

Minutes of the Board of Adjustment of the
Township Of Hanover
November 6, 2018

Chairman Stanziale called the Meeting to order at 7:31 PM and The Open Public Meetings Act statement was read into the record:

Board Secretary, Kimberly A. Bongiorno, LUA, took the Roll Call.

In attendance were Members: Alwell, Donaldson, Giorgio, Hingos, Neidhardt, Chairman Stanziale, and Walsh

Absent were Members: Caruso and Fomchenko

Also present were Board Attorney, Daniel Bernstein, Township Planner Blais Brancheau and Township Engineer, Gerardo Maceira, PE.

Public Business Presented

I. RESOLUTIONS – None

II. MINUTES – September 4, 2018

A motion to approve the minutes from September 4, 2018 as written was moved by Member Hingos and seconded by Member Neidhardt. Member Walsh abstained from the vote. A voice vote was held and all eligible members voted in favor of approving the minutes as written.

III. PUBLIC HEARINGS

1)	CASE NO.	1827
	APPLICANT	GAMAR, LLC
	OWNER LOT 28	GAMAR, LLC
	OWNER LOT 30	ANTHONY AND LOIS DECARO
	LOCATION:	299 WHIPPANY ROAD WHIPPANY
	BLOCK: 4701	LOT: 28 & 30
		ZONE: R-15

Applicant is seeking to amend a previously approved Final Major Subdivision, together with approved bulk variances. Said approval is to be extended and amended to reflect a shortening of the constructed road development, resulting in a slight configuration of the five (5), one (1) family residential lots established by the Major Subdivision. CASE PARTIALLY HEARD AND CARRIED FROM SEPTEMBER 4, 2018.

Board decision due by: NOVEMBER 6, 2018

Case carried by letter to December 4, 2018. The Board Secretary read the letter into the record.

2)	CASE NO.	1826
	APPLICANT/OWNER	DOUGLAS & JENNIFER ROTHACKER
	LOCATION:	90 NORTH BELAIR AVENUE CEDAR KNOLLS
	BLOCK: 802	LOT: 14
		ZONE: R-10

Applicant is seeking “C” variance relief in order to construct a two-story addition, front porch, and retaining wall. Applicant is seeking relief from rear yard setback, rear yard fence height, required side yard, and building height setback.

Board decision due by: NOVEMBER 30, 2018

Jennifer Rothacker was sworn in by the Board Attorney.

Douglas Rothacker was sworn in by the Board Attorney.

Frederick Meola – Engineer for the Applicant

- Sworn in by the Board Attorney.

Tiina Vaska – Architect for the Applicant

- Gave educational and professional background.
- Accepted by the Board as a Professional Architect.

Mrs. Rothacker

- Made a personal statement.
- They bought the home two years ago and they knew that it would be their forever home.
- They love this town and they don't want to leave it.
- Their house is currently bursting at the seams.
- They have three young daughters that will turn into teens which will make having only one full bathroom a challenge.
- They have thought out their new design very carefully.

Mrs. Vaska

- Exhibit A-1: colorized survey
- The property is 9,800 sq. ft.
- The lot slopes from front to back.
- Wants to add 328 sq. ft. on each floor.
- The home would be 2,388 sq. ft.
- Described the existing conditions.

- There is no way to build in the existing building envelope.
- They are proposing a front porch with a wraparound effect.
- They are asking for several variances.
- Discussed which front yard setback they were asking for.
- They are also asking for a side yard variance and a height variance.
- The front yard setback is 40 ft. and a porch is allowed to be 4 ft. so what they are seeking is an additional 1.3 ft.
- Would like the full 6 ft. wide porch.
- Proposing a 2 story addition on the side of the house.
- Initially did not realize there would be a height issue.
- Because of the height of the addition the side yard is required to be bigger so they are asking for a larger variance.
- A 7.6 ft. side yard setback is being requested.
- This brings them closer to the neighbor's home.
- The neighbor's home is 16.1 ft. from the property line.
- There would be about 24 ft. between the homes and while it is not the largest in the neighborhood, it is also not the smallest.
- We have no problem with lot coverage as we are not going over.

Mr. Neidhardt

- Questioned if the addition could be built somewhere else on the property.
- Just to clarify, you are saying it is physically possible, just not desirable?

Ms. Vaska

- We cannot get rid of the garage to put it there and it would not work anywhere else.
- Correct, hypothetically and physically it could be done but it is not a desirable option.

Chairman Stanziale

- Questioned why the addition could not be over the garage.

Ms. Vaska

- There is a walk out basement and the garage is under the deck/house.
- Exhibit A-2: colorized floor plan
- The fireplace butts into the setback.
- The fireplace is gas and does not require a chimney.
- Extending out the back would have interfered with the driveway, garage, and deck.
- It would have also created a much larger home.
- Exhibit A-3: colored elevation plan.
- Reviewed the plans showing the elevations of the home from the front, rear, and side and showed what was existing and what was being proposed.
- You can see how the property slopes down towards the back of the property.
- Exhibit A-4: landscape plan

- Reviewed the proposed landscape plan.
- Exhibit A-5: Aerial view of the property
- Reviewed the existing home and the square foot sizes of the homes on the street.
- Exhibit A-6: photo board of homes on the street within a 200 ft. radius
- The home being proposed fits in well with the rest of the homes in the neighborhood.
- Exhibit A-7: photo of 42 Mountain Avenue, a home with a two story addition
- Compared the addition they want to build to the home on 42 Mountain Avenue.
- Exhibit A-8: Showing the front elevation of the two story addition at 42 Mountain Avenue
- Reviewed the variances again and referred to exhibit A-1.
- The slope amplifies the problem because it makes a 15 ft. side yard requirement where 10 ft. would be required if there were no slope.

Mr. Meola

- Addressed how much angle would be needed to put a ladder up to the side of the home.

Mr. Bernstein

- Explained each case is on its own facts and that one granted variance does not set precedence for future applications.

Blais Brancheau and Gerardo Maceira were sworn in by the Board Attorney.

Mr. Maceira

- It is a 70-75 degree angle.
- It needs to be at least 5 ft. out from the wall.
- The proposed landscaping may interfere with the ability to place a ladder there.

Opened to the public for questions

Seeing and hearing none

Closed to the public

Mr. Meola

- Discussed the history of the creation of the neighborhood.
- It was part of the old Ford Estate and in 1913 the lots started to be created.
- Described the lots and their sizes in the neighborhood.
- Reviewed the character of the neighborhood.
- Discussed the 10 ft. drainage easement at the rear of the properties.
- They are willing to provide an easement to allow for drainage.
- This is a modest addition.
- Does not have any issues with the items in Blais' or Gerry's reports.
- They can meet all of the conditions.

- Addressed the retaining wall and why it is being requested.
- The retaining wall will be right outside the drainage easement.
- The retaining wall is also helpful for safety.
- Water runoff will go into the drainage pipe.
- The retaining wall will be just outside the easement.
- There is no wall there now, just a drop.

Mr. Rothacker

- The retaining wall is to level out the property so the yard can be used.

Mr. Meola

- This will not be perfectly flat but the slope will be less.
- It could be brought to level but they are trying to take the neighbors and the ordinance into consideration.
- The fence will be on the wall or just behind the wall.
- They can create a swale down to drain.
- Can also tie the roof leaders into a grate.
- Described what a swale is and how it is created.

Chairman Stanziale

- Can the roof leaders be tied into the drainage system in the back?

Mr. Meola

- They can be but I assumed Gerry wanted them to be tied into the grate and then they will go into the drain that goes to Summit Avenue.

Mr. Maceira

- That is correct.

Mr. Neidhardt

- Questioned why the fence cannot be setback further.

Mr. Meola

- Described what a swale is and how it is created.

Mr. Brancheau

- Addressed the setback requirement for the fence and the wall.
- It is required by ordinance to be 7.7 ft. back.

Mr. Neidhardt

- The extent of the variance request is extreme for the side yard setback.
- Does not see a demonstration of extreme hardship.
- Sees this as being created by design and desires.
- Has not seen the hardship demonstrated.
- The zoning is created for a reason and is not seeing that being demonstrated in this case.
- The property is not causing the hardship, the design of the proposed home is.

Chairman Stanziale

- Believes that the slope is the issue and the hardship.
- The uniqueness of this property is the slope.

Mr. Bernstein

- Explained the flexible C2 variance.

The Board took a 10 minutes break

Back on the record

Mr. Meola

- The Architect will explain the height problem.

Ms. Vaska

- Discussed why the slope cannot be reduced.
- Addressed adding an addition to the back.
- It would essentially be adding a 3 story addition due to the slope.
- It is such an unusual addition that it has not been done in this neighborhood.
- The option that we have proposed was the best option.

Mr. Meola

- Does not think that there is anything that can be done with the height.
- It would essentially end up chopping up the back yard.

Opened to the public

Eileen Rochart – 88 North Belair Avenue

- Sworn in by the Board Attorney.

Bernard Rochart – 88 North Belair Avenue

- Sworn in by the Board Attorney.

Mrs. Rochart

- They purchased their home in 1993 and have been living on the street for 23 years.
- They have raised three children in this neighborhood.
- Described the renovations they did to their home.
- The only outside addition was a deck that they added.
- All of the existing homes have one.
- They will lose sunlight in the yard and on the deck due to the height of the addition.
- Feels that there will be a lack of sun and this will negatively impact their home.
- Feels that a rear addition is a better alternative.
- This addition would impact their home as well as their financial and emotional investment.
- They are afraid of what it will do to the resale value of their home.
- The home will no longer be consistent with the rest of the neighborhood.
- They are afraid that this close of an addition will be a turn off to purchasers when the time comes to sell their home.
- This addition will reduce the sunlight on their property and negatively impact them.
- Exhibit O-1: Photos showing the current spacing between the homes.
- The objection is to the height because of the impact on the resale value and the encroachment of the proposed addition.
- Exhibit O-2: Photo of the deck mid to late afternoon with sunlight.
- Exhibit O-3: Photo of the sun through the railings.
- Exhibit O-4: Showing the deck and proximity to where the new addition will be.
- Exhibit O-5: View from the deck and the side yard.
- Exhibit O-6: 92-90 North Belair Avenue.
- Exhibit O-7: 90-88 North Belair Avenue.
- Exhibit O-8: 99-86 North Belair Avenue.
- Exhibit O-9: 86-84 North Belair Avenue.
- Exhibit O-10: 84 North Belair Avenue and the corner of Cooke Place.

Mr. Bernstein

- Questioned what the difference in topography was between the two properties.

Mr. Meola

- Most of the properties start high at the road and then slope downwards towards the rear.
- The elevation of each home is very similar.

Mr. Brancheau

- Explained how slope and height setback ratio work.

Ms. Giorgio

- Questioned how the grading and drainage would affect the neighbors.

Mr. Meola

- Addressed how the drainage pipe, small swale, and existing topography carry the storm water.

Mr. Rochat

- Our house is setback 16.1 to 17 feet.
- Mentioned the AC unit that is not shown on the new plan and the chimney that would make the setback 5 ft. on the side yard which would make the space between the homes less than they were saying it would be.

Mr. Brancheau

- Reviewed the table on page 4 of his report of the comparison of the existing front and side yard setbacks of the homes on the same side of the street as the applicant's property.
- Elaborated on his report.
- Described the balancing of public interest and impact.
- Zoning standards are trying to preserve the character of the Township.
- Gave an overview of hardship criteria.
- Struggled to find exceptional circumstances in this case.
- Nothing is unique or unusual in this case.
- Many of the standards take slope into account.
- The slope is not considered severe.
- Compliance may be more difficult and expensive but we have not seen a demonstration that there is an exceptional hardship.
- The Board is here to decide on the balancing public interest and impact.

The Board deliberated.

Mr. Neidhardt

- This property is not unique and the hardship is self-imposed.
- It is going against what the intent of the ordinance is.

Mr. Walsh

- Has not heard any testimony that substantiates the variance.
- There are options to give them what they need for their growing family but this is not it.
- There is nothing unique to support the variance need.

Mr. Alwell

- Agrees that he does not see a hardship and there is no particular uniqueness.

Mr. Hingos

- Agrees with fellow Board members.

Ms. Giorgio

- Suggested making the addition smaller to lessen the impact.

A motion to deny the application was moved by Member Walsh and seconded by Member Neidhardt.

Members Alwell, Hingos, Neidhardt, Giorgio, Donaldson, Walsh, and Chairman Stanziale all voted in favor of denying the application.

The application was denied.

IV. OTHER BUSINESS

Ms. Bongiorno

- There is no meeting on November 15, 2018.
- On December 4, 2018 the only applicant currently on the agenda is Gamar.
- December 20, 2018 is our holiday party.

V. ADJOURNMENT

A motion to adjourn the meeting was moved by Member Walsh and seconded by Member Neidhardt. Voice vote all members in favor.

Meeting Adjourned at 9:52 P.M.

KIMBERLY A. BONGIORNO, LUA.
BOARD SECRETARY
BOARD OF ADJUSTMENT
TOWNSHIP OF HANOVER
COUNTY OF MORRIS
STATE OF NEW JERSEY