLOCK 9 LOT 12

Anthony Pelle, owner and applicant was sworn in. Mr. Pelle explained that he would like to install a fence to enclose the back yard to create a safe environment and to enclose a pool area. He added that the pool is within the set back and he would like to align the fence with the front on the existing building. He explained that when the house was built he received a variance to setback the house seventeen and a half feet where twenty five feet is required.

Chairman Sapnar stated that it looks like the pool is in the setback also. Mr. Pelle explained that the waterline is twenty five feet however the pool coping is in the setback.

Chairman Sapnar asked if there is any way that Mr. Pelle could get the entire pool in the setback. Mr. Pelle answered that they are constricted with a small space.

Mr. Pelle had his exhibits marked into evidence.

Mr. Pelle explained that other properties have fences that are in the setback. Chairman Sapnar asked if Mr. Pelle knew how long the fences have been at those locations. Mr. Pelle answered that he does not know.

Chairman Sapnar stated that on the survey there shows a four foot fence but the pictures show a four and a half foot fence. Mr. Pelle explained that the fence is four feet four inches because of little spikes and the gates are arched which adds another six inches. There is a gate where the walkway is and a gate centered between the walkway and the driveway. There is also a hedge along the front of the fence that would buffer the fence from the street.

Chairman Sapnar asked if Mr. Pelle is filling in the space between the house and the garage with a patio and pool. Mr. Pelle answered yes.

Mr. Burke stated that the house violates the variance for setbacks that was previously approved by a half a foot. Mr. Pelle explained that the plan was submitted and he received a certificate of occupancy. He just found out about the inconsistency last Monday when he received Mr. Hilla's letter. Mr. Pelle added that he looked at his house and there are columns on either side of the front porch and there is approximately four inches extra.

Chairman Sapnar stated that the approval was for eighteen feet but the house bumps out to seventeen and half feet and it was submitted as an as built and no one noticed it.

Mr. Pelle was questioned by the Board.

Mr. Sagui asked when Mr. Pelle built the house did he inquire about putting a pool in at that time. Mr. Pelle answered that at the time it would have been more of an expense and he did make provisions for it in making sure that the water runoff retention was placed in a different area and not in the backyard.

There were no questions from the audience.

Ray Carpenter, Professional Engineer was sworn in and accepted by the Board. Mr. Carpenter explained that the setback of the pool starts at the water line. There are some pools that have no coping and the grass goes right up to the water line of the pool. Mr. Carpenter stated that Mr. Pelle would like to build a patio right up to the waterline of the pool. He added that the structure of the pool will be twenty five feet from the property line. All of the pool equipment will be in the garage. He stated that accessory structures are not allowed in the front yard area but he did

not see patio listed as a structure. Chairman Sapnar stated that in the past patios have always been considered a structure.

Mr. Carpenter was questioned by the Board.

There were no questions from the audience.

Motion by Reilly, seconded by Sagui, 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 Sapnar, seconded by Rizzo, that a fence four foot in height be approved. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Reilly, Goldstein, Scotto, and Sapnar voted Aye. Sagui voted no. Motion carried.

Motion by Sapnar, seconded by Burke, that the patio in the front yard setback of twenty five feet be denied. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Reilly, Goldstein, Sagui, Scotto, and Sapnar voted Aye. None voted no. Motion carried.

CAL#7-2012

500 PASSAIC AVENUE

BLOCK 71, LOT 19

Mr. McGill stated that this case will be adjourned to July 11, 2012 no further notice will be required.

Motion by Rizzo, seconded by Sapnar, that the meeting be adjourned. On roll call all Board Members voted Aye. None No. Motion carried. Time: 10:30 P.M.

Respectfully submitted:


Board Secretary

RESOLUTION NO. 16 - 2012

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

WHEREAS, Megan and Brian Rigney (hereinafter referred to as the "applicants") have 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 height requirements at property located at 701 Third Avenue, Spring Lake, New Jersey, and known as Block 46, Lots 18.01, 19, and 20 on the Spring Lake Tax Map, and

WHEREAS, a public hearing was held at the regularly scheduled meeting of May 9, 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-1 Zone.
2. The property consists of an rectangular-shaped lot that has 20,100 square feet of area, 150 feet of frontage on Third Avenue and 134 feet of frontage on Essex Avenue. The property contains a 2 ½ -story frame dwelling, and a driveway to an attached garage with access to Essex Avenue.
3. The dwelling structure on the property is nonconforming in that it is approximately 38.93 feet in height where 35 feet is permitted. The applicant is proposing to remove three dormers and to replace same with a larger single dormer. The height of the existing and proposed dormers is approximately 37.25 feet. Because

the applicants are constructing the new structure above the permitted height of 35 feet, a variance is necessary.

4. The Board finds that the relief requested may be granted. The Board finds that the relief requested will serve to modernize the dwelling and make the dwelling more aesthetically appealing. The Board finds that there are no detriments to granting the variance as proposed. The Board finds that the applicants are merely replacing similar structures that presently exist. The Board finds that the proposed structures will not impose on the air, light and open space of any of the neighbors. The Board finds that the existing structure is already at a nonconforming height and therefore the addition of the dormers as proposed will not create a substantial impairment of the zone plan. The Board finds that on balance the benefits to be obtained by the granting of the variance outweighs any detriment that may accrue and therefore the variance may be granted accordingly.

5. 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 13th day of June, 2012, that the application be and is hereby granted subject to the following conditions.

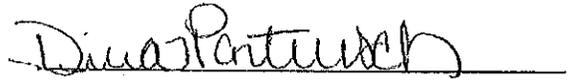
1. That all existing taxes, water and sewer assessments be paid current prior to the issuance of a certificate of occupancy.
2. That all construction be completed in accordance with Borough Ordinances, the Building Codes, and Uniform Construction Codes.
3. That all legal fees, engineering fees, inspection 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.

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 June 13, 2012.

A handwritten signature in cursive script, reading "Dina Partusch", is written over a solid horizontal line.

DINA PARTUSCH