

**MINUTES OF THE  
SPRING LAKE PLANNING BOARD  
OCTOBER 14, 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 Joseph Rizzo, Larry Iannaccone, Michael Burke, Ph.D., Walter Judge, Councilman Matthew Sagui, Lisa DeBerardine, Stuart Patterson, and Chairman Nicholas Sapnar.

Motion by Iannaccone, seconded by Burke, that the minutes of the September 9, 2015 regular meeting be adopted as amended. On roll call Board Members Rizzo, Burke, Sagui, DeBerardine, and Sapnar voted Aye. None No. Motion carried.

Resolution #14-2015 Dill

Motion by Judge, seconded by Burke, that Resolution #14-2015 resolution be adopted as amended. On roll call Board Members Rizzo, Burke, Sagui, DeBerardine, and Sapnar voted Aye. None No. Motion carried.

Chairman Sapnar announced that CAL#4-2015 Peimont, LLC will be carried to November 4, 2015, notice will not be required.

CAL#8-2015 DeMaio  
213 Ludlow Avenue  
Block 111, Lot 7

Mark Aikins, applicant's attorney explained that his client is requesting a variance to exceed the impervious coverage by a fair amount, but the testimony will reflect that there is a new azek paver, resulting in reduced run off and drainage.

Raymond Carpenter, Professional Engineer and Planner was sworn in and accepted by the Board.

Alan Bensen was sworn in and accepted by the Board.

Mr. Carpenter had exhibits marked into evidence.

Mr. Carpenter explained that there are two variances needed one for the location of the pool equipment and the second for patio pavers. He added that the applicant would like to move the pool equipment to the right rear corner of the home. He does not believe that the noise associated with the pool equipment will affect any other properties.

Chairman Sapnar asked for the reason for moving the equipment. Mr. Carpenter answered so that the backyard will be more usable.

Mr. Carpenter continued discussing the patio pavers, the applicant would like to use azek pavers. He explained that currently, under the Borough ordinance the applicant would be allowed to cover the entire property with wood decking. Mr. Carpenter prepared a comparison between wood decking and azek pavers. He added that underneath a wood deck there is dirt; with the azek system there are plastic pavers on top of small stone which is on top of large stone. Mr. Carpenter explained that azek pavers will recharge water into the ground ten times faster than a wood deck.

Dr. Burke asked where Mr. Carpenter came up with the spacing of the wood slates. Mr. Carpenter answered that is an industry standard practice when planking is put down. Dr. Burke explained that numbers are being given to the Board with no back up support.

Alan Bensen had exhibits marked into evidence.

Alan Bensen represents CPG Building Products who manufactures azek permeable pavers. Mr. Bensen explained that the product itself it is riddled with holes for water flow; the grids are laid down after the sub base is properly installed with a crushed stone, the grids are laid next to each other connect with the paver teeth.

Chairman Sapnar asked if the azek pavers would have to be cleaned out every year to properly work. Mr. Bensen answered no once the crushed stone is placed in with the sub base, the water will flow through the gaps.

Dr. Burke asked how the top block adheres to the bottom of the plastic support. Mr. Bensen answered by gravity.

Mr. Judge asked if there is any data on the permeability of the product in one year or five years. Mr. Bensen answered that he does not have data however, he has case studies.

Dr. Burke asked about how long this product has been around. Mr. Bensen answered approximately eight years.

Mr. Rizzo asked what the useful life is. Mr. Bensen answered the warrantee is ten years against any kind of cracking.

Dr. Burke asked what happens when water gets underneath them then freezes. Mr. Bensen answered that there may be a slight heaving of the entire system since the grids are tied together by the pavers themselves.

Mr. Bensen discussed the case studies provided.

Mr. Carpenter explained that there have been test studies on the gallons per minute that go through the pavers, there may be stones in between the pavers, however once the water is below the pavers there is a stone bed to absorb the water.

Mrs. DeBerardine asked if Mr. Carpenter knew how many gallons per minute would go through standard decking. Mr. Carpenter answered that a good soil would have a permeability rate of about four to six inches per minute. Mrs. DeBerardine explained that she is requesting information on the comparison of the decking of the same statistics for the pavers.

Mr. Rizzo stated that decking is usually raised and the water passing through the decking joints distributes very quickly. Mr. Carpenter stated that it depends on the soil type.

Mr. Aikins explained that whether the deck is on the ground or in the air the figures show a very substantial improvement in overall drainage and permeability by the azek pavers.

Mr. Burke discussed the impervious surface ordinance and that there is not a flow rate specified to be impervious, the Board has to go by what is stated the ordinance.

Mr. Aikins stated that the Board has to judge whether the evidence that is being provided to the Board justifies the relief that is requested.

Chairman Sapnar asked what the hardship is for this property that it had to be over built from the very beginning. Mr. Aikins answered that there is not a hardship, adding that the board should judge whether or not this product has equal function as though it is pervious.

Mr. Hilla asked the Board if impervious coverage only about drainage. Mr. Judge answered no. Mr. Rizzo agreed. Mr. Judge read the definition of impervious surface coverage, "a measure of the intensity of use of a piece of land".

Mr. Aikins asked Mr. Carpenter if the area outlined in green that could all be wooden deck. Mr. Carpenter answered the entire property can be covered with wooden deck that does not already have a structure on it; however that would be a horrible use of the property. Mr. Carpenter feels that what is being proposed an innovative product that has a lot of merit.

Chairman Sapnar asked in two years from now will this product have the same permeability as a deck with open slots. Mr. Carpenter believes that grass clippings get blown off the deck and go directly under the deck, which then turns into an impervious layer.

Mr. Iannaccone asked what was originally approved on the property. Mr. Carpenter answered that pool and the pool coping. Mr. Iannaccone then asked when the applicant purchased the property and built it up they did not think of having any patios in the rear yard. Mr. Carpenter answered that they are currently meeting all of the requirements.

Mr. Burke asked if Mr. Carpenter is aware of the ordinance on lot grading and drainage. Mr. Carpenter is familiar with it. Mr. Burke read a portion of the ordinance "prevent the collection of storm water while minimizing the destruction of existing vegetation". Mr. Burke asked if the pavers follow this ordinance. Mr. Carpenter explained that this collects the storm water adding that if wood decking was placed on the entire backyard it would destroy vegetation too.

Mr. Rizzo asked about all of the paving that is connecting the garage and the pool. Mr. Carpenter said that he is not sure but it may be a cabana.

Mr. Aikins stated that there seems to be some unanswered questions for this case, he would like to carry this application so that the applicants can provide further data and take a look at the dimensions.

Chairman Sapnar stated that the application will be adjourned to November 4, 2015 at 7:00 p.m. no further notice required. Mr. Aikins waived the time period.

CAL#9-2015 Tron  
312 Ocean Road  
Block 15, Lot 14

Thomas Hirsch, applicant's attorney explained that the applicant is proposing a second story deck over the front porch and a rear yard deck. Mr. Hirsch explained due to Hurricane Sandy and the raising of the house, the rear yard deck was originally two feet off the ground and now is being requested at five feet from grade.

Lawrence Tron, homeowner was sworn in. Mr. Tron stated that he was required to raise his home to a certain height due to FEMA requirements due to Hurricane Sandy. The original deck, he explained was at the same level of his first floor; some of his neighbors expressed concerns about how high the deck was going to be at seven feet so he decided to bring it down to five feet.

Mr. Hirsch had the exhibits marked into evidence. Mr. Hirsch asked Mr. Tron if the tree buffer between the property lines are his. Mr. Tron answered that they are the neighbors.

Chairman Sapnar asked if the homes at 315 and 318 Ocean Road have been raised. Mr. Tron answered yes. Chairman Sapnar then asked if 318 Ocean Road had the second story front deck before it was raised. Mr. Tron answered yes. It was brought to Chairman Sapnar's attention that the addresses of those homes were wrong, they are 314 and 316 Ocean Road.

Mr. Hirsch is proposing a three by three foot wheelchair lift on the side of the deck. Mr. Tron explained that variance would be needed due to age and physical abilities; it will be difficult to climb so many stairs. He is not planning on putting the elevator in right away but since the contractor is doing a lot of concrete work and foundation work; he felt it would be beneficial to get it started.

Mr. McGill stated that there is an objecting attorney here representing one of the neighbors.

Daniel Steinhagen from the law firm of Beattie Padovano, 50 Chestnut Ridge Road, Suite 208, Montavle, NJ is representing Thomas and Eileen Scelba at 313 Pennsylvania Avenue. Mr. Steinhagen explained that his client is concerned about the rear deck and a portion of the front yard deck.

Ray Carpenter, Professional Engineer and Planner was sworn in and accepted by the Board. Mr. Carpenter discussed the elevation in the rear of the property; the deck will be one and a half foot lower than the finished floor of the house.

Mr. Rizzo asked if it was originally set up so that one could walk directly out of the house onto the deck without any steps. Mr. Carpenter answered yes.

Mr. Carpenter explained that the wheelchair lift will bring the individual to the first floor of the home.

Chairman Sapnar asked if the adjacent houses were lifted to the same height as Mr. Tron's. Mr. Carpenter answered yes since they would have to meet the same criteria. Chairman Sapnar then asked if Mr. Carpenter looked into building the deck to the same height of the air-conditioning units at the base flood elevation. Mr. Carpenter explained that it presents a problem as far as stairs.

Mr. Patterson questioned whether or not the homes to the east of Mr. Tron's are elevated. Mr. Carpenter answered that he believes that those homes have not been raised yet.

Mr. Carpenter explained that the deck will be at the same height as the adjacent fence on the neighbor's property. He added that there is a row of Leyland Cypress on the other side of the fence which is approximately twelve or thirteen feet above grade.

Chairman Sapnar asked if the home to the rear was raised due to the flood. Mr. Carpenter answered that he does not think so.

Mr. Carpenter discussed a number of reasons why the deck would not cause a detriment to the rear property if allowed, any amount of noise would be the same if the deck was two feet off of the ground or five. He does not think that a person would be able to see directly over the Leyland Cypress with the deck at five feet; some of these trees grow up to thirty feet high. He continued to the property to the east which is buffered by the garage.

Mr. Carpenter explained that they would like to raise the deck with the home; if it stays at two feet off of the ground it would not be usable. He added that the deck on the second level on the front of the house for the benefit of Mr. Tron, across the street is Wreck Pond with a beautiful view. He added that this would not affect the neighbor's line of site; the deck is a flat deck with an open railing.

Mr. Hilla stated that the deck in the rear will now have to have a railing. Mr. Carpenter agreed that any deck over thirty inches would need a railing.

Mr. Hilla asked if the deck was actually being raised or is it being taken out and a new deck being put in to the same dimensions. Mr. Hirsch answered that his client explained that the existing deck was going to be raised. Mr. Tron stated that it is up to the contractor.

Chairman Sapnar stated that he understands the idea of being able to walk out onto the deck however; the deck is almost to the rear property line.

Mr. Burke asked about the original variance in 1992 the resolution states that the deck would be six feet to the property line how come now it is only one foot. Mr. Tron explained that after the three feet was added to the rear of the house, the deck was moved back. At the time, Mr. Tron added, he spoke with the building department a deck that is not elevated is considered a patio, so he had someone install that instead. Chairman Sapnar then asked that it was originally approved as a patio deck and now Mr. Tron wants to make it an elevated deck. Mr. Tron agreed and added that FEMA is making him raise the house and the deck is a part of the house.

Mr. Carpenter had a survey marked into evidence. Mr. Steinhagen asked if the patio was considered part of the building coverage. Mr. Carpenter answered no. Mr. Steinhagen then asked what the building coverage will now be increased by. Mr. Carpenter answered that the building coverage would be increased by approximately three hundred eighty one square feet, once it is above twenty four inches it counts as building coverage. Mr. Steinhagen asked if the Leyland Cyrus were not on his client's property would someone standing on Mr. Tron's deck be able to view the property. Mr. Carpenter answered that they would be able to see them on the deck as it stands currently.

Mr. Steinhagen had a copy of the tax map marked into evidence. Mr. Steinhagen questioned Mr. Carpenter about the lot sizes in the area.

Mr. Steinhagen stated that he has an objecting witness for his client.

Peter G. Steck, Professional Engineer and Planner was sworn in and accepted by the Board. Mr. Steck discussed exhibit O-2 which is a three page handout that he prepared. Mr. Steck explained that current patio deck is conforming however, once it is lifted above twenty four inches, it must now meet the setbacks and it now would be included in the building coverage.

He explained that in the 2010 Master Plan one of the general goals is to preserve the character of existing residential neighborhood forming the predominant charm of the Borough. The discussion of the residential zones there is a lot of discussion about tear downs and expansions; it states that the need for such expansion to be accommodated in a manner which respects neighborhood scale, character, and the privacy as well as the use of adjacent or neighboring single family residence. He explained that there is not much green space on this property. He added that this is not a standard deck in the rear yard, this is an unusual situation.

Mr. Burke asked about the deck on Mr. Steinhagen's client's property. Mr. Steinhagen answered that the deck has been there for a long time and he is unsure of the building coverage.

Mr. Sagui asked if Mr. Steck thought that most of the homes in the area will be lifted. Mr. Steck answered he did not know however, if there is a pattern of relief that is needed than the governing body would have to address it at that time. Mr. Sagui stated that this situation will not be unique fifteen years from now. Mr. Steck stated that they are not objecting to the house being lifted, only a patio that will now be a deck; adding that there is a dramatic distinction between a patio and a deck.

Mr. Hilla reviewed the building coverage; the existing condition is thirty five percent where twenty five percent is required. He added that the proposed building coverage is 44.9%

Denis Eversen, 314 Ocean Road explained that this is his second home. He added that he is experienced with this because he had to renovate the house three times. When he first purchased the house it was an eye sore on the neighborhood he came in and applied for many variances and was rejected. He does not object to anything except for raising the back deck. He explained that raising the house is a nightmare and that he feels that he now towers over neighboring properties that have not raised their homes yet. He explained that he understand why the rear neighbor hired an attorney since they will no longer have any privacy. He does not have any issues with the second story front porch.

Eleanor Tron, 312 Ocean Road stated that they have been in the home for twenty five years and have four floods. She added that the deck have been on the property for twenty five years. She explained that they have planted a lot new plants and grasses to create green space.

Mr. Steinhagen stated that the applicant has not met the statutory criteria for a hardship variance, there is no unique situation affecting this lot.

Mr. Hirsch stated that part of the statute states that the practical difficulty in meeting the ordinance because of the structures that are already lawfully existing on the site. He added that this lot is the same as it has been for twenty five years; no one is seeking to add a new structure

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

Mr. Hirsch explained that his client would be willing to address the concern of the deck setback in the rear yard. Mr. Hirsch asked if this case could be carried to a later date.

Chairman Sapnar stated that comments were made in caucus and that is not a guarantee that the Board will approve the application. Mr. Hirsch agrees.

Mr. McGill stated that there has been opposition and planning testimony, the applicant could always come back with a new application, which is strictly his opinion and the Board can do as they please.

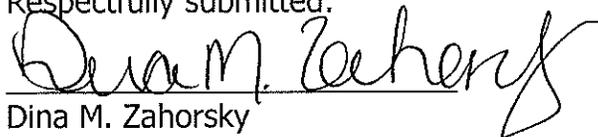
Mr. Steinhagen stated that he would like to see the new plans and discuss them with his client.

Mr. Hirsch explained that the same thing could be done with a new application which would cost a lot more money.

Chairman Sapnar explained that the application be postponed to December 9, 2015 at 7:00 p.m.

Motion by Judge, seconded by Burke, that the meeting be adjourned. On roll call all Board Members voted Aye. None No. Motion carried. Time: 10:45 P.M.

Respectfully submitted:



Dina M. Zahorsky  
Board Secretary

RESOLUTION NO. 14 - 2015  
(Cal 7 - 2015)

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

**WHEREAS**, Robert and Marianne Dill (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 construct a pool fence in the front yard at property located at 101 Washington Avenue, Spring Lake, New Jersey, and known as Block 79, Lot 1 on the Spring Lake Tax Map, and

**WHEREAS**, a public hearing was held at the regularly scheduled meeting of September 9, 2015, in the Municipal Building, and testimony having been presented on behalf of the applicants 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 undersized lot for the R-1 Zone. It is rectangular in shape having 12,750 square feet of area, 150 feet of frontage on First Avenue and 85 feet of frontage on Washington Avenue. Presently the property contains a 1.5 to 2.5 story dwelling, an accessory shed, and various walkways and patios.
3. The applicants are proposing to construct a conforming pool in the rear yard of the property. The applicants are proposing to enclose the pool with a fence by rebuilding a fence that existed in the front yard of the property but was removed when

damaged by a backhoe that was performing work on a neighbor's property. The location of the fence and the project in general is more fully described in the plans presented by the applicants and prepared by Jason L. Fichter, P.E., P.P., CFM, dated February 7, 2015, which were accepted by and relied upon by the Board.

4. The proposal requires and the applicants are seeking variance relief from the Board so that they may construct the fence in the front yard. Because the property is a corner lot the rear yard is considered to be that area opposite of Washington Avenue, Washington Avenue being the more narrow frontage. Because of this configuration, the rear yard area is located adjacent to the front yard area along First Avenue by operation of the Borough's Zoning Ordinances. The applicants are proposing a 10.2 feet front yard set back in the First Avenue frontage where 25 feet is required. No other variances were sought, considered or granted in this application

5. The Board finds that the relief requested may be granted as conditioned herein. The Board finds that the applicants may be granted the relief requested under the unique facts of this case. The Board finds as fact that a fence did exist at the location previously and that the fence was destroyed in the recent past through the actions of a contractor performing work on a neighboring property. The Board reviewed photographs of a hedge line that clearly show that the branch pattern of the hedges corroborates the prior existence of the fence. The Board finds that the hedge line is of a substantial and ancient nature that provides a solid wall of screening to the rear area and pool. The Board finds that the proposed fence will be therefore screened from the public view by this substantial existing condition. The Board finds that the house itself encroaches into the front yard to a point of 20.2 and that the applicant would reasonably be entitled to relief to at least that point. The Board finds that the structures on the property accompanied by the width of the property create a hardship for the applicant in locating the pool in another area and that the pool is logically and reasonably located directly behind the dwelling structure. The applicant has testified and the Board accepts as true that to site the fence as required by the ordinance or to site the fence to comport with the existing encroachment would bisect the yard leaving a portion of the usable area behind the fence unnecessarily inutile. The consideration therefore becomes one of the better and more efficient use of the property given the substantial existing front yard conditions. The Board finds that it may grant the relief

requested because the proposed citing represents a better use of the property and a better zoning alternative accordingly. The Board finds that due to the substantial nature of the growth that exists, the construction of the fence as proposed would not create any visual detriment to the public, that the fence will not be visible from the public view and will not create any further front yard obstruction. The Board finds that there will be no impairment of the zone plan because the applicant is seeking to reconstruct a previously existing fence that was removed when damaged by the acts of the neighbor. The Board finds that it may ensure that the above remains the status quo by conditioning the location of the fence upon the continued maintenance of the hedge line as a continual barrier to the observation of the fence by the public. The Board also conditions the grant of relief herein upon the applicant continuing the hedge line to the dwelling structure so as to eliminate the visibility of the fence for its entire length. The Board finds that as conditioned, the benefits of the granting the relief outweigh the detriments. The Board finds also that there will be no substantial detriment to the public good nor significant detriment to the zone plan.

6. The application as proposed is in keeping with sound planning and zoning and does not present any substantial detriment to the public good nor does it substantially impair the intent and purpose of the zoning plan. The variance relief may be granted because the benefits to be gained substantially outweigh any detriments, because certain hardships exist, and because the proposed property layout will advance the purposes of Zoning.

**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 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 14<sup>th</sup> day of October, 2015, 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 shall 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 applicants conform their plans to the comments and requirements of the Board Engineer as found in his review letter of September 2, 2015, including the repair of the dangerous conditions of the sidewalks, and that new plans shall be submitted for review and approval by the Board Engineer in conformity with said letter and this resolution as may be necessary.
6. That the applicants comply with all stipulations as otherwise made during the hearing.
7. That all new utilities that may be required as a result of this project shall be placed underground.
8. That the applicant will remove and move any and all overhead utility lines in the pool area and will place said utilities underground.
9. That the applicant will maintain the hedge line as a continual visual barrier to the observation of the fence by the public in its entirety and that the applicant shall continue the hedge line to the dwelling structure so as to eliminate the visibility of the new fence for its entire length.

#### 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 October 14, 2015.

  
DINA ZAHORSKY