

BOROUGH OF UPPER SADDLE RIVER PLANNING BOARD MEETING MINUTES

WEDNESDAY, DECEMBER 8, 2021

Mr. Virgona called the meeting to order at 7:00 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 fax and mail to The Record and The Ridgewood News on December 10, 2020 at which time the date and purpose of the meeting was set forth and notice was posted on the Boro Website: www.usrtoday.org.

PLEDGE OF ALLEGIANCE

Present: Mr. Virgona, Mr. Polizzi, Mayor Minichetti, Mr. Masi, Mr. Preusch, Mr. Bakal, Mr. Jacobs, Mr. Bonjuklian

Absent: Mr. Donato, Mr. Richardi, Mr. Wiederholz

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

APPROVAL OF MINUTES: November 10, 2021

A motion by Mr. Polizzi to adopt the minutes of the November 10, 2021 meeting seconded by Mr. Jacobs.

Roll Call

Ayes: 7 Mr. Polizzi, Mr. Jacobs, Mayor Minichetti, Mr. Masi, Mr. Preusch, Mr. Bakal
Mr. Bonjuklian

RESOLUTIONS (*Memorialization*)

1. Application of **80 Lake Street LLC**
80 Lake Street – Block 1005 – Lot 1

Mr. Madaio reviewed the Resolution. A motion by Mr. Polizzi to adopt the Resolution as presented seconded by Mr. Preusch.

Roll Call

Ayes: 6 Mr. Polizzi, Mr. Preusch, Mayor Minichetti, Mr. Jacobs, Mr. Bakal, Mr Virgona

2. Application of **Orchard Hills Estates, LLC**

Block 1017- Lot 2

Mr. Madaio reviewed the Resolution. A motion by Mr. Preusch to adopt the Resolution as presented seconded by Mr. Jacobs.

Roll Call

Ayes: 6 Mr. Preusch, Mr. Jacobs, Mayor Minichetti, Mr. Masi, Mr. Bakal, Mr. Bonjuklian

PUBLIC HEARING

1. Application of **Robert Rodriguez & Yunaima Hernandez**
12 Spook Ridge Road – Block 510 – Lot 9
(Lot Coverage/31.8% Existing vs 30% Permitted)

Bruce Whitaker Esq representing the applicant, advised the applicant is requesting variance relief for the improvements installed resulting in lot coverage over the 30% maximum permitted. The applicant received approval for the construction of a swimming pool and patio area and driveway improvements in 2017 that was conforming to the permitted lot coverage. The As-Built Survey dated August 18, 2018 indicates 31.8% total lot coverage vs. 30% permitted. The additional coverage is due to a larger pool and patio having been installed.

The following exhibits were submitted and identified: **A-1:** *Final As Built dated August 18, 2018 last revised October 22, 2021 prepared by Christopher Lantelme PE*; **A-2:** Series of Photographs; **A-3:** *Zoning Permit Application and Building Permit*; **A-4:** *Additional Photographs*.

Sean McClellan, PE and Robert Rodriguez applicant, were duly sworn by Mr. Madaio. Mr. Rodriguez testified the contractor understood the permeable pavers installed in the driveway would not be calculated for lot coverage, and he was not aware that approval for the pavers should have been obtained before installation. Mr. McClellan testified other than the lot coverage, all other bulk requirements adhere to the Zoning Code.

In response to comments from the Board, Mr. McClellan testified the lot coverage expansion is attributed to the pool and patio improvements and not the driveway. The installation of the permeable pavers improved the drainage issues impacting the neighbor's driveway.

A motion to open the Hearing to Members of the public by Mr. Jacobs seconded by Mr. Preusch.

Nancy Novak, 8 Spook Ridge Road deferred comment to the end of the Hearing.

Discussion ensued regarding the proper installation of the pavers and what was overbuilt resulting in the 31.8% lot coverage.

In response to comments from the Board, Mr. Rodriguez testified when he asked for the larger pool, patio and enclosed porch the impact was not expected and the contractor did not advise of any issues.

Further discussion ensued as to what could be removed in order to render the As-Built closer to the approved original plan.

A motion to open the Hearing to Members of the public for general comments regarding the application.

Nancy Novak, 8 Spook Ridge Road duly sworn by Mr. Madaio, commented the lot was overdeveloped from what was approved and revised Plans were submitted several times.

The Board recessed at 8:36 pm and reconvened at 8:40 p.m.

Mr. Whitaker advised the applicant would reduce the lot coverage to 31% by eliminating a 309 s.f. portion of the patio between the pool and the dwelling unit.

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

A motion to approve the application with the agreement to reduce the right rear portion of the patio by 309 s.f. by Mr. Jacobs seconded by Mr. Preusch.

Roll Call

Ayes: 8 Mr. Jacobs, Mr. Preusch, Mayor Minichetti, Mr. Masi, Mr. Bakal, Mr. Bonjuklian, Mr. Polizzi, Mr. Virgona

2. Application of Roger Masi & Lindsay Kohler 3 Windsor Gate – Block 107 – Lot 9

(Setbacks: Rear Yard; Front Yard Setback; *Pool Location/Pool, Cabana, Patio w BBQ, Equipment Storage*)

Jennifer Knarich, Esq representing the applicant provided a brief overview of the application for the construction of a pool, pool cabana pool, rear patio with fire pit and barbeque structure requiring minor soil movement approval and (6) variances. Ms. Knarich reviewed the requested variances: *Rear Yard Patio: 19.1 ft rear yard setback proposed vs. 35 ft. required; BBQ setback of 28.8 ft proposed vs. 35 ft. required; Pool Cabana: 15 ft. proposed vs. 35 ft. required; Pool Patio: proposed setback 25 ft. vs 35 ft required; Pool Equipment: 15 ft. proposed vs 35 ft. required; Pool Location: proposed front setback of 87.9 ft. vs. 100 ft. required & side yard proposed vs. rear yard required.*

The following exhibits were submitted and identified: **A-1:** Site Plan dated thru August 28, 2021 Prepared by Omland & Osterkorn; **A-2:** Aerial View (Google); **A-3:** Survey dated Butler Surveying dated November 15, 20215; **B-1:** Boswell Engineering Report dated November 24, 2021.

Kersten Osterkorn PE, duly sworn by Mr. Madaio, testified to visiting the site and reviewing the Boswell Engineering Review letters. Ms. Osterkorn testified to the existing conditions of the subject property being a corner lot deemed to have (2) front yard setbacks and that the property slopes downward toward the rear yard setback from Windsor Gate, rendering it impossible to place any improvements in the front yard setback; the rear yard setback is of minimal width. Ms. Osterkorn reviewed the requested variances, testifying the only location for the proposed pool or any improvements is in the large side yard between the dwelling the norther property line.

In response to comments from the Board, Ms. Osterkorn testified the existing tennis court is to be removed, thereby significantly reducing lot coverage. The proposed cabana will not feature a bathroom and the proposed location provides a functional and green space. The quantity of soil to be moved is 130 cubic yards cut and 130 cubic yards of fill.

During the course of discussion, the following variances requested were eliminated: proposed 15 ft. setback for the cabana vs. 35 ft required; proposed 25 ft. pool patio setback vs. 35 ft. required was reduced to 30 ft, requiring a 5 ft. variance; and proposed 15 ft. setback for the pool equipment.

Ms. Knarich advised the applicant has amended the application and is now requesting the following (4) variances: Swimming Pool Location in the Side Yard; Pool Equipment located in the Side Yard; Front Yard Setback of 87.9 ft provided vs. 100 ft. required; Pool Patio setback of 30 ft. provided vs. 35 ft. required. The applicant will work with the Shade Tree Commission addressing the issue of tree removal and replanting in the non-disturbance buffer.

A motion by Mr. Bonjuklian to open the Hearing to Members of the public regarding the testimony provided by Ms. Osterkorn seconded by Mr. Bakal. No one appeared to provide comment.

Ms. Osterkorn, PE, PP, providing testimony as a Professional Planner, testified the applicant has met both the positive and negative criteria for the Board to grant both a C-1 and C-2 variances due to the hardship created by the corner lot having (2) front yard setbacks and being wider than deeper. The granting of the variances provides no substantial detriment to the zoning plan or public good and the granting of the variances promotes the purposes of planning.

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

A motion to approve the minor soil moving permit and amended variance application by Mr. Polizzi seconded by Mr. Preusch.

Roll Call

Ayes: 7 Mr. Polizzi, Mr. Preusch, Mayor Minichetti, Mr. Jacobs, Mr. Bakal, Mr. Bonjuklian, Mr. Virgona

Mr. Virgona announced the next Planning Board Meeting is Wednesday, January 12, 2022 at 7:00 pm via ZOOM. Meeting Agenda and Materials are posted on the Boro Web-site: www.usrtoday.org

ADJOURNMENT:

A motion to adjourn by Mr. Polizzi seconded by Mr. Bonjuklian was unanimously approved by all Members present. Meeting adjourned at 9:42 p.m.

Respectfully submitted,

Linda Marmora, Clerk

