

BOROUGH OF UPPER SADDLE RIVER PLANNING BOARD ZOOM MEETING MINUTES

THURSDAY, APRIL 22, 2021

Mr. Virgona called the meeting to order at 7:03 pm. 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 e-mail to The Record and The Ridgewood News on December 19, 2020 at which time the date, time, place and purpose of the meeting was set forth and notice was posted on the Boro website: www.usrtday.org

PLEDGE OF ALLEGIANCE

Present: Mr. Virgona, Mr. Polizzi, Mr. Rotella, Mr. Preusch, Mr. Bakal, Mr. Donato, Mr. Jacobs, Mr. Richardi

Absent: Mayor Minichetti, Mr. Bonjuklian, Ms. Schaum

Also Present: Mark Madaio Esq., Planning Board Attorney
Marisa Tiberi PE, Boswell Engineering/Borough Engineer

APPROVAL OF MINUTES:

A motion by Mr. Richardi to adopt the minutes of the March 25, 2021 meeting seconded by Mr. Rotella.

Roll Call

Ayes: 6 Mr. Richardi, Mr. Preusch, Mr. Bakal, Mr. Donato, Mr. Polizzi, Mr. Virgona

PUBLIC HEARING

1. Application of **Jack Daniels Motors/Porsche**
120 Pleasant Avenue – Block 1301 – Lots 1.02 & 2
(Amended Site Plan Approval/*Proposed Installation of Storage Container*)

Mr. Virgona announced this application is carried to the Wednesday, May 12, 2021 meeting at 7:00 pm via Zoom without further noticing required.

2. Variance Application of **Robert & Trish Levinsohn**
35 Oak Drive – Block 1204 – Lot 16
(Rear Yard Setback; Side Yard Setback; Height/*Existing Treehouse*)

Robert & Trish (Patricia) Levinsohn, applicants were duly sworn by Mr. Madaio.

Mr. Madaio advised the tree house is to be treated as an accessory structure, therefore all Board Members present are eligible to participate in this application requiring (3) variances based on the statutory requirements.

Mr. Levinsohn testified the tree house was constructed 10 months ago for his son during the pandemic without a permit. The tree house was constructed in the present location as per the manufacturer's recommendation that it be located in a hardwood tree having a diameter of at least 16 inches.

Mr. Levinsohn explained there is a limited selection of trees meeting these criteria on his property that are not located in a water saturated area. It was determined the safest location for the accessory structure was on a landscaping bed rather than on the lawn. This location resulted in the tree house having a 11.1 ft rear yard setback vs. 35 ft. required and the side yard setback of 34. ft. vs. 35 ft. required. Mr. Levinsohn testified he observed many tree houses in the area, and noted "tree house" does not appear in the Zoning Code.

In response to comments from the Board, Mr. Levinsohn testified the best location was chosen prior to construction.

Ms. Tiberi reviewed the comments in the Boswell review letter dated March 23, 2021 based upon the revised Survey dated through March 12, 2021 prepared by Gary Hauenstein PLS. The tree house requires the following variances: 11.1 ft. rear yard setback vs. 35 ft. required; 34.1 ft and 29.9 ft side yard setback to the base of the steps vs. 35 ft. required; and .02 ft. height variance based on the ridge elevation of 120.2 vs. 120.0 ft. permitted.

Mr. Virgona commented the non-conforming shed located on the property was accepted by the Zoning Officer in 2017.

In response to comments from the Board, Mr. Levinsohn testified there were no other trees having a diameter of 16 inches that were not located in unsaturated ground to safely support the tree house. Mr. Levinsohn reviewed photos he had taken of the property depicting the site conditions.

Patricia Levinsohn provided testimony regarding planting of additional screening as a benefit to the neighbors if the tree house was to be approved.

A motion to open the Hearing to Members of the public by Mr. Polizzi seconded by Mr. Richardi.

Paul Atterbury and Christine Arnold, 33 Oak Drive, were duly sworn by Mr. Madaio.

Mr. Atterbury and Ms. Arnold stated their property is located to the left of the property in question. Mr. Atterbury provided photos of the tree house as seen from their property, commenting the tree house is not screened, is an eyesore, affects property values and they would prefer if it were to be moved.

Discussion followed

Mr. Atterbury and Ms. Arnold commented perhaps the tree house could be made conforming and screened.

With no further comments from the public, Mr. Virgona closed that portion of the Hearing.

The Board provided comments pertaining to environmental issues and safety concerns.

Mr. Madaio advised the tree house is not a play set; and questioned if they have proved a unique

and profound hardship meeting the burden of proof for both the positive and negative criteria.

Discussion followed.

Mr. Virgona questioned if the applicant wanted to proceed to a Board vote, or carry the application to another meeting in order to redesign the tree house demonstrating it is not a detriment to the neighbors and surrounding properties, and to the zone plan and zoning ordinance.

Mr. and Ms. Levinsohn advised they would carry the application to the next meeting in order to present a substantially changed application satisfying the negative and positive proofs.

Mr. Virgona announced this application is carried to the Wednesday, June 9, 2021 ZOOM meeting at 7:00 pm without further noticing required.

ADJOURNMENT

A motion to adjourn by Mr. Bakal seconded by Mr. Preusch was unanimously approved by all Members present. Meeting adjourned at 8:33 pm.

Respectfully submitted,

Linda Marmora, Clerk

