

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

The regular meeting of the Spring Lake Planning Board was held on the above date at 7:05 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., Walter Judge, Priscilla Reilly, Melissa Smith Goldstein, Meghan Frost, Kathleen Scotto and Chairman Sapnar.

Chairman Sapnar called for a motion to approve the minutes of the June 13, 2012 meeting.

Motion by Rizzo, seconded by Reilly, that the minutes of the June 13, 2012 meeting be adopted. On roll call Board Members Rizzo, Iannaccone, Burke, Reilly, Goldstein, Scotto, and Sapnar voted Aye. None No. Motion carried.

Matthew Sagui arrived at 7:08 PM.

Board Attorney McGill read the resolutions to be adopted.

**Resolution #17-2012 PELLE**

Motion by Sapnar, seconded by Rizzo, that Resolution #17-2012 Pelle that the fence variance be adopted. On roll call Board Members Rizzo, Iannaccone, Burke, Reilly, Goldstein, Scotto, and Sapnar voted Aye. None No. Motion carried.

Motion by Sapnar, seconded by Burke, that Resolution #17-2012 Pelle that the patio variance be denied. On roll call Board Members Rizzo, Iannaccone, Burke, Reilly, Goldstein, Sagui, Scotto, and Sapnar voted Aye. None No. Motion carried.

Cindy Napp arrived at 7:10 PM

Chairman Sapnar announced that CAL#8-2012 MLZ Corporation is postponed and will be re-noticed for September 12, 2012.

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

The Benz case was carried from June 13, 2012.

Mr. McGill announced that Mr. Judge and Mrs. Frost did not attend the last hearing for this case; they have both listened to the recording, provided certifications and are eligible to participate and vote.

Timothy B. Middleton, Esq. objector's attorney representing Mr. and Mrs. Patterson who resides at 522 Brighton Avenue, to the west of the subject property. Mr. Middleton had his witness sworn in and accepted by the Board, Nicholas Nassiff, Professional Planner. Mr. Middleton questioned his witness. Mr. Nassiff listed the documents which were reviewed in preparation for this meeting. He reviewed the application and described the property. He stated that there are three required variances principle building coverage, impervious coverage, and parking prohibited in the front yard. Mr. Nassiff explained the 2010 Borough Master Plan goals and stated that altering the prevailing pattern of development, to park a car in the front yard is a radical departure from the pattern of development as it exists. He added that this house is located very close to the street. Mr. Nassiff reviewed the Municipal Land Use Law and stated that the driveway is approximately three feet from the neighboring property which could pose a potentially dangerous condition. He added that egress from the proposed driveway is partially obstructed by an existing utility pole which is less than two feet from the proposed curb cut.

Mr. Nassiff had his exhibits marked into evidence. He explained that the creation of this driveway would reduce on street parking by one space. The functional length to park a car is approximately eighteen feet, which would mean a portion of the car or truck would be encroaching in the sidewalk area. He added that it would obstruct the general streetscape. The pattern of development is very different between a front yard and side yard which would permit access to the rear of the lot. Mr. Nassiff discussed other options for parking.

Mr. Nassiff explained that application detracts from the Master Plan including the goals and objectives of the historic preservation and land use element. There are no cars that are allowed to park in the front yard area on Brighton Avenue. He added that if the application is approved then almost half of the property will be paved in the front yard area; he does not feel that it would be uncommon for two cars to be wedged in the driveway. He explained that the Borough's front yard parking prohibition serves as a Land Use tool to preserve the visual environment of the Borough.

Keith Henderson, applicant's attorney questioned Mr. Nassiff about the parking in the front yard. Mr. Nassiff answered that some of the residents may park on the side of their house in the front however they have to option to pull all the way back.

Mr. Henderson had more exhibits marked into evidence which were additional photos of cars parked in front of homes on the side of the house.

Mr. Henderson asked Mr. Nassiff if he believed that the proposed driveway would be too close to the side yard. Mr. Nassiff answered yes. Mr. Henderson stated that the side yard setback driveway in the Borough Code provides two feet.

Mr. Henderson further asked Mr. Nassiff about his testimony.

Mr. Nassiff was questioned by the Board.

Mr. Burke asked if Mr. Nassiff since there is a hardship and there is no parking, would he have any ideas for allowing a car to be parked somewhere on the property. Mr. Nassiff stated that the owner could demolish the house. Mr. Burke explained that it would not be practical to tear down the house and put a small house with a driveway to the back yard but another alternative would be to push the front yard driveway all the way back by taking roughly six more feet off of the house.

Mr. Rizzo asked how someone could open a car door into the neighboring property since there is approximately three feet from the edge of the driveway to property line. Mr. Nassiff stated that they did not fully dimension the plan. Mr. Middleton asked Mr. Nassiff if part of his testimony is that the car would be in the front yard adjacent to Mr. & Ms. Patterson's front porch. Mr. Nassiff answered yes.

Mrs. Reilly asked whose concrete walk is between the two houses. Mr. Middleton answered that it is shared.

Mr. Nassiff was questioned by the audience.

**Comments:**

Andrew Andaloro, 208 Worthington Avenue stated that the house was built well before the current codes existed, if approval for a parking spot is not granted it would be a condemnation to the property since there is not overnight parking on the street. He added that there has to be a way to accommodate the needs of this property, it has historical and property value for this town.

Thomas Panepinto, 305 Salem Avenue stated that has owned his house since 1981 and has a garage in the front of the house and does not have a driveway that goes to the back. On his block everyone parks in the driveway and people that have driveways that go to the rear also park in their driveways. He added that during the summer time every resident has to be careful since the Borough is a summer community. He added that everyone should have the right to a parking spot.

Katherine Doyle, 2008 Fourth Avenue stated she has an issue with them saying it is not a hardship case due to monetary concerns and the value of the property, the Benz's inherited this property. She added that they already own a home and it would be a hardship on senior citizens to maintain a second home that cannot be sold.

Cathleen McCusker, 110 Ludlow Avenue explained that she is very active in the Preservation Alliance whose goal is to maintain Spring Lake that has attracted many people as a unique location. She added that the house that is being discussed is part of that scenario, the house is close to the street for a very good historic reason, it was all foot traffic and there were no cars at that time. She would like there to be a solution for this situation. She highly recommends that the Board think twice about the situation and let this house have a current need of today which is a car without tearing the house down.

Kathleen Hardiman, 521 Brighton Avenue stated that her concern that the driveways are very close together, even backing out now there is not enough space the way the driveways were set up and it is dangerous. It will also change the look of the neighborhood.

Lois Boehmer, 700 Ocean Avenue, Unit 516 stated that where she lives at the Essex & Sussex there was a very different traffic problem, the town had a great deal of input about the parking lot, it is very tight. She added that they triple and double up and do whatever needs to be done to get 165 cars into the parking lot, they would have never have had that option if it was not for this community.

Joe Raffetto, 101 Ludlow Avenue stated that this house was built over one hundred years ago and when the house was built there where probably no cars in town, if the no overnight parking ordinance was not in effect the owner would be able to park in the street, there should be some sort of exception. There are many driveways in Spring Lake that have five or six cars in the driveway.

Mary Kennelly, 414 Central Avenue stated that there is a need to have a parking space since everyone has a car. She added that it would be great to park in the backyard but that is not possible.

Mr. Middleton's asked his client Mr. Patterson, 522 Brighton Avenue if he would like to add anything to the testimony. Mr. Patterson was sworn in. He added that he has heard a lot about history tonight, all of the houses on that street are historical. He added that it has always been a dream to move to Spring Lake, it is a very affluent town. He believes that in this case his children will be affected negatively from a quality of life and safety issues. He added that the property values of the neighboring properties will go down.

Ben Garfunkel, 523 Brighton Avenue stated that he lives immediately across the street from the subject property and that he is sympathetic to the property owners and what they are trying to accomplish in turns of selling the property. He is concerned about the detriment to the value of his property value and the properties around his. There has been a lot of discussion on safety and aesthetics and he is also concerned about these things and he is opposed to this provision.

Nancy Pugliese had her exhibit marked into evidence.

Nancy Pugliese, 111 Pennsylvania Avenue stated that across the street from her home is a pad in the front of the house and sometimes there are many cars at a time and they are wonderful neighbors. She added that there has never been a problem with them backing out into the street.

Chairman Sapnar asked how far that house is setback from the street. Ms. Pugliese answered that she could not answer that question.

Mr. Judge asked if all of the cars fit comfortably within that parking area or do they park on the grass or in the sidewalk. Ms. Pugliese answered sometimes they do just a little bit and it is not a problem. The house had a garage which they enclosed. Mr. Judge asked if she thought it would

be ok if there were more than one car in the subject house. Ms. Pugliese stated that the second car would probably not be there for long and would not be parked.

Maria Ottina, 422 Salem Avenue stated that anyone who owns a home should have a parking space for their car, it is impossible to rent a home or even own a home without a place to park your car.

Marie Agliozzo, 106 Pennsylvania Avenue stated that there is a house that has four cars every weekend all of the time, she does not feel that her property and other properties have been devalued. She added that the house is two houses away from St. Catharine's School, so if there is a detriment that certainly is with the children passing by.

Carol Patterson, 316 Sussex Avenue stated that she there were people who testified that there were cars parked in front of houses they were testifying on behalf of their neighbors she presumes. The owners of those houses are not here to testify. She would like to know what the width of those properties are because the width of this property does make a substantially difference. She believes that safety is being pushed aside it is a matter of time before there is a bad accident on that street and contributing to it is not wise if this is granted. She does not feel that tearing down the house would be a good idea and maybe moving it to the back of the lot would be an answer. She added that the house has been changed and it does not resemble what was originally built there.

Motion by Reilly, seconded by Judge, 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 Judge, that the application be denied. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Judge, Sagui, Sapnar voted Aye. Reilly and Goldstein voted no. Motion carried.

Five minute recess.

**CAL#7-2012**  
**500 PASSAIC AVENUE**  
**BLOCK 71 LOT 19.01**

Mike Rubino, Esq. applicants' attorney summarized the application. He explained that property is on the corner of Passaic Avenue and Fifth Avenue. The property was subdivided in 2007 and has been in the family for many years. The interior lot was sold and Donna Filkin would like to build a home on the corner lot and eventually move down here. They are asking for variance relief for a fifteen foot setback in certain spots and seventeen feet in other spots off of Fifth Avenue. The other variance is for the garage being setback twenty two feet where twenty five feet is needed. There is a technical variance that Mr. Hilla picked up, Ms. Filkin would like a

single garage but if she has people over she would like to have two parking spots in front of the garage. The variance would be for the portion of the driveway that does not lead to the garage.

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

Donna Filkin, owner of the property was sworn in. She explained that she is currently living in Caldwell but has been coming to Spring Lake since she was nineteen. Her parents purchased two pieces of property, the first one 410 First Avenue and the second 500 Passaic Avenue which was a 100x150 sized lot. There was a single family home and a carriage house in the back. She then explained what she was looking for in a new home.

Mr. Judge asked if Ms. Filkin looked at a smaller house so that it would not encroach into the setback as much. Ms. Filkin said no she did not.

Mrs. Napp asked if any more trees will be taken down. Ms. Filkin answered that she that there are some old evergreens that need to be taken down inside the lot.

There were no questions or comments from the audience.

Mary Hearn, Professional Architect was sworn in and accepted by the board as an expert.

Mary Hearn had her exhibits marked into evidence.

Ms. Hearn explained that when discussing the house house design with Ms. Filkin, she wanted to have more of a back yard, so if the house would be narrower it would go deeper which would not leave much of a back yard.

Chairman Sapnar asked if Ms. Hearn looked at the house east of this property and what set backs were granted for that house. Ms. Hearn answered yes it is 17 feet back from the property line. Chairman Sapnar explained that he pulled the resolution for that house and it was approved for 17.5 and the bulk of the house at 18 feet. He added that the surveyor measured it at 17.6 feet.

Ms. Hearn described the plans for the house.

Mr. Burke asked that the patio needs a variance as well since it encroaches into the setback. Ms. Hearn stated that it does and it will be removed.

Ms. Hearn explained the floor plans.

Mr. Burke stated that the plan does not show a sidewalk to the porch on Passaic Avenue. Ms. Hearn answered that there is no sidewalk because Ms. Filkin does not plan on using that door very often.

Chairman Sapnar asked if there was something that could be done to the floor plan to meet an 18 foot setback. Ms. Hearn stated it is possible to take six inches out of each room to make it possible.

Mr. Judge asked if two or three feet could be taken off of the house. Ms Hearn answered that the house would have to be redesigned if more of a foot would be taken out.

Mr. Sagui asked if the designs were smaller so that in the future a swimming pool could be put in and is there any desire for a swimming pool. Ms. Hearn answered no, more of a backyard is what Ms. Filkin.

Ms. Hearn explained the elimination of the step variance however the porch still encroaches.

Mrs. Napp if the driveway will affect the trees. Ms. Hearn stated that the new curb cut fits between the trees and as for the sidewalk they will have to work with the town to find out where the trees should be placed.

Five minute recess.

Mr. Rubino explained that one foot will be removed from the whole eastern side of the house where it is presently 15 feet will be brought into 16 and where 17 feet currently is proposed there will be 18 feet.

There were no questions from the audience.

**Comments:**

Michael Grzelak, 409 Monmouth Avenue stated that he is here to listen to MLZ Corporation recent subdivision. He stated that what this shows him is that the Board is in a conundrum. He has been here twelve years and there has been an epidemic of 100x150 lots being split. He would suggest to change the variance or do not subdivide the lots.

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

Motion by Judge, seconded by Sapnar, 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 the principal structure be set back at 16 feet and the bulk of the house at 18 feet be approved. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Goldstein and Sapnar voted Aye. Judge, Reilly, and Sagui voted no. Motion carried.

Motion by Sapnar, seconded by Judge, that the garage setback of 23 feet be approved. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Judge, Reilly, Goldstein, Sagui, and Sapnar voted Aye. None voted no. Motion carried.

Motion by Sapnar, seconded by Judge, that the driveway be 20 feet wide and three feet off of the northern property line be approved. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Judge, Reilly, Goldstein, Sagui, and Sapnar voted Aye. None voted no. Motion carried.

A discussion was held in reference corner lots in the R-2 zone. It was discussed that the Board makes a recommendation to the Borough Council that corner lots in the R-2 zone be a minimum of 65 feet wide.

Motion by Sapnar, seconded by Sagui, that a letter of recommendation to the Council that the corner lot in the R-2 zone be a minimum of 65 feet wide. On roll call Board Members Napp, Judge, Reilly, Goldstein, Sagui, and Sapnar voted Aye. Rizzo and Burke voted no. Iannaccone abstained. Motion carried.

Motion by Judge, seconded by Napp, that the meeting be adjourned. On roll call all Board Members voted Aye. None No. Motion carried. Time: 11:00 P.M.

Respectfully submitted:

  
Board Secretary

**RESOLUTION NO. 17 - 2012**  
**(Cal 6 - 2012)**

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

**WHEREAS**, Anthony Pelle (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 construct a patio and fence at property located at 110 First Avenue, Spring Lake, New Jersey, and known as Block 9, Lot 12 on the Spring Lake Tax Map, and

**WHEREAS**, a public hearing was held at the regularly scheduled meeting of June 13, 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 in question is located on the southeast corner of the intersection of First and Union Avenues. The property has 7, 500 square feet of area, 150 feet of frontage on First Avenue and 50 feet of frontage on Union Avenue. Presently the property contains a 2-1/2 story frame dwelling and a detached garage with driveway access to First Avenue. The garage is situated 6.0 feet off the southerly lot line which has been generally been accepted as representing the rear lot line.
3. The applicant is proposing to construct a patio and pool between the dwelling structure and the detached garage. The applicant is further proposing to enclose the pool and patio area with an aluminum open-picket style fence that the

applicant describes as transparent. In reference to the pool, the applicant has stipulated that the back wall of the pool structure will not be located within the 25-foot front yard set-back, therefore the Board finds that no variance is necessary for the construction of the pool. The Board makes this determination based strictly on the representations of the applicant in this regard. In reference to the patio proposed, the applicant proposes to construct the patio into the front yard of the property to 18.6 feet from the front property line which is a distance that corresponds with the southwest corner of the house. The Board finding that patios are to be treated as structures under the Borough's ordinances, the applicant requires a variance from Borough Ordinance 225-30.D prohibiting the location of structures in the front yard. In reference to the fence proposed, the applicant originally proposed to construct a fence with gates at approximately 16.1 feet from the front property line but amended his application to request that the fence and gates be constructed at a distance of 18.6 feet from the property line which, as stated above, is a distance that corresponds with the southwest corner of the house. It is the amended distance that the Board considers herein. To construct this fence and gates, the applicant requires a variance from Borough Ordinance 225-18 which prohibits the construction or placement of fences or gates in the front yard.

4. The applicant provided plans prepared by Ragan Land Surveying, P.C., dated June 26, 2009, and last revised on April 1, 2012, which the Board has relied upon when considering the relief requested.

5. As to the request for variance relief to permit the construction of a patio in the front yard the Board finds that it must deny this request. The Board finds that the house was relatively recently planned and constructed and was the subject of approvals granted in the Board's Resolution No. 15-2005. The Board heard testimony that the applicant was involved with the construction of house pursuant to those approvals. The Board finds that at the time that present house was constructed that the applicant anticipated placing a pool on the property. The Board finds that to whatever extent the placement of the structures present a hardship to the applicant, and the Board is not suggesting that there is any hardship, the applicant was fully aware of the conditions that were being created on the property at the time that said conditions were being created. As such, any such conditions may be seen as self-created and therefore

insufficient to support the applicant's request for a variance. The Board finds that the construction of the patio in the front yard does not represent a better zoning alternative nor does it present any benefits to the community. The Board finds that the placement of the patio largely is of only personal benefit to the applicant. The Board further finds that Borough has recently reviewed and revised its ordinances regarding front yard structures. While the Borough previously did not favor such structures, the ordinances now strictly prohibit all but the most of incidental structures. The proposal therefore represents an impairment of this zone plan, and to the degree that the patio substantially encroaches into the front yard, the proposal represents a substantial impairment of the zone plan. Because the applicant has neither shown a benefit to be gained by the placement of the patio as proposed and has not shown that the patio will not substantially impair the zone plan, the variance request in reference to the patio must be denied.

7. In reference to the variance for the fence and gates, the Board finds that it may grant the relief as proposed by the amendment to the application to permit the fence and gates to be set at 18.6 feet from the front property line. The Board finds that the fence will be adequately screened and is required by law to enclose the pool. The Board finds that the given the configuration of the property, the fence would nonetheless be within the public view should it be positioned at a permissible location and by granting the relief requested the Board may obtain a more attractive environment by requiring adequate screening of the structure. The Board finds that it is necessary to decrease the impact that the proposed fence will have by conditioning the approval herein. Specifically the applicant shall be permitted to run his fence from the corner of the house directly to the line established by driveway as shown on the plans and then to the garage along the line of the driveway. The fence shall be no closer than 18.6 feet to the front property line. The setback for the fence is therefore 18.6 feet. The fence shall be of an open design. The applicant has provided to the Board a depiction of an aluminum fence that is essentially transparent with approximately 3-4 inches in spacing between the pickets. The Board finds that this type of design shall be required to minimize the impact of the fence. The Board finds that the fence may be no more than four feet in height and shall be permanently screened with adequate landscaping. The Board further finds that the applicant is proposing to construct a pool

in the property's rear yard. The Board finds that because the variance relief is partially supported by the need to provide a fence around the pool, the variance granted herein as to fence location shall be conditioned upon the construction and continued existence of the pool in a manner substantially as shown on the plans provided.

**THE ABOVE FINDINGS HAVING BEEN MADE BY THE PLANNING BOARD,**

**NOW THEREFORE BE IT RESOLVED**, by the of the Planning Board of the Borough of Spring Lake on this 11<sup>th</sup> day of July, 2012 that the application is hereby denied in reference to the relief sought to allow the patio in the front yard of the property

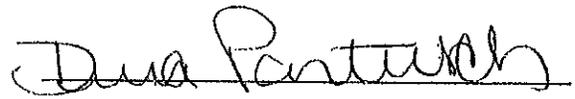
**NOW THEREFORE BE IT FURTHER RESOLVED**, by the Planning Board of the Borough of Spring Lake on this 11<sup>th</sup> day of July, 2012, that the application be and is hereby granted as to the configuration and construction of the fence as conditioned as follows:

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. That the fence be located no closer than the setback permitted in the body of this resolution and that all conditions as stated in Paragraph Seven of this resolution be met by the applicant.

**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 July 11, 2012.

A handwritten signature in cursive script that reads "Dina Partusch". The signature is written in black ink and is positioned above a horizontal line.

DINA PARTUSCH