

**MINUTES OF THE
SPRING LAKE PLANNING BOARD
FEBRUARY 13, 2013**

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., Walter Judge, Priscilla Reilly, Melissa Smith Goldstein, Matthew Sagui, Kathleen Scotto and Chairman Nicholas Sapnar.

Motion by Judge, seconded by Burke, that the minutes of the January 9, 2013 Reorganization meeting be adopted. On roll call Board Members Rizzo, Iannaccone, Burke, Judge, Reilly, Goldstein, Sagui, Scotto, and Sapnar voted Aye. None No. Motion carried.

Motion by Reilly, seconded by Burke, that the minutes of the January 9, 2013 meeting be adopted. On roll call Board Members Rizzo, Iannaccone, Burke, Judge, Reilly, Goldstein, Sagui, Scotto, and Sapnar voted Aye. None No. Motion carried.

Board Attorney McGill read the resolutions to be adopted.

Resolution #13-2013 Ponte

Motion by Judge, seconded by Reilly, that Resolution #13-2013 Ponte, that the variance application be approved. On roll call Board Members Rizzo, Iannaccone, Burke, Judge, Reilly, Goldstein, Scotto, and Sapnar voted Aye. None No. Motion carried.

Ordinance No. 2013-001 Review

The Board discussed the proposed Ordinance No. 2013-001 an Ordinance Amending and Supplementing Sections of Chapter 225, Land Development of the Borough Code.

Councilwoman Reilly recused herself.

George McGill explained that this is a consistency review, to ensure that the ordinance is consistent with the Master Plan. He has reviewed the ordinance and the Master Plan, since this it is an ordinance controlling the size of lots in the town and the Master Plan calls for the proper control of bulk standards in the residential district, this ordinance would be consistent with the Master Plan. Mr. McGill spoke with Jay Colao, Borough Attorney about some concerns regarding the wording of the ordinance.

Chairman Sapnar reviewed the ordinance and it seems to be in order with what the Planning Board had agreed on.

Mr. Burke stated that he believes that there may be an issue with reverse taking or emanate domain, since the owners were able to subdivide the property and now if this ordinance is passed they will not be able to subdivide; the economic value of that property would be taken away from the property owner. He added that it seems to be spot zoning for the whole R-2 zone. Mr. McGill answered that it is not spot zoning since it is for the entire zone and it relates to every property that is on a corner and the corner lots have unique characteristics, the statute permits the Planning Board to handle those in a different way than an internal lot. Mr. McGill explained that there is currently an issue with setbacks on the corner lots. Mr. Burke asked if there is an issue with equal protection before the law. Mr. McGill explained that all zoning impacts property rights; there is no equal protection since the corner lots are being treated differently since they are in fact different.

Mr. Iannaccone asked about the subdivisions that were already approved, are they affected by this ordinance. Mr. McGill answered that one of the issues that he wanted to discuss with Mr. Colao pertains to this issue. He added that sentence in the ordinance affects a merger, whenever there are two undersized contiguous lots. In case law the lots that are created by subdivision by an act of a Planning Board or Zoning Board, they do not merge because they have been reviewed and created and are protected from the ordinance change. There is also an issue when a resident owns two lots which have been used as two separate lots and planned on selling a lot; in those circumstances those lots may not be merged.

Chairman Sapnar stated that those are a few issues Mr. McGill wanted to clarify with the Borough Attorney.

Mr. Burke asked if a resident with an existing corner lot demolishes a house that they are able to rebuild on the same foot print. Mr. McGill answered that they are not able to rebuild on the same footprint, if the lot was cleared they would have to build a conforming structure.

Questions from the audience.

Lyle Marlowe, 110 Pennsylvania Avenue complimented the Planning Board for doing an excellent job. He added that it seems that the intent of the ordinance is that people who are planning on subdividing and developing a property have to come back before the Board for both properties. He thinks that residents will just subdivide without coming before the Board. Mr. McGill answered that right now the Board has no right to deny an applicant from subdividing a property that is 100'x150' into two 50'x150' lots; the problem that the Board is facing is that applicants come in to request variance relief from the front yard setbacks or build a nineteen foot wide house on the corner lots. Mr. Marlowe stated that the Borough should not allow anyone to subdivide any property. Chairman Sapnar answered that legally the Planning Board cannot do that; this ordinance states that the corner lot must be 65' when there are lots that are 100'x150'. An applicant could still come in front of the Board requesting two 50' lots; it will give the Planning Board the ability to look at the whole project rather than subdividing the property, then having a house built on the one property and having to address the setback issue with the corner lot.

Motion by Sapnar, seconded by Judge, that Mr. McGill write a letter, that the Planning Board agrees that the ordinance is in line with the Master Plan and subject to Mr. McGill's legal concerns which will be ironed out with the Council, then proceed with the adoption of this ordinance. On roll call Board

Members Rizzo, Iannaccone, Burke, Judge, Goldstein, Sagui, Scotto, and Sapnar voted Aye. None voted no. Motion carried.

Councilwoman Reilly returned.

**CAL#11-2012 ZUPPICHINI
1 YORK AVENUE
BLOCK 8, LOT 6**

Mr. Rubino had the exhibits marked into evidence.

Mr. Rubino, Esq. applicants' attorney explained that the Zuppichini's purchased this house in the summer of 2010. Shortly after the house was purchased the Zuppichini's discussed with the building department their plans for the home. The Zuppichini's were under the impression they did not need permits for the minimal work to be done. Mr. Rubino discussed the various changes made to the property.

Paul Damiano, Professional Architect explained the exhibits. He explained that there is a walkway from the curb to the front steps and also a patio along York Avenue. Mr. Damiano explained that the new front steps that were put in are smaller steps which project more into the front property line.

Mr. Burke asked about the retaining wall on the south side of the property. Mr. Damiano answered that the retaining wall is still there and is also on the neighbor's property.

Mr. Rizzo asked about the earlier steps which were in the real estate advertisement, it looks as though there are three steps. Mr. Damiano answered that there are two treads and three risers. Mr. Rizzo explained that is sounded as though they were added two steps but in reality it was just one. Mr. Damiano stated that they added one step and reduced the height.

Chairman Sapnar asked how much farther the new steps come out. Mr. Damiano answered approximately two feet.

Mr. Damiano showed the Board the pictures from the real estate advertisement showing the existing overgrown patio with the path leading to it.

Mr. Rubino stated that there was a retaining wall along York Avenue as well as stanchions, which were removed.

Mr. Burke asked about the patio being increased in size. Mr. Damiano answered yes there was a patio there however is unsure of what the actual size is since it is not on any survey; there is a 510 foot patio that is three and a half feet of the property line currently.

Mr. Rizzo asked if the new portion of the patio is an extension of the exiting patio. Mr. Damiano answered that it is a whole new patio.

Mark Zuppichini, homeowner was sworn in explained that when he purchased the house it needed to be renovated. Mr. Zuppichini spoke with Mr. Ratz from the building department and was under the impression he did not need to obtain permits for the work that was being done. He then put up a retaining wall, stanchions, and modified the patio. He received a violation from Mr. Zahorsky and then removed the retaining wall and stanchions. He explained that the steps to the entrance to the front door where enlarged for easier entry and they needed to be update. Mr. Zuppichini would utilize the patio and would like to keep it.

Mr. Judge asked if Mr. Zuppichini ever thought of making the patio around the pool bigger and placing the patio there. Mr. Zuppichini answered that he just recently thought of putting in a pool and the patio was already where it was and the house is set up in a way that you would have to leave out of the front door and walk around the house to get to the pool area. Mr. Zuppichini stated that he would remove five feet from the patio so that it is smaller.

There were no questions from the audience.

Mr. Damiano explained that there will be approximately nine and a half feet of patio. Mr. Zuppichini already removed four and a half feet since it was beyond the property line and on Borough property. Mr. Damiano stated that the patio will be five feet off of the property line.

Chairman Sapnar asked if the patio will not be more than 14.8 feet from the face of the house since there is a dimension of 19.8. Mr. Damiano answered yes after he reviewed the plan.

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

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

Chairman Sapnar explained the applicant will have revised plans submitted and this case will be carried to March 13, 2013.

**CAL#15-2012 110 LORRAINE AVENUE, LLC
110 LORRAINE AVENUE
BLOCK 139, LOT 11**

Mr. Iannaccone recused himself.

Mr. Aikins, applicants' attorney explained that this application to take the existing property which consists of a single family residence and garage which covers technically three lots. The applicant would like to demolish the structures and turn this into two fully conforming lots.

Mike Zimmerman, applicant and owner of the property and Robert Burdick, Professional Engineer and Planner were sworn in and accepted by the Board.

Mr. Burdick explained that this application for a subdivision of an irregularly shaped parcel. He added that currently they are mapped as three separate lots and the applicant is proposing to re-subdivide the property to reduce that to two lots, the lots will exceed the requirements of the R-1 zone. The plan is completely conforming and there will be no variances requested and do not anticipate any future variances. He explained that each of the lots is approximately 25% larger than what is required. Mr. Burdick explained that there is an area at the rear of the property which belongs to lot five, the owner of lot five claimed this part of the property by adverse possession, this case went to court and that portion of the property does belong to lot five.

Mr. McGill explained that our Borough Ordinances have changed to a percentage for the side yard setbacks, so the building envelope would have to be adjusted. Mr. Burdick will adjust the building envelopes.

Mr. Burdick reviewed Mr. Hilla's letter and stated that the applicant will comply with the letter.

Mrs. Smith Goldstein asked how many trees are going to be taken down. Mr. Burdick explained that Mr. Zimmerman met with Mr. Roe and three quarters of the trees are coming down because they are overgrown or dead.

Mr. Rizzo asked about the utility poles. Mr. Zimmerman explained that they would use the same utility poles as the neighbors and run underground utilities.

There were no questions from the audience.

Motion by Judge, seconded by Rizzo, 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 Judge, that the minor subdivision be approved. On roll call Board Members Rizzo, Burke, Judge, Reilly, Goldstein, Sagui, Scotto, and Sapnar voted Aye. None voted no. Motion carried.

Mr. Iannaccone returned.

Motion by Judge, seconded by Burke, that the meeting be adjourned. On roll call all Board Members voted Aye. None No. Motion carried. Time: 8:40 P.M.

Respectfully submitted:


Board Secretary

RESOLUTION NO. 13 - 2013
(Cal 12-2012)

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

WHEREAS, Vincent and Francine Ponte (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 locate pool equipment at property located at 2406 Prospect Avenue, Spring Lake, New Jersey, and also known as Block 141, Lots 3 and 6 on the Spring Lake Tax Map, and

WHEREAS, public hearings were held at the regularly scheduled meetings of January 9, 2013, in the Municipal Building, and testimony having been presented on behalf of the applicant, and objectors and interested parties 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 in question is located in the R-1 Zone.
2. The property is of irregular shape and is formed by the merger of Lot 6 and Lot 3. The parcel constitutes a "through lot" having a frontage on both Prospect Avenue and Ocean Avenue. The property contains a 2-story frame dwelling a driveway with access to Prospect Avenue and a 100 square foot shed on what would be considered Lot 6 and contains a paver patio, a pool and landscaping on what would be considered Lot 3. According to Borough Ordinance 225-7 regarding through-lots, the rear yard is opposite the front of the principal building thus making the Lot 3 area the property's rear yard notwithstanding the actual frontage along Ocean Avenue. The applicants have located their pool equipment in the rear yard however the location is not within eight feet of a principal or accessory building as required under Borough Ordinance 225-23. The applicant has appeared before the Board with the support their southerly neighbor to

request that the applicants not be required to move its existing accessory structure to the location of the pool equipment nor be required to build a new accessory structure at said area.

3. The Board finds that the variance relief may be granted as requested by the applicants. The Board finds that the property is unique in its shape and design and does not readily lend itself to the placement of the pool equipment within eight feet of any existing principal or accessory building. The Board finds that the location at which the pool equipment presently is located makes sense when considering the design of the property. The Board heard from both the applicants and the adjoining neighbor who would most likely be most affected by the location of an accessory building in the rear yard at the sight of the pool equipment. All parties have testified that the location is not conducive to the locating of such a structure because same would provide an adverse visual environment. The Board finds this to be true. The Board finds that the existence of such an accessory structure along Ocean Avenue would create a visual anomaly to the public that should be avoided if possible. The Board further finds that the existence of such a structure would provide an adverse impact upon the air, light and open space of the neighbor and though compliant with the ordinances would nonetheless constitute a detriment to the adjoining neighbor. The Board finds that by granting the relief requested it may avoid the negative impacts so described herein. The Board further finds that there will be no impairment to the zone plan because the property in question is singularly unique in design and location. The Board further finds that the zone plan will not suffer any impairment because the goal of the ordinance is "to have the least practical visual and noise impacts on adjoining residential uses" and the ordinance provides a bit of discretion in the handling of such placement when strict compliance with the ordinance is impractical. The Board finds that the equipment will otherwise not be a source of noise irritation and that the equipment will be adequately screened. The Board finds that the placement herein is practical and works well with the design of the property. The negative criteria being met, the Board finds that the benefits of granting the variance outweigh any detriments and that the application for relief may therefore be approved.

4. The Board finds that the application as proposed is in keeping with sound planning and zoning and does not present substantial detriment to the public good nor does it substantially impair the intent and purpose of the zoning plan. The application will result in a better use of the property and will promote the aesthetics in the community. The variance relief may be granted because the benefits to be gained by the community substantially outweigh any detriments and that a hardship exists.

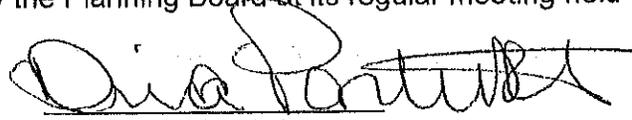
WHEREAS, The Board has determined that the relief requested by the applicants can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinances of the Borough of Spring Lake and that the benefits of this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

NOW THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Spring Lake on this 13th day of February, 2013, 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 any permits.
2. That all legal fees, engineering fees, inspection fees and bonds as may set by the Engineer, be paid by the applicant prior to the issuance of building permit.
3. That a copy of this resolution be given to any subsequent owner of these properties.
4. That the applicant shall comply with the written opinions of the Board Engineer except as modified herein, and that new plans, as may be necessary, shall be provided to the Board Engineer to perform a compliance review.

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 February 13, 2013.


DINA PARTUSCH