

BOROUGH OF UPPER SADDLE RIVER PLANNING BOARD MEETING MINUTES

WEDNESDAY, JANUARY 8, 2014

Mr. Virgona called the meeting to order at 7:38 p.m. The following statement was read:
Pursuant to The Open Public Meetings Act P.L. 1975, Chapter 231, proper notice of this meeting has been provided by fax and mail to The Record and The Ridgewood news on December 23, 2013 at which time the date, time, place and purpose of the meeting was set forth and notice was posted on the official bulletin board in the Borough Hall.

PLEDGE OF ALLEGIANCE

Present: Councilman DeBerardine, Councilman Durante, Mr. Virgona, Mr. Polizzi, Mr. Prober, Mr. Stutman, Mr. Wortmann, Mr. Richardi

Absent: Mayor Minichetti, Mr. Preusch, Mr. Friedman, Ms. Rosenthal, Mr. Bakal

Also Present: Mark Madaio, Esq., Planning Board Attorney
Eileen Boland, P.E., Boswell Engineering

OATH OF ALLEGIANCE

Mr. Madaio administered the Oath of Allegiance to the following Board Members:

| | |
|-------------------------------|--------------------------------------|
| Councilman DeBerardine | 1 year term ending December 31, 2014 |
| Roy Polizzi | 4 year term ending December 31, 2017 |
| Bud Prober | 4 year term ending December 31, 2017 |
| Robert Richardi | 1 year term ending December 31, 2014 |

REORGANIZATION

1. Election of Chairman

Mr. Madaio requested a nomination for the election of Board Chairman.

A motion by Councilman DeBerardine nominating James Virgona to serve as Board Chairman seconded by Mr. Polizzi. No further nominations.

Roll Call

Ayes: 7 Councilman DeBerardine, Mr. Polizzi, Councilman Durante, Mr. Wortmann, Mr. Prober, Mr. Stutman, Mr. Richardi

2. Election of Vice Chairman

Mr. Virgona requested a nomination for the election of Planning Board Vice Chairman.

A motion by Mr. Virgona nominating Mr. Polizzi for the election of Planning Board Vice Chairman seconded by Councilman DeBerardine.

Roll Call

Ayes: 7 Mr. Virgona, Councilman DeBerardine, Councilman Durante, Mr. Wortmann, Mr. Prober, Mr. Stutman, Mr. Richardi

3. Appointment of Board Professionals

Mr. Virgona requested a nomination for the appointment of *Board Attorney*.

A motion by Mr. Virgona to appoint Mark Madaio, Esq., Planning Board Attorney seconded by Councilman DeBerardine.

Roll Call

Ayes: 8 Mr. Virgona, Councilman DeBerardine, Councilman Durante, Mr. Polizzi, Mr. Wortmann, Mr. Prober, Mr. Stutman, Mr. Richardi

Mr. Virgona requested a nomination for the appointment of *Board Engineer*.

A motion by Councilman DeBerardine to appoint Eileen Boland, Boswell Engineering, Planning Board Engineer seconded by Councilman Durante.

Roll Call

Ayes: 8 Councilman DeBerardine, Councilman Durante, Mr. Wortmann, Mr. Prober, Mr. Stutman, Mr. Richardi, Mr. Polizzi, Mr. Virgona

4. Adoption of Planning Board By-Laws

Mr. Virgona requested a motion to adopt the Planning Board By-Laws.

A motion by Councilman DeBerardine to adopt the Planning Board By- Laws seconded by Mr. Richardi.

Roll Call

Ayes: 8 Councilman DeBerardine, Councilman Durante, Mr. Wortmann, Mr. Prober, Mr. Stutman, Mr. Richardi, Mr. Polizzi, Mr. Virgona

5. Adoption of 2014 Meeting Schedule

Mr. Virgona requested a motion to adopt the 2014 Meeting Schedule.

A motion by Mr. Polizzi to adopt the 2014 Meeting Schedule seconded by Councilman Durante.

Roll Call

Ayes: 8 Mr. Polizzi, Councilman Durante, Mr. Wortmann, Mr. Prober, Mr. Stutman, Mr. Richardi, Mr. Richardi, Mr. Virgona

ADJOURNMENT (*Reorganization*)

A motion by Mr. Polizzi to adjourn the Reorganization Meeting at 7:48 p.m. seconded by Councilman Durante was unanimously approved by all Members present.

REGULAR MEETING

Mr. Virgona called the meeting to order at 7:50 p.m.

Present: Councilman DeBerardine, Councilman Durante, Mr. Prober, Mr. Stutman, Mr. Wortmann, Mr. Richardi, Mr. Bakal, Mr. Polizzi, Mr. Virgona

Mr. Madaio administered the Oath of Allegiance to Todd Bakal appointed to a (2) year unexpired term ending December 31, 2014.

1. Approval of Minutes:

A motion by Councilman DeBerardine to adopt the minutes of the December 11, 2013 meeting seconded by Mr. Prober was unanimously approved by all Members present.

RESOLUTIONS(*Memorialization*)

1. Soil Moving Application of Mark Petrone *Approved*
59 Eagle Rim Road – Block 705 –Lot 4
(*New Home Construction/Inground Swimming Pool*)

Mr. Madaio reviewed the Resolution. A motion by Councilman DeBerardine to adopt the Resolution as presented seconded by Mr. Prober.

Roll Call

Ayes: 4 Councilman DeBerardine, Mr. Prober, Mr. Richardi, Mr. Polizzi

2. Variance Application of **Fernando & Kim Garzon**
44 Carlough Road – Block 703 – Lot 2
(Front Yard Setback; Building Height/*Addition*)

Approved

Mr. Madaio reviewed the Resolution. Mr. Virgona requested the Resolution be amended to add the condition “*no parking in the curvature of the road along Carlough Road.*”
A motion by Councilman DeBerardine to adopt the Resolution as amended seconded by Mr. Richardi.

Roll Call

Ayes: 5 Councilman DeBerardine, Mr. Richardi, Mr. Prober, Mr. Polizzi, Mr. Virgona

PUBLIC HEARING

1. Variance Application of **Todd Berry**
22 Oak Drive – Block 1210 – Lot 4
(Side Yard Location Accessory Building Setback/*Inground Swimming Pool*)

Steven Honig, Esq, representing Mr. Berry, advised the applicant is requesting a variance to permit the construction of an in ground swimming pool on a long, but shallow lot. The variance is required because the pool is considered an accessory building and pools are not permitted in the side yard. Mr. Honig stated this is a classic C variance due to the unusual configuration of the lot preventing the pool being located anywhere else on the property.

Robert Weissman, P.E. was duly sworn by Mr. Madaio. Mr. Weissman testified to the depth of the lot and; if the pool were to conform to the required location and setbacks it would be 12 ft. from the rear setback line. The proposed location of the pool is 61.8 ft. from the street property line vs. 100 ft. required and 48 ft. from the side yard property line on the easterly side of the dwelling where the property slopes from west to east. A series of 3 ft. retaining walls are proposed along with substantial screening from the street and the neighboring properties. The variance is requested for the pool only; the proposed construction of the dwelling is compliant with all bulk requirements.

Mr. Weissman testified the house is not overbuilt, with no other place to locate the pool, a variance is being requested. Moving the house forward would not leave much depth for the pool behind the dwelling.

In response to comments from the Board, Mr. Weissman testified it is not feasible to rotate the pool, because that side of the house is for recreation. Regarding ground water issues, Mr. Weissman testified the basement is above ground water.

In response to comments from the Board regarding screening, Mr. Weissman testified a double row of evergreens is proposed around the walls, rear and sides. Additional plantings will prevent the pool from being visible from the street.

Mr. Weissman testified a 6 ft. high building plateau is being created within which to locate the pool and then a 4 ft. high fence around the upper wall. Landscaping includes a double screening of evergreens, with testimony to be provided by the landscape architect.

Discussion ensued regarding grading for the house and garage. Mr. Weissman testified the house is on grade on the right side, the high side of the lot. A reverse layout would require some kind of variance due to the shallowness of the lot. Mr. Weissman testified the lot does not meet the circle tangent test due to a slight curve in the road along the front line of the property, making this property a non-conforming lot, shy of the required 37, 500 s.f.

Board Members commented the proposed home is fairly large and deep.

Mr. Virgona opened the Hearing to Members of the Public regarding Mr. Weissman's testimony.

Scott De Carolis, 26 Oak Drive, expressed concern for the visual aesthetics as viewed from his pool. Mr. Weissman responded he would see a series of elevated walls.

Mauro Petrillo, Landscape Architect was duly sworn by Mr. Madaio. Mr. Petrillo testified to having prepared the Landscaping Plan – identified and marked **A-3**. Mr. Petrillo testified after visiting the site, he determined the side yard was the best location for the proposed pool, which will be heavily planted. The only person able to see the wall is the homeowner, and from the outside looking in, will see a heavily screened property. The proposed 12-14 ft. needle conifers, 10 - 12 ft. arborvitae are designed to be complimentary to the neighbors and to provide as much privacy as possible.

Mr. Petrillo testified the patio around the pool conforms to the setbacks, and is easily located 75 ft. from each of the neighboring pools.

Mr. Virgona opened the Hearing to Members of the public regarding Mr. Petrillo's testimony. No one appeared to provide comment.

Board Members discussed reconfiguring the plans to reduce the variances and meet requirements of the Ordinance.

Mr. Virgona opened the Hearing to Members of the public.

Scott De Carolis – 26 Oak Drive commented he has substantial concerns about the devaluation of his property due to the proposed retaining walls being very visible to his side of the property; the shading of his property as a result of the walls; and a concern for the existing drainage.

With no further comments from the Board or public, Mr. Virgona closed the Hearing.

Mr. Honig requested the application be carried to another meeting. Discussion followed.

Mr. Madaio advised the Board will vote on this application.

A motion to deny the application by Councilman DeBerardine seconded by Councilman Durante.

Roll Call

Ayes: 8 Councilman DeBerardine, Councilman Durante, Mr. Wortmann, Mr. Stutman, Mr. Richardi,

Mr. Bakal, Mr. Polizzi, Mr. Virgona

Nay: 1 Mr. Prober

2. Variance & Soil Moving Application of **David & Sydelle Aarons**
56 Echo Ridge Road – Block 916 – Lot 14
(Building Height; Soil Moving/*New Home Construction*)

Robert Simon, Esq., representing the applicant, advised this is an application for a height variance in connection with the construction of a single family home. Mr. Simon advised the Record failed to publish notice for the soil moving application, however notice was published and carried with regard to the height variance application.

Mr. Simon advised the plans originally submitted for review interpreted the height as being measured from the original grade not existing grade, with the applicant taking the position no variance was required since the height was computed as 34.5 ft. Mr. Statile, Borough Engineer, took the position that height is measured from the lowest existing ground surface elevation under the new dwelling footprint, computing the proposed height as 38.0 ft. vs. 35 ft. required.

Mr. Simon explained the original elevation went down a number of feet, only affecting a small portion of the house. Although the actual height of the house is less than 30 ft., the applicant is asking for relief in the alternative from the Board's interpretation only based on Mr. Statile's review of the application if a variance is required in the first place. If it is determined a variance is needed, the applicant will ask for that relief and provide proof. The proposed plan eliminates a number of non-conformities: the pool and tennis court setbacks, as they are both being eliminated with this application.

Robert J. Ring, Architect, duly sworn by Madaio, testified to having prepared the Architectural Plans submitted and identified as *A-1, A-1a, A-1b*. Mr. Ring testified he is familiar with the plan and surrounding area. Mr. Ring testified everything is being removed from the site: the existing home, swimming pool, and tennis court providing a clean slate to construct a 2 story, (5) bedroom dwelling with a full basement and (2) car garage. The first floor features a 9 ft. ceiling and an 8 ft. ceiling on the second floor. The right rear portion fell into the tennis court and determined a height variance was needed. Mr. Ring testified the height measured from the lowest grade is 30.6 ft.

Mr. Virgona opened the Hearing to Members of the public.

Roberta Lawrence, 79 Rolling Ridge Road, deferred questions.

Douglas Doolittle, P.E. duly sworn, testified as an Engineer and Planner. Mr. Doolittle testified To being familiar with the property and creating the engineering plans, identified as *A-3, Site Plan, Soil Erosion and Sediment Control Plan and Aerial Radius Map*; Mr. Doolittle reviewed the existing conditions and plans to demolish the old dwelling, removing the pool and tennis court on the oversized lot containing 40, 627 s.f. Mr. Doolittle testified the property sloping from front to back, was 'cut in' to provide a level playing surface for the tennis court. The applicant proposes to fill in the tennis court and create a more level and graded property for the construction of the new home. Mr. Doolittle

reiterated the dispute between the applicant's Engineer and the Borough Engineer's method of calculating the height. Mr. Doolittle testified the wall and court were dug 3 ½ ft. into the ground. The final grade from the garage floor would provide for a height of 30.6 ft., the rear grade and patio will be a little higher.

Mr. Doolittle reviewing the drainage plan, testified reducing impervious coverage and removing the pool; and providing (3) seepage pits where none currently exist, will control surface water. The impervious coverage of the tennis court will become a flat lawn, retaining water on the property. In terms of drainage, the development of this property provides a substantial benefit to surrounding properties than what exists. Mr. Doolittle stated there would be no difficulty in complying with recommendations provided in Mr. Statile's review letter dated January 6, 2014, submitted and identified as **B-2**, except for the comment "*to lower the dwelling by 3 ft. and grading*". Mr. Doolittle testified it would be a negative, basically involving the removal of an additional 1,000 c.y. of soil, removal of more trees, and causing those trees left on the high side to die in a few years.

Mr. Virgona opened the Hearing to Members of the public for questions regarding Mr. Doolittle's testimony.

Richard Nueundorff, 52 Echo Ridge Road requested clarification of the existing grade of tennis court at the southwest corner of the house. Mr. Doolittle responded it is being raised 7 ft.

Roberta Lawrence, 79 Rolling Ridge Road, requested clarification of the grade after the tennis court has been filled and the location and depth of the septic field. Mr. Doolittle responded it is not a mounded system.

Brad Meumann, Landscape Architect duly sworn by Madaio, testified being familiar with the property and to having prepared the following exhibits: **A-4: Landscape Plan (uncolored) dated January 2, 2014; A-5: Landscape Plan (colorized version)**. Mr. Meumann testified to the grading, trees to be removed and trees that can be saved. Mr. Meumann addressed the proposed screening along the sides and rear of the property and forested buffer along the front. Mr. Meumann testified he walked the site with Matt Koski, Shade Tree Commission Site Plan Review Chair to review the plan that includes (27) trees proposed for removal; (23) deciduous trees; (39) coniferous trees; (94) significant shrubs; and (330) ground covers all proposed for planting. E-Mail correspondence from Matt Koski regarding the proposed landscaping plan were submitted and identified as **B-3** and **B-4**.

In response to comments from the Board, Mr. Meumann testified any drainage issues will benefit by saving and planting of additional trees. Mr. Meumann described the proposed landscaping plan as robust and ecologically a great plan.

Mr. Virgona opened the Hearing to Members of the Public regarding Mr. Meumann's testimony.

Roberta Lawrence, 79 Rolling Ridge Road, expressed her concern regarding drainage issues.

Mr. Meumann testified all that is required of the applicant is to plant (7) trees in the front. The applicant is implementing a plan consisting of many trees, shrubs and ground cover. The runoff is reduced by removing the existing impervious coverage: the tennis court, pool, and by replacing with green, will dramatically reduce the existing runoff.

Joseph Lagana, 60 Echo Ridge Road, commented on the number of existing dead trees and grading.

Mr. Meumann testified no grading is planned in the area of where trees are remaining.

Mr. Doolittle testified to the positive and negative criteria and reviewed the proofs under C-1: and C-2.

Mr. Doolittle testified he can reduce the quantity of soil being moved by adding a drain and inlet raised back up to the existing grade. In terms of the negative criteria, the proposed development is consistent with new homes in the neighborhood and an aesthetic improvement, with the benefits outweighing the detriments.

Mr. Virgona opened the Hearing to Members for questions of the Planner. No one appeared to provide comment.

Mr. Simon reiterated the applicant is seeking (1) variance, 38 ft. vs. 35 ft. and under the circumstances, request relief be granted. The soil moving can be re-engineered, making a public hearing not necessary.

Mr. Madaio reviewed natural and existing grade. Discussion followed.

A motion by Councilman DeBerardine seconded by Councilman Durante to approve the application with an amended grade change of 5 ft. on the east side of the property.

Roll Call

Ayes: 9 Councilman DeBerardine, Councilman Durante, Mr. Wortmann, Mr. Prober, Mr. Stutman, Mr. Richardi, Mr. Bakal, Mr. Polizzi, Mr. Virgona.

PUBLIC COMMENT

Mr. Virgona opened the Meeting to Members of the public. No one appeared to provide comment.

ADJOURNMENT

A motion to adjourn by Councilman DeBerardine seconded by Councilman Durante was unanimously approved by all Members present. Meeting adjourned at 10:20 p.m.

Respectfully submitted,

Linda Marmora
Clerk

