

MINUTES
REGULAR MEETING
ZONING BOARD OF ADJUSTMENT
JANUARY 19, 2021

The meeting was called to order by Chairwoman Hayden at 8:00 pm. The notice requirements were read.

Join Zoom Meeting

<https://us02web.zoom.us/j/7318183076?pwd=cGY3R3JOQnlmSGE1V0pQMkp1NG9RZz09>

Meeting ID: 731 818 3076
Passcode: 271918

1. Roll Call
2. Flag Salute
3. Nominating Committee Report – Mr. Press & Mr. Corrado
 - Annual Appointments: Chair, Vice Chair, Attorney, Secretary, Engineer
4. Matters to Address
5. Administrative Matters

| BOARD ROLL CALL: | PRESENT | ABSENT |
|---------------------------------|----------------|---------------|
| Mr. Woods, Vice-Chair | x | |
| Mr. Davis | x | |
| Mr. Corrado | x | |
| Mr. Morrison | 8:54 | |
| Mr. Park | x | |
| Mr. Press | x | |
| Ms. Hayden, Chairwoman | x | |
| Alternate #1 Mr. McLain | x | |
| Alternate #2 Dr. Boxt | 8:06 | |
| Also Present: | | |
| Marti Francis, Board Secretary | x | |
| Mark Madaio, Board Attorney | x | |
| Craig Zimmerman, Board Engineer | | |

Mr. Press reported that the nominating committee unanimously puts forth the following slate:

- Chair Dorothy Hayden
- Vice Chair Tim woods
- Zoning Board Attorney Mark Madaio
- Zoning Board Engineer Maser (AKA Colliers) Engineering and Design
- Zoning Board Secretary Marti Francis

Motion: Mr. Corrado

Second: Mr. McLain

| ROLL CALL VOTE: | YES | NO |
|--------------------------------|------------|-----------|
| Mr. Woods, Vice-Chair | X | |
| Mr. Davis | X | |
| Mr. Corrado | X | |
| Mr. Morrison (not yet present) | | |
| Mr. Park | X | |
| Mr. Press | X | |
| Ms. Hayden, Chairwoman | X | |
| Alternate #1 Mr. McLain | X | |
| Alternate #2 Dr. Boxt | | |
| | | |

Variance Application #799-20

Application Submitted: April 30, 2020 (Second Application)

Hearing Date(s): July 21, 2020 – legal notice could not be done in a timely fashion, carry
 August 18, 2020 – Zoom details not included in the legal notice, carry September 15, 2020
 September 15, 2020 – Applicant not prepared.
 October 20, 2020 – 1st application went too long; applicant agreed to adjourn and extend time
 November 17, 2020 – applicant requested adjourn/extend time to next meeting to arrange legal counsel
 January 19, 2021 – applicant requested adjourn/extend time to February meeting due to delay in retaining legal counsel and therefore unable to notice & publish in required time

Mark Goodman

Block 155, Lot 11
 17 Rodney Place
 Lies in C Zone

| GENERAL ZONING | REQUIRED | EXISTING | PROPOSED |
|----------------------------|-----------------|-----------------|-------------------------------------|
| Min. Front Yard | 35 ft | 35.2 ft | 35.2 ft |
| Min. Side Yard (lot) | 15 ft | 15 ft | 15 ft |
| Min. Side Yard (street) | 15 ft | 15 ft | 15 ft |
| Min. Rear Yard | 30 ft | 75 ft | 50 ft |
| Max. Improved Lot Coverage | 30% | 30% | 33.9% = increase of 664 sq. ft. (*) |

(*) Variance Required

Motion:

Second:

| Roll Call to Approve: | ELIGIBLE TO VOTE | YES | NO | ABSTAIN |
|------------------------------|-------------------------|------------|-----------|----------------|
| Mr. Woods, Vice-Chair | yes | | | |

| | | | | |
|-------------------------|----------|--|--|--|
| Mr. Davis | Pending* | | | |
| Mr. Corrado | yes | | | |
| Mr. Morrison | Pending* | | | |
| Mr. Park | pending* | | | |
| Mr. Press | yes | | | |
| Ms. Hayden, Chairwoman | yes | | | |
| Alternate #1 Mr. McLain | yes | | | |
| Alternate #2 Dr. Boxt | yes | | | |

***Pending certification, the 3 members have listened to recording of October meeting**

Mark Madaio made clear to everyone that 17 Rodney would be carried to the February meeting.

Variance Application # 802.20

Application Submitted: 9/10/20

Hearing Date(s): 1/19/2021

Applicant Name: Canney

Block 65 Lot 123

Address 41 Rodney Place

Lies in D District

| GENERAL ZONING | REQUIRED | EXISTING | PROPOSED |
|----------------------------|--------------|--------------|---|
| Min Lot Area | 10,000 sq ft | 14,400 sq ft | No Change |
| Min. Frontage | 100 ft | 120.00 ft | No Change |
| Min Depth | 100 ft | 120.00 ft | No Change |
| Min Front Yard | 25 ft | 26 ft | No Change |
| Min. Side Yard | 10 ft | 16.00 ft | No Change |
| Min. Rear Yard | 30 ft | 47.50 ft | No Change |
| Max Bldg Coverage | 20% | 20.00% | No Change |
| Max Livable Floor Area | 30% | <30% | No Change |
| Max. Improved Lot Coverage | 30% | 31.99% | 34.58%* |
| Max Bldg. Height | 30 ft | 29.10ft | No Change* Top of proposed pergola 12 ft above patio |

(*) Variance Required

Motion: Mr. Corrado

Second: Mr. Park

| Roll Call to Approve: | YES | NO | ABSTAIN |
|-----------------------|-----|----|---------|
| Mr. Woods, Vice-Chair | X | | |
| Mr. Davis | X | | |
| Mr. Corrado | X | | |

| | | | |
|-------------------------|---|---|------------------|
| Mr. Morrison | | | Missed testimony |
| Mr. Park | x | | |
| Mr. Press | | x | |
| Ms. Hayden, Chairwoman | x | | |
| Alternate #1 Mr. McLain | x | | |
| Alternate #2 Dr. Boxt | | | No vote |
| | | | |

Granted.

Mr. Capizzi introduced himself as the attorney for the applicant.

The proposal is to add a 15-foot-wide addition to the existing small landing to create a more functional patio and a pergola above. A C2 variance is sought. No work has been done on the property by the applicant. Mike Hubschman, engineer; Stephanie Pentali, architect; and Nat Mufson, landscape architect, were sworn in.

The Site Plan was marked A-1; the planting drawing was marked A-2; the architectural drawings were marked A-3. Mr. Hubschman explained that the proposal was to remove the retaining wall, enlarge the patio, and move the retaining wall back 10 feet. He explained that he had resurveyed the site and included the gravel area near the air conditioners and the window wells, which had not been on the original as-built drawing.

The gravel is to be largely removed. The proposed patio is 605 square feet (increasing 15 feet to the left and 7 feet back). No runoff is caused to the neighbors, as the patio is sunken.

Mr. Hubschman went through the proposed landscaping and its aesthetic benefit and explained that the pergola had been categorized a trellis. Code 175-19(a-2) allows open trellises in the front yard. Another section says that anything allowed in the front is allowed in the back. Mr. McLain pointed out that this is horizontal, not vertical. The pergola will be pulled back 3 feet to conform with the rear yard setback. The seepage pit proposed is more than is required.

Mr. Woods asked for clarification on size allowed and being requested: 4320 square feet allowed; 4979 requested. This is a 659 square foot overage. Mr. McLain pointed out that some gravel and the concrete pads for the air conditioners will have to remain in place. Mr. Hubschman agreed that the concrete (55 square feet) has to be added back in. Thus, the overage is 704. Mr. Zimmerman calculated overage to be 714 sq. ft. The amount requested over what is allowed is 16.5%. Discussion of variance as percentage of what is allowed or of total property.

Upon request, Mr. Madaio explained the C2 variance as advancing the purposes of zoning. Mr. Madaio suggested Mr. Capizzi consider whether there might indeed be some hardship component. Chairwoman Hayden spoke about the revision to the improved coverage ordinance for situations such as these and that this is a hardship imposed by the builder. Discussion. Chairwoman Hayden said improved lot coverage could be reduced if the patio was moved back 3.25 ft to comply with required rear yard setback. Mr. Hubschman said this would result in 88 sq. ft. reduced in improved lot coverage. Mr. Zimmerman said that would be 34.35% coverage or 14.50% over 30%.

Mr. Capizzi spoke to his clients, who agreed to take away three feet of the proposed patio. Thus, the pergola and patio will end at the same place, the rear-yard setback will be met, and 88 square feet will be taken off the application. New plans could be required without having to rehear the application.

Mr. Zimmerman asked Mr. Hubschman to provide a revised drainage plan.

Motion to open to the public: Mr. Corrado
 Second: Mr. Park
 All in favor. Carried.

Mark Goldstein (27 Central) and Roy Duke (26 Demarest Avenue) spoke in favor of the application. Mr. Duke voiced concern about the height of the pergola because it is close to his property and would be visible over the fence that separates the properties. The applicant volunteered to remove the pergola. Lynn Paulison (15 Lois) said the landscaping only benefits the homeowner and that buyers should beware.

Motion to open to the public: Mr. Corrado
 Second: Mr. Park
 All in favor. Carried.

Mr. Corrado made a motion to approve the application with the following changes to the plans: Sq. ft. of patio will be reduced by 88 sq. ft. thus complying with rear yard setback, the pergola will be completely removed, and new plans will be submitted that will satisfy the engineer.

Mr. Park seconded the motion.

| ROLL CALL TO APPROVE: | Yes | No |
|------------------------------|------------|-----------|
| Mr. Woods, Vice-Chair | Yes | |
| Mr. Davis | Yes | |
| Mr. Corrado | Yes | |
| Mr. Morrison* | | |
| Mr. Park | Yes | |
| Mr. Press | | No |
| Ms. Hayden, Chairwoman | Yes | |
| Alternate #1 Mr. McLain | Yes | |
| Alternate #2 Dr. Boxt | | |

- Missed early part of hearing so cannot vote

Variance Application # 803.20

Application Submitted: 9/23/20

Hearing Date(s): 1/19/2021

Applicant Name: Sugarman

Block 84.05 Lot 1

Address 1 Irene Court

Lies in D District: BB

| GENERAL ZONING | REQUIRED | EXISTING | PROPOSED |
|-------------------------|------------|-----------|-----------------|
| Lot Area | 30,000 sf. | 24,958 sf | 24,958 sf - ENC |
| Frontage | 150 ft | 459.38 ft | 459.38 ft |
| Lot Depth | 150 ft | 155.18 ft | 155.18 ft |
| Min. Front Yard (Irene) | 50 ft | 50 ft | No Change |
| Min. Front Yard (Lake) | 50 ft | 50.8 ft | No Change |
| Min. Front Yard (Pine) | 50 ft | 50.8 ft | No Change |
| Min. Rear Yard | 50 ft | 50.8 ft | No Change |
| Min Side Yard (street) | 25 ft | 27.5 ft | No Change |
| Impervious Coverage | 30% | 28.6% | 36.5%* |
| Building Coverage | 15% | 14.6% | 16.4%* |

(*) Variance Required

ENC – existing non-conformance

Motion:

Second:

| Roll Call to Approve: | YES | NO | ABSTAIN |
|-------------------------|-----|----|---------|
| Mr. Woods, Vice-Chair | | | |
| Mr. Davis | | | |
| Mr. Corrado | | | |
| Mr. Morrison | | | |
| Mr. Park | | | |
| Mr. Press | | | |
| Ms. Hayden, Chairwoman | | | |
| Alternate #1 Mr. McLain | | | |
| Alternate #2 Dr. Boxt | | | |

Mr. York introduced himself as the attorney for the applicant. Three witnesses (Sean McLellan, Engineer; David Sugarman, applicant; and Michael Hartnett, landscape architect) were accepted and sworn in. Mr. Press recused himself. Mr. Madaio clarified that 36.5% coverage was being sought. Mr. Sugarman gave an overview of the application: the house was purchased from a builder. It is on three streets (effectively on a peninsula). The home will not be touched. The building additions are the pavilion and shed. Variances are being sought for impervious coverage, building coverage, and lot

area. The property is a small property, and the lot area would not be an issue if the lot were full sized. The proposed pool and pavilion are in keeping with the properties of the neighborhood. Mr. McLellan explained that the property was deficient in lot area. 384 sq feet is walkway. Pavilion size is 18 x 20. Discussion of pavilion size and clarification of setbacks. If all three are considered front yards, the problem is that pools are not allowed in front yards. Mr. Madaio asked and was told that a C1 variance was sought. Mr. Madaio pointed out that the pool and patio were very large, with the shed and pavilion added on. He pointed out that numbers much lower than his were begrudgingly granted. Mr. York suggested that his client would be willing to reduce the requested coverage. Mr. York asked to be carried to the March meeting with no further notice required. New plans will be needed. 333

Extension to the end of April was granted. Mr. Madaio cautioned the applicant that the next application presented would be voted on; there would be no negotiation.

Approval of Minutes of November 17, 2020 Meeting

**only those present at prior months' meeting are eligible to vote*

Motion: Mr. Press

Second: Mr. Woods

| Roll Call to Approve: | YES | NO |
|------------------------------|------------|-----------|
| Mr. Woods, Vice-Chair | X | |
| Mr. Press | X | |
| Ms. Hayden, Chairwoman | X | |
| Alternate #1 Mr. McLain | X | |

Mr. McLain asked if the meeting time could be changed to 7:30. Chairwoman Hayden said the Secretary should poll the members of the Board to determine the majority's preference.

Motion to Close the Meeting

Motion: Mr. Corrado

Second: Mr. McLain

| Roll Call to Approve: | YES | NO |
|------------------------------|------------|-----------|
| Mr. Woods, Vice-Chair | X | |
| Mr. Davis | X | |
| Mr. Corrado | X | |
| Mr. Morrison | X | |
| Mr. Park | X | |
| Mr. Press | X | |
| Ms. Hayden, Chairwoman | X | |
| Alternate #1 Mr. McLain | | |
| Alternate #2 Dr. Boxt | | |

Meeting adjourned at 10:12 pm.

Next Meeting February 16, 2021, at 8:00 p.m.

Respectfully submitted,
 Marti Francis
 Zoning Board Secretary