

BOROUGH OF UPPER SADDLE RIVER PLANNING BOARD MEETING MINUTES

WEDNESDAY, MARCH 9, 2022

Mr. Virgona called the meeting to order at 7:01 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 January 13, 2022 at which time the date, time, place 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, Mr. Masi, Mr. Preusch, Mr. Bakal, Mr. Jacobs, Mr. Richardi, Mr. Bonjuklian, Mr. Wiederholz

Absent: Mayor Minichetti, Mr. Donato

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

APPROVAL OF MINUTES

A motion by Mr. Masi to adopt the minutes of the February 24, 2022 meeting seconded by Mr. Preusch.

Roll Call

Ayes: 8 Mr. Masi, Mr. Preusch, Mr. Bakal, Mr. Jacobs, Mr. Richardi, Mr. Wiederholz, Mr. Polizzi, Mr. Virgona

RESOLUTION (Memorialization)

1. Application of **Lori Kramer – 70 Rolling Ridge Road – Block 915 – Lot 25** **APPROVED**
(Side Yard Setback/Driveway & Retaining Wall)

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

Roll Call

Ayes: 8 Mr. Preusch, Mr. Richardi, Mr. Masi, Mr. Bakal, Mr. Jacobs, Mr. Wiederholz, Mr. Polizzi, Mr. Virgona

PUBLIC HEARING

(Continuation of Public Hearing held Wednesday, October 13, 2021 via ZOOM)

1. Application of **Ahmad – 20 Pleasant Avenue – Block 1306 – Lot 1.03**
Major Soil Moving Permit w Variances (*Construction of New Home with Improvements Eastern Side Yard Setback/Driveway; Front Yard/Wall Height/Piers*)

Arthur Neiss Esq, (Beattie Padovano) advised he is representing the objectors to this Application, Anna and Patrick Pochatko, 1 Knollwood Road – Block 1306 – Lot 1.01.

Matthew Capizzi Esq, representing the applicant, provided a re-cap of the Application, Exhibits and testimony presented to the Board at the Public Hearing held October 13, 2021. The following additional Exhibits were identified: **A-7**: *Zoning Application with Rider – 20 Pleasant Avenue – dated January 24, 2022*; **A-8**: *Revised Site Plan – 20 Pleasant Avenue – (5) sheets prepared by Houser Engineering dated January 11, 2022*; **A-9**: *Retaining Wall Easement*; **A-10**: *Subdivision Map highlighting the Driveway, dated August 1, 2004*; **A-11**: *Houser Engineering Plan (4) Sheets dated January 11, 2022*; **A-12**: *Updated Aerial Exhibit dated March 9, 2022*; **B-2**: *Boswell Review Letter dated January 27, 2022.*

Mr. Capizzi referenced the Planning Board Resolution Granting Subdivision Approval dated July 26, 2001 (**Exhibit A-4 – Section 5**) Mr. Capizzi maintained it was his position the Application is variance free as all the zoning and soil moving aspects pertaining to the driveway and retaining walls were supported and approved by the Planning Board in 2001.

Discussion followed.

Mr. Capizzi advised based upon the Board’s comments provided at the October 13, 2021 Public Hearing, the driveway and retaining walls have been modified; the Architectural Plan remains as presented.

Tyler VanderValk, PE (Houser Engineering) duly sworn by Mr. Madaio, testified to preparing the Site Plan, dated January 11, 2022 (**A-11**). Mr. VanderValk testified to the environmental restrictions associated with the triangular shaped vacant lot attributed to the Pleasant Brook aligned along the property frontage. Mr. VanderValk testified the retaining walls are required due to the change of grade. The higher walls are in the front, the rear walls balance the site from a soil moving prospective and provide the least impact to the neighboring property.

Discussion followed regarding the interpretation of wall height.

In response to the Board, Mr. Pomante (Boswell Engineering) commented any walls above (4) ft in height require a variance. The (2) 6 ½ ft. walls separated by 2 ft. is not great enough and is actually (1) wall.

Mr. Neiss, referenced comments provided in the Boswell review letter January 27, 2022, related to the variance for the driveway and the soil movement calculations.

A motion to open the Hearing to Members of the public by Mr. Bonjuklian seconded by Mr. Jacobs for questions regarding the testimony provided by Mr. VanderValk.

No one appeared to provide comment.

The Board recessed at 8:55 pm and reconvened at 9:00 pm.

Joseph Vince, PP (Schwanewede Hals Engineering) duly sworn by Mr. Madaio advised he was appearing on behalf of the Applicant. Mr. Vince testified to reviewing the Site Plan, Planning Board Resolution dated July 26, 2001 and visiting the site. Mr. Vince testified the creation of the Subdivision was perfected by filing of the Deed and Map and is legally binding. The driveway location is consistent with the Filed Map and the Board Resolution. The retaining walls were constructed by Mr. Ganzhorn via a Deed of Easement between himself and Lot 1.01 dated June 30, 2008; this easement runs with the land.

Mr. Vince reviewed the contours of the property testifying the constraints of the environmental buffers limit the area of where a dwelling could be constructed. If the dwelling were to be moved forward it would appear massive; the tiered walls are strictly required due to the topographic and environmental restrictions.

In response to comments from the Board, Mr. Vince testified any development of the property would require retaining walls. The 12 ft. driveway has been reduced to a width of 11 ft. Mr. Vince testified the Applicant has more than satisfied the negative criteria for granting a C-2 variance; the relief requested can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan (Master Plan) and zoning ordinance.

A motion by Mr. Preusch to open the Hearing to Members of the Public for questions regarding the testimony provided by Mr. Vince seconded by Mr. Polizzi. No one appeared to provide comment.

Mr. Neiss, questioned if Mr. Vince had reviewed the Memo provided by Police Chief Rotella concerning the placement of the driveway, dated October 29, 2021 identified a **O-1**. Mr. Vince testified he had reviewed the Memo, but disagrees, as the driveway location above the flood line had already been approved by Resolution.

Mr. Neiss further questioned Mr. Vince regarding the window well encroaching into the triangle.

In response, Mr. VanderValk testified if the window well encroaches it will be relocated.

Further questioning ensued regarding the required buffer areas per Ordinance 137-7 and 137-8.

Mr. Capizzi objected to the legal arguments.

In response to comments from the Board, Mr. Capizzi advised the Applicant is responsible for the maintenance of the retaining walls. Mr. VanderValk advised the soil test logs are reliable and does not change the calculations as provided on the Site Plan – Sheet 1. Mr. Pomante commented the soil logs should be updated.

In response to comments from the Board regarding the removal of the guardrail, Mr. VanderValk testified the Applicant has not requested approval from the appropriate authority. Mr. Preusch advised if the guard rail located on Pleasant Avenue (a Municipal Road) is removed or relocated it must meet the current DOT guidelines.

Mr. Capizzi advised the Landscaping Plan will be submitted and presented at the next meeting.

A motion by Mr. Preusch to open the Meeting to Members of the Public seconded by Mr. Jacobs. No one appeared to provide comment.

Mr. Capizzi requested continuation of the Public Hearing regarding the Application be carried to the Thursday, March 24, 2022 meeting without further noticing required.

Mr. Capizzi advised testimony at the next Hearing will be provided by the Landscape Architect and the Traffic Engineer, Louis Luglio PE.

Mr. Neiss advised Carl Peters PE will provide testimony on behalf of the objectors.

Mr. Virgona announced this Application is carried to the Thursday, March 24, 2022 meeting at 7 pm *via ZOOM* without further noticing required. Meeting materials are available on the Boro Website: www.usrtoday.org

ADJOURNMENT

A motion to adjourn by Mr. Preusch seconded by Mr. Polizzi was unanimously approved by all Members present. Meeting adjourned at 10:06 pm.

Respectfully submitted,

Linda Marmora, Clerk