

**MINUTES OF THE
SPRING LAKE PLANNING BOARD
AUGUST 12, 2015**

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 Michael Burke, Ph.D., Cindy Napp, Walter Judge, Councilman Matthew Sagui, Lisa DeBerardine, Stuart Patterson, Mary Ann Rooney and Chairman Nicholas Sapnar.

Motion by Judge, seconded by Burke, that the minutes of the May 13, 2015 regular meeting be adopted as amended. On roll call Board Members Judge, Burke, Sagui, DeBerardine, Rooney and Sapner voted Aye. None No. Motion carried.

Motion by Judge, seconded by Burke, that the minutes of the June 10, 2015 regular meeting be adopted. On roll call Board Members Judge, Burke, Sagui, DeBerardine, Rooney, and Sapner voted Aye. None No. Motion carried.

Resolution #12-2015 Cozzarelli

Motion by Judge, seconded by Burke, that Resolution #13-2015 resolution be adopted. On roll call Board Members Burke, Judge, DeBerardine, Patterson, and Sapnar voted Aye. None No. Motion carried.

Chairman Sapnar announced that CAL#4-2015 Pelmont, LLC will be carried to September 9, 2015, without any further notice. Mr. Rubino, applicant's attorney formally, for the record waived the time.

CAL#6-2015 Togneri
506 Tuttle Avenue
Block 114, Lot 11

Michael Rubino, applicant's attorney had exhibits marked into evidence. Mr. Rubino explained this application is for Donald and Donna Togneri and their daughter Lisa Togneri who has an interest in the property. Mr. Rubino stated that the applicants would like to add a half story on the home; the building presently sits three or four inches too close to the western side line. It also sits a couple of inches too close to the front yard setback, which will need a small variance relief. They would also like to add a porch on the premise, the front of the building is bland. He added that while they are doing renovations they would like to add a garage which

will be conforming. On the east side of the house there is a chimney which sticks out; this forces the driveway to be approximately a foot too close to the property line. He explained that his client would be willing to move the driveway after the house to two feet off of the property line.

Chairman Sapnar explained for the record, the application states that the side yard setbacks are 5.8 feet where 7.4 feet is pursuant to code, this should be six feet; which makes the variance look worst than it actually is. Mr. Rubino explained that he was going to make those corrections before he started on the application; the engineer used the R-1 calculation rather than the R-2. He added that it was not their intention to ask for a height variance however the calculations came out wrong between the engineer, the architect, and Mr. Hilla; the plans will be revised so that a height variance is not necessary.

Donald Togneri, homeowner was sworn in. Mr. Togneri explained that they closed on the home December of 2013. The Togneri's are planning on retiring at this home; before they move, they need to renovate the interior and exterior which is bland and needs to be updated. He explained that they would like to add a half story since their daughter Lisa lives with them and is a partner in this building; this addition would give her personal space. Mr. Togneri explained he would like to add a front porch; the house to the east will match up where the house sits however the porch will sit a little bit in front of the house to the west. He explained that there is a heavy line of trees between his house and the house immediately to the west which will remain. He added that some substantial trees will have to be removed in the back yard but he will replace with a taller tree to have some more shade. The shed in the rear will be removed.

Mary Nesnay, 504 Tuttle Avenue explained the issue with the driveway is that they abut. She asked about the driveway being moved in the rear of the property so that it will be one foot from the fence in her rear yard. Chairman Sapnar answered it will be two feet. She added that when all of the stuff comes down neither family will have privacy; are there plans for landscaping between the two properties. Mr. Rubino answered Mr. Togneri agreed to put up some bushes.

Paul Grabowski, Professional Architect was sworn in and accepted by the Board. Mr. Grabowski explained that the half story addition is nonconforming on the west side property line which is approximately three inches. The applicant's would like to build a front porch which will only be six feet deep which will need a variance. He feels that the porch will blend into the landscape and will be open and airy; a positive impact to the neighborhood.

Mr. Burke asked how high the porch will be and how many steps. Mr. Grabowski answered that the porch will be thirty inches and four steps. Mr. Burke believes that the ordinance states two feet. Mr. Rubino explained that one of the steps will have to be recessed. Mr. Burke then asked about the second story. Mr. Grabowski explained that the home is currently two stories, with a flat mansard roof. They will be adding a half story which will be in the side yard setback approximately three inches. Mr. Grabowski explained that once the brick front is

removed the front yard setback will be compliant; however brick will be put on the lower part of the foundation which will then push it back out again. Mr. Grabowski added that the front wall of the home is going to stay in the same location.

Joseph Kociuba, Professional Engineer and Planner was sworn in and accepted by the Board. Mr. Kociuba explained that the variances may be granted under the C-1 and C-2 criteria, specifically the side yard setback, it is a unique situation to this property. Since there is an existing setback on the property, not granting relief would require a hardship for an expansion of the house; it would create framing issues and require redesign of the roof structure to step it in a few inches. Mr. Kociuba explained that there is substantial landscaping in that area to justify the variance request, the few inches would not be visible from the street. The variances could also be granted under the C-2 criteria; the proposed porch would be in conformance with the area and surrounding properties and improves the desirable visual environment. He added that the porch will promote the single family character of the neighborhood. Mr. Kociuba explained that the driveway would move to the two foot setback after the steps to the rear of the house after the porch.

Mr. Burke asked if the power lines were going to be placed underground. Mr. Kociuba is not sure if that was specifically discussed. Mr. Tongeri added that they do have to bring electric into the garage and he likes underground wires, if it is feasible he will place them underground.

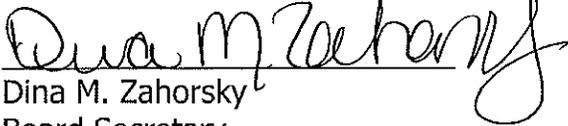
Motion by Burke, seconded by Judge, that the Board go into caucus. On roll call all Board Members voted Aye. Motion carried.

Motion by Judge, seconded by Burke, 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 approved. On roll call Board Members Burke, Napp, Judge, Sagui, DeBerardine, Patterson, Rooney, and Sapnar voted Aye. None voted no. Motion carried.

Motion by Judge, seconded by Sagui, that the meeting be adjourned. On roll call all Board Members voted Aye. None No. Motion carried. Time: 7:53 P.M.

Respectfully submitted:


Dina M. Zahorsky
Board Secretary

**RESOLUTION NO. 12 - 2015
(Cal 3-2015)**

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

WHEREAS, James and Jennifer Cozzarelli (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(d), from the provisions of the Spring Lake Zoning Ordinances, for permission to demolish an existing principal dwelling while allowing a nonconforming garage apartment to remain at property located at 420 Brighton Avenue, Spring Lake, New Jersey, and also known as Block 100, Lot 16 on the Spring Lake Tax Map, and

WHEREAS, public hearings were held at the regularly scheduled meetings of May 13, 2015 and June 10, 2015, 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 is located on the north side of Brighton Avenue between Fourth Avenue and Fifth Avenue. The property totals approximately 11, 250 square feet in area with 75 feet of frontage on Brighton Avenue and 150 feet of depth. The property presently contains two residential dwellings, a principal residential dwelling located generally to the front of the property and a garage apartment located generally to the rear. The garage apartment is a nonconforming accessory use in the zone. The garage apartment is also nonconforming as to set backs where six feet is required for rear yard and side yard set backs and 4.3 and 3.3 exists respectively.
3. The applicants are proposing to demolish the front principal dwelling and construct a new principal dwelling on the lot. The applicants propose to leave the

garage apartment in place and further propose to renovate same. The applicant requires a variance to allow them to maintain two dwelling structures on the lot. This consideration is addressed by the Board under N.J.S.A. 40: 55D-70 d.1 because while the garage apartment may enjoy a status of a pre-existing nonconforming accessory use at present, its status is accessory to the principal dwelling. Once the principal dwelling is removed, the garage apartment can no longer be considered an accessory dwelling to anything and thus can only be permitted as a principal use. This being the case, the construction of the new dwelling where the previous principal dwelling stood constitutes the introduction of a second principal dwelling on the lot which is not permitted under the Borough's ordinances. Alternatively, the applicant's planner opined that while the above analysis may be valid, the project is more akin to an expansion of a nonconforming use under N.J.S.A. 40:55D-70 d.2. The Board finds that due to the over-intensification of the use, the application would be and denied under either standard.

4. The applicants originally sought variance relief under N.J.S.A. 40:55D-70 (c) to permit an increase in height of the proposed new dwelling to 37 feet where 35 feet is permitted and to allow for a modest front yard encroachment. The applicants amended their proposal to remove the need, and therefore the request for variance relief, in reference to these conditions which amendment the Board accepted. The applicants' proposal is more fully described in plans prepared by Steven R. Krog, Landscape Architect and James C. Anderson, Architect, both dated as last revised on May 19, 2015. These plans were presented to, accepted by, and relied upon by the Planning Board during the hearing and deliberations regarding this matter..

5. The Board finds that the variance relief must be denied. The Board finds that garage apartments are not permitted under the existing Borough Ordinances. The Board further finds that the existence of two principal dwellings on one lot is also not permitted by the zoning plan and ordinances. The Board finds that the zone plan calls for the removal of the nonconforming garage apartments and it is not the intent of said plan and ordinances to promote or save such structures. Accordingly it is the fervent hope and intent of the plan that such structures should "wither and die" as the expression is use in such land use matters. The Board finds that the plan herein does exactly the opposite. The applicants plan to renovate and update the modest and rundown structure so to preserve the structure for all relevant times into the future. The

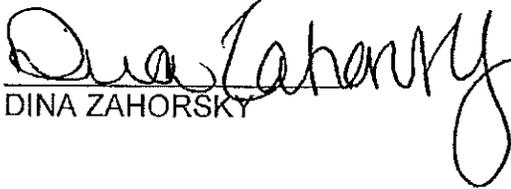
Board therefore finds that the proposal cannot be permitted and the variance must be denied. The Board further finds that the proposal represents an unacceptable intensification of the residential use of the property. The Board notes that the property is oversized for the zone having 11, 250 square feet in total area where 7,500 square feet is required. This being true the Board notes that the applicant has designed the proposed new dwelling to occupy the total of the permitted 25% of building coverage permitted by the ordinances. This fact belies the argument that the applicants require space for their parents because such accommodations could be made by designing a more traditional mother daughter arrangement within the permitted building coverage. The Board further finds that the dwelling space in the garage apartment is on the second floor accessible only by stairs, again detracting from the overall substance that the garage apartment would be used for such a purpose. The Board finds this proposal to be a substantial detriment to the zone plan. This proposal is contrary to the intent of the ordinances to have one dwelling on one lot. The Board notes that the applicant has stipulated not to rent the structure to third parties. The Board accepts that the applicant would so abide by this stipulation however the ordinances provide for no such exception. Clearly the residential use of the property may be less under such a restriction however the actual use from a land use perspective obtains regardless of any rental agreement. The Board finds that the stipulation would not be adequate to stem the ills that will befall the zone plan by granting the relief sought, chiefly condoning and allowing the impermissible intensity and nature of the use to remain and possibly increase in the face of the opportunity to have it lessened and removed. Under these circumstances the Board finds that the variance relief must be denied.

WHEREAS, The Board has determined that the relief requested by the applicants cannot 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 not substantially outweigh the detriments associated therewith and insufficient special reasons obtain,

NOW THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Spring Lake on this 12th day of August, 2015, that the application be and is denied.

CERTIFICATION

I, Dina Zahorsky, 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 August 12, 2015.


DINA ZAHORSKY

