

March 25, 2009

A regular meeting of the Allendale Board of Adjustment was held in the Municipal Building on March 25, 2009. The meeting was called to order at 8:10 P.M. by Ms. Tengi, Chair.

Ms. Tengi announced that the requirements of the Open Public Meetings Act were met by the required postings and notice to publications.

On roll call Ms. Tengi, Ms. Hart, Ms Chamberlain, Mr. Jones, Mr. Manning and Mr. Nestor, Board Attorney, were present. Mr. Redling and Ms. Weidner were absent this evening.

### **AGENDA ITEMS**

#### Minutes of February 25, 2009

Mr. Manning made a motion to approve the minutes of the meeting of February 25<sup>th</sup>. Mr. Jones seconded the motion and members voted in favor.

#### Resolution of memorialization – I. Squared, LLC

Ms. Tengi complimented Mr. Nestor for the superb job he did in drafting this lengthy resolution. Ms. Hart questioned the language on page 6 regarding the square footage of the patio. Mr. Nestor will check this and make any changes that are necessary. Ms. Tengi said that the fact that the Board did not find the changes aesthetically pleasing to the neighborhood should be added to the resolution. Mr. Jones recommended that a notation be made that the applicant was making no effort to improve or increase the buffer between the north side and the residential area. Mr. Nestor will make the noted changes.

Ms. Chamberlain made a motion to approve the resolution, seconded by Ms. Tengi. The following members voted in favor: Ms. Tengi, Ms. Hart, Ms. Chamberlain, Mr. Jones, Mr. Manning.

It was recommended that the Board of Adjustment submit a letter to John Wittekind, the Mayor and Council and the Borough Administrator to conduct an investigation regarding the possible illegal expansion of use on this property.

#### Resolution of memorialization – Frank Grisez

Ms. Chamberlain stated that reduction in size of the addition, as noted in the minutes, needs to be added to the resolution. Ms. Chamberlain made a motion to approve the

resolution, seconded by Ms. Teng. The following members voted in favor: Ms. Teng, Ms. Hart, Ms. Chamberlain, Mr. Jones, Mr. Manning.

Resolution of memorialization – V. Palumbo

Ms. Teng made a motion to approve the resolution, seconded by Ms. Jones. The following members voted in favor: Ms. Teng, Ms. Hart, Ms. Chamberlain, Mr. Jones, Mr. Manning.

Resolution of memorialization – Mark Impomeni

Ms. Chamberlain made a motion to approve the resolution, seconded by Ms. Teng. The following members voted in favor: Ms. Teng, Ms. Hart, Ms. Chamberlain, Mr. Jones, Mr. Manning.

Orchard Park Condominium Ass'n Use Variance Application – continued from February Robert Sherry Variance application – carried to April at request of applicant

Ms. Teng announced that these applications would be carried to the April meeting.

N. Weinberger variance application – 17 Knollton Rd., Block 507, Lot 8

Mr. Weinberger stated that he is looking for variance relief on the right and left side corner of the property in order to construct an addition. Mr. Weinberger said that he handed in all the required information including the existing and proposed structure. Mr. Manning said that there were discrepancies on the plans and Mr. Weinberger explained that his architect was on his way to the meeting.

Ms. Teng stated that everything is hearsay at the moment and the application will be continued later in the evening.

Carl Shaw variance application – carried from February

Mr. Shaw was sworn by Mr. Nestor and explained that he wants to add a second floor to his home which is a Cape Cod structure. The current floor plan is not being expanded. Mr. Shaw stated the Floor Area Ratio (FAR) requirements state that the square footage of the structure cannot exceed 25% of the size of the property. The reason for the variance is that the dwelling is at that point currently. Ms. Chamberlain asked if the present height at 28'6" is any higher than what exists presently. Mr. Shaw said the height would remain the same.

Ms. Teng stated that the applicant's lot does not currently conform to lot area, lot width and floor area ratio (FAR). Both side yards are deficient and front and rear yards are deficient along with the lot being undersized. She said that during her years on the Board several variances have been granted for homes on Cherokee due to the undersized lots and the irregular shape of the lots.

Mr. Nestor calculated a 38% increase in the size of the house. Mr. Shaw said that he is proposing two bedrooms and two bathrooms on the second floor. Mr. Nestor marked the plans as Exhibit A-1: Pages 1-7 dated 11/4/08, revised 1/7/09.

Ms. Tengi opened the meeting to the public for questions of Mr. Shaw. No one from the public came forward at this time.

Mr. Nestor pointed out that two Board Members were missing and because this is a D variance involving floor area ratio, five affirmative votes are needed. He asked Mr. Shaw if he wished to postpone the vote in order to have seven members present. Ms. Tengi stated that Mr. Shaw is proposing a deminimus addition, dormering out the second floor of his house. The footprint of the structure will not be increased and whenever Mr. Shaw wants to make an improvement to his property he would have to come to the Board for relief because his property is non-conforming. The addition is in compliance with other homes in the neighborhood. Mr. Shaw called for a vote tonight and he submitted photos of the neighborhood which Mr. Nestor marked as Exhibit A-2. Upon questioning, Mr. Shaw stated that he is not changing the front step.

Mr. Jones commented that he has never seen a property with as many pre-existing non-conformities in the Borough, particularly in terms of lot area. Mr. Manning made a motion to approve the variance and he said that the hardship is the lot itself and the way the house is situated on the lot. While there are existing non-conforming issues, the applicant is going up and this is a modest request. Ms. Tengi seconded the motion and said that the home is aesthetically in conformance with others on the block. Mr. Jones stated that the benefits to the neighborhood would substantially outweigh any detriments in the granting of this variance. The following members voted aye: Ms. Tengi, Ms. Hart, Ms. Chamberlain, Mr. Jones, Mr. Manning.

#### R. Voorhis variance application – carried from February

Roy and Kathy Voorhis and Gary Indyk, architect were sworn by Mr. Nestor. Mr. Indyk stated that he is an architect with offices at 985 Franklin Turnpike, Allendale, N.J. Mr. & Mrs. Voorhis who reside at Vienna, Virginia, stated that they are the owners of this property. Mr. Voorhis explained that they come to New Jersey once a month and this had been his father's home before his death. He described the house as choppy and in need of a considerable amount of repair.

Mr. Indyk said he has a Bachelor's degree in architecture from Clemson University. He is a licensed architect in New Jersey, New York and Pennsylvania and has testified before numerous boards in Bergen County. The Board accepted Mr. Indyk's credentials. Mr. Indyk stated that this is an existing single family one story structure on a property that is non-conforming in terms of area. The lot is 75' wide by 150' deep and the existing structure is also non-conforming due to a front yard deficiency. The applicant proposes to expand the footprint of the first floor of the home to the left side and slightly towards the rear and, also to add a second floor. This will bring the house into conformity with the neighboring homes which have been expanded. Mr. Indyk presented

photos of homes to the side, rear and across the street which have been recently renovated or are new construction. The photos were marked as A-1.

Mr. Indyk stated that the lot requirement is 20,000 sq. ft. for this zone and this lot is deficient at 11,250 sq. ft. There is no adjoining area available for purchase to bring the lot into compliance. The front yard setback requirement in this zone is 35' or the average setback of properties 500' in either direction with a minimum of 25'. The average setback of the properties within 500' is 29.24' and the setback of this property is 26.29'. There will be a decrease in this setback as a result of the addition. Mr. Nestor marked the drawings as A-2. Drawing SP1 shows the position of the existing residence. There are no rear or side yard non-conformities or issues with floor area ratio, building height or other zoning concerns. The only variance issue is the front yard setback.

Mr. Nestor asked if the applicants had considered reducing the size of the house or the addition because they are right up to the side yard setback line and the floor area ratio is calculated at almost the maximum. Mr. Indyk said that at completion the total area of the house will be 2,400 sq. ft with the floor area ratio at 21.92% where almost 25% is allowed.. The only piece of the house that is close to the side yard setback is at the right in the area of the fireplace. Mr. Nestor said he calculates the floor area ratio at over 24.75%. Mr. Nestor pointed out that covered porch area in the back is not enclosed and he cautioned against enclosing this area because it would then have to be included in the calculations for floor area ratio. Mr. Indyk said that this is intended to be only a porch and not additional living space.

Mr. Manning asked if there are any plans for the garage in the back. Mr. Indyk said that the garage would be repaired, upgraded and electrical service would be installed. He referred to SP 2 stating that this shows the position of the residences to the east and west of this property from West Crescent Avenue and 500' in the other direction including setbacks to demonstrate how the average setback was determined. Drawing SP 3 eliminates the properties substantially different from the lot in question. There are a series of non-confirming properties surrounding subject property to the east and west. To the west, the lots and houses are significantly newer and larger. Mr. Indyk said he didn't think it was the intent of the ordinance to use the averaging formula to include properties that are significantly different from the property in question. If these properties are removed from the equation, the average setback is 25.9' which would make this lot conforming. Mr. Indyk stated that the other drawings show the floor plans for the various floors and the elevations. Drawing B-1 and B-2 show the configuration and elevation of the structure on the site. A copy of the original survey is also attached. Upon questioning by Ms. Chamberlain, Mr. Indyk stated that the entire first floor foundation and sections of the interior walls as well as some ceiling framing will be salvaged.

Ms. Tengi opened the meeting to the public for questions or comments concerning this application. No one from the public came forward at this time.

Ms. Chamberlain asked for confirmation that the only reason this application is in front of the Board is due to a deficiency in the front yard. Mr. Nestor said that this was correct,

however, added to this is lot area and lot width. Ms. Chamberlain said that this is an existing neighborhood and the current owners have a substandard house at this point. The proposed improvements provide interest to the home and will work well with what is there and there doesn't seem to be an overbuilding. She moved that the application be approved, seconded by Ms. Tengi who commended the applicant for keeping the house in the family. The following members voted aye: Ms. Tengi, Ms. Hart, Ms. Chamberlain, Mr. Jones, Mr. Manning.

Frank Paparozzi variance application – carried from February

Mr. Nestor swore in Frank and JoAnn Paparozzi. Mr. Paparozzi gave his address as 21 Kayeton Road, Allendale, N.J. Mr. Paparozzi said that there are no experts speaking on his behalf this evening and he added that he did work in the surveying field for over 20 years and he is a registered builder in New Jersey. Three denials were issued for lot width, lot area and side yard setback. Lot width and lot area are pre-existing and the AA Zone did not exist when the house was originally built. He added that every lot on Kayeton Road, with the exception of the corner lot, has the same frontage of 115'. Mr. Paparozzi stated that the hardship is the way the house is positioned on the lot. He is also proposing to move the driveway from the right side of the home to the left side which would be more attractive to the neighborhood. His driveway is the only driveway on the right side in this cluster of properties. Mr. Paparozzi had a photo of neighboring houses which he showed to the Board and was marked as A-1. He testified the addition would be built in accordance with the plans he had submitted which were marked by Mr. Nestor as A-2 consisting of three pages.

Mr. Paparozzi pointed out that there are other homes closer than 24' to the property line. His home presently is 26' wide which he wants to increase to 35' from front to back. The existing house is 61 ½' long and the proposal is for 59 ½'. The width of the home is being decreased by 2' bringing the right side close to conformity.

Mr. Manning said that it appears that the house consists of three floors. Mr. Paparozzi said that there is a decorative window in the attic and there is no living space there. The height of the structure is 34' and they plan to lower the garage. Mr. Paparozzi said he would agree to a condition that there will be no heat or water installed in the attic if the application is approved. Ms. Hart said that this house is on a hill and the third story window will make the house appear bigger than it really is. She asked if this could be removed and the applicant said that this would be something to consider. Mr. Paparozzi indicated that it might be necessary to add a retaining wall along the left side because the neighbor's property is higher. There is a covered open area porch which will remain open and is not calculated as part of the floor area ratio.

Mr. Paparozzi said that they considered other options before coming before the Board. The house is a 50 year old split level which wasn't built with the best material and is near a flood area which doesn't leave much to work with. Upon questioning by Mr. Manning regarding setbacks, Mr. Paparozzi said that they are increasing the setback to the rear and

are improving the setback on the side. He noted that moving the driveway will decrease the impervious coverage.

Ms. Tengi opened the meeting to the public for questions or comments concerning this application. Gina Palumbo, 17 Kayeton Road, was sworn by Mr. Nestor. Ms. Palumbo said that she shares the driveway with the Paparozzis and she supports the applicant particularly in the area of that shared driveway. No one else came forward at this time.

Mr. Jones made a motion to approve the application. The applicant has demonstrated a hardship in the location of the house on the lot. The decrease of the width of the house and lowering of the garage, which decreases the impact of the structure on the surrounding properties, is an improvement. The applicant has also demonstrated that the entire subdivision is non-conforming. There must be a condition that the third floor is not to be used or heated for living space and that the covered porch is not enclosed. Any recommendations of the engineer regarding the retaining wall will also need to be followed. Ms. Hart added that the applicant has agreed to remove the third floor dormer. Following a short discussion, Mr. Paparozzi agreed to change the dormer to an eyebrow window. Ms. Tengi seconded the motion and the following members voted aye: Ms. Tengi, Ms. Hart, Ms. Chamberlain, Mr. Jones, Mr. Manning.

N. Weinberger variance application, 17 Knollton Road, Block 507, Lot 8

Mr. Nestor stated that there is a discrepancy regarding payment of the first quarter taxes. If the application is approved, no building permit can be issued until payment is made. Nathaniel Weinberger, applicant and William Brown, the architect were sworn by Mr. Nestor. Mr. Weinberger stated that he resides at 17 Knollton Road, Allendale, N.J. William G. Brown, architect, stated that he has offices at 241 Madison Avenue, Wyckoff, N.J.. Mr. Brown testified that he has a Bachelors degree in Architecture and a Masters in Business Administration and is licensed in New York, New Jersey, Connecticut and Pennsylvania. He has testified before the Zoning Board in Allendale many times over the past 20 years. The Board accepted Mr. Brown as an expert in the field of architecture.

Mr. Weinberger stated that the unpaid taxes will be taken care of tomorrow morning. He referred to the site plan which lacked measurements, however, the tax map he submitted does have existing and proposed measurements. The existing measurements are 14.9' on the left and 25' on the left front. To the right it is existing at 12 ½' and 15'4". The next tax map shows proposed as 10' and 16'. Mr. Weinberger said that he and his wife have lived in the house for 8 years and have made some improvements. They want to stay in the house and have spent \$50,000 on landscaping to create a green buffer around the perimeter. They also spent in the area of \$60,000 for a pool due to the vast amount of soil that had to be removed.

Mr. Weinberger stated that he and his wife are seeking a variance to improve the size of the home and make better use of their property. The home is pre-existing, non-conforming in lot size in AA zone where 26,000 sq. ft. is allowed and 16,435 is existing. The front setback is required to be 40' and the setback here is 39'. These items are not

affected by the proposed plan. The house was originally built as a two bedroom ranch and a garage was later added on along with a bedroom above. The kitchen has been expanded and improved which they want to square off and tie in with the existing and natural side lines of the house. This would make the house look as if it were built as a well planned house instead of a house with various extensions.

Mr. Weinberger indicated that they are seeking relief from side yard setbacks which are required to be 21.86' off of each side yard property line. The proposal would have the house at 10' from the property line at the closest point to the property at 5 Knollton Road; and, 16' off the property line of 29 Knollton Road. He pointed out that the front left corner of the house is at 25' off the property line of 5 Knollton Road. The curved nature of the street and odd shaped lots cause the homes to sit at unusual angles and the average distance from the proposed project to the adjacent property lines would be a more realistic measure of distance to property lines. The existing average distance to 5 Knollton Road is 19.95' and the distance with the proposed addition would be 17.5' which is a variance of less than 2 1/2'.

Mr. Weinberger described the distance between the house and 29 Knollton Road as 13.75'. The proposed addition would change that to 14.25' and the average distance would then be further from the property line. If granted, the proposed addition would still be much further off both the right and left property lines than both of the neighbors are currently. Mr. Weinberger described recently renovated homes in the neighborhood which are similar in size and structure of his proposal. He stated that his lot is more than 50% bigger than four other lots where renovations have taken place. These plans will not alter the character of the neighborhood but will enhance it and will allow Mr. Weinberger to use the property in the same manner as adjoining properties. The project will involve more efficient use of the land and will not cause any harm to the neighborhood or undermine the purpose of the zoning ordinance.

Mr. Nestor marked the plan as A-1. Mr. Manning said that the right setback is proposed at 10' and Mr. Weinberger remarked that if the road were not curved a variance would not be necessary. Mr. Manning commented that this proposed setback is very close and he asked if cutting the corner has been considered and Mr. Weinberger indicated that he had considered this. The house will be 35' in height and the trees on that side are over 20'. The house sits in a valley and would not be overbearing to the neighbor and he pointed out that the last three homes on Knollton Road that have been renovated sit approximately 15' above the road bed. Mr. Weinberger submitted photos of these neighboring houses which were marked as A-1 to A-11. He pointed out that the trees he installed completely screen his neighbor's house as shown on Photo A-6 and the other photos also show examples of screening from various angles. He added that the house belonging to his adjoining neighbors to the left is less than 2' off the property line and the one to the right is less than 5' from the property line which was the reason he added the buffer of trees.

Mr. Nestor marked the set of architectural drawings as A-12. Mr. Nestor questioned Mr. Brown about the 35' height limitation and he stated that the measurement must be taken

from the point of lowest grade. Mr. Brown said it was measured from the right side and he verified that the ridge line would be below the 35' in height from the point of the lowest grade. Mr. Nestor questioned the number of stories and Mr. Brown said that there were two stories and an attic with three windows. Mr. Brown reviewed the floor plans which include a new mudroom and a family room. He said that the fire place could be clipped by 2' to 2 ½' for a little more room which would soften the corner. The master bedroom is located over the family room and Mr. Brown suggested having the corner remain in this area.. There are three additional bedrooms and two bathrooms upstairs along with the laundry room. Mr. Brown was asked if the house next door would be at the same level as the Weinberger house. Mr. Brown said that the adjacent house is about 5' to 6' above this home because of the rise in grade to the left, however, this was the reason for not putting as many windows on that side.

Mr. Nestor questioned the square footage of the house as it presently exists. Mr. Brown said that the house is 1,500 sq. ft. and the proposed house would be 2,800 sq. ft. Even though the house is doubling in size, the floor area ratio is in compliance. Ms. Tengi asked Mr. Weinberger if he had looked at alternatives. Mr. Weinberger said that to date they have put a lot of money into this project and they would be at a loss if it were abandoned now. Mr. Brown said that the other alternative would be to build a house that is "T" shaped which would be a monstrosity.

Mr. Manning said that he has a problem with the right side setback and he would look more favorably on the plan if the right side setback could be cropped. A house that is 35' high and 10' off the corner is too much mass. Mr. Brown said that he could probably come across at a 45 degree angle on both floors to get the setback to 14'. Mr. Nestor said that the problem is being created on the left side of the house where there is a family room and a master bedroom and he suggested bringing the structure in. He said that it appears that there is nothing that would prevent this compromise such as trees or boulders.

Ms. Hart pointed out that there are side yard issues on both sides of this house and, because of this, the house appears bulky on the lot. She asked what could be done to reduce the bulk of the house. Mr. Weinberger suggested reducing the roofline on the left side to 22'. Mr. Jones stated that this property has exceptional issues with the narrowness and topography of the lot and these must be considered in terms of the addition. The impact of the pre-existing, non-conformities need to be reduced and this suggestion to soften the edge really helps without clipping the left side of the house.

Ms. Tengi opened the meeting to the public for questions or comments concerning this application. Frank Paparozzi, 21 Kayeton Road, was sworn and said that he had been surveying at the site and he reviewed options with the applicant. Mr. Weinberger tried to situate the family room behind the kitchen, however, this resulted in two small lawn areas on both sides which doesn't really make sense for a family with five children. Mr. Paparozzi stated that the plan as presented is best suited for this property.

Patricia Sterno, 35 Knollton Road, was sworn by Mr. Nestor and said that she lives across the street on Lot 10. Ms. Sterno pointed out that Mr. Weinberger's house is the smallest on the street and sits lower than the others. All of the homes on the block have a bigger look and the proposed addition would look nice and be in keeping with the neighborhood. She complimented Mr. Weinberger for his planting of the trees and other improvements he has made and said she supports the variance application.

No one else from the public came forward and Ms. Tengi closed the public portion of the meeting.

Mr. Brown suggested lowering the roof ridge slightly, based on a clarification of the 35' limit from the lowest point, and creating a hip roof on the left side of the home so that the line runs through from front to back. He will clip 3' off of the corner off the back of the fireplace which will increase the setback to 13'.

Mr. Manning made a motion to approve the application based on the following stipulations: attic to remain unheated and unplumbed; corner of left side of the house to be clipped, looking at it from the street in the rear, to the point where there will be 13' off of the boundary rather than 10'; and, the left side of the attic to be removed, as you look at the house as drawn on page 12, from the gables over to the left. The detriment to the zoning plan and land use law does not outweigh the improvement to the neighborhood. Ms. Chamberlain added that the existing topography and pie shaped nature of the property is another hardship for this property. Ms. Chamberlain seconded the motion and the following members voted aye: Mr. Hart, Ms. Chamberlain, Mr. Manning and Mr. Jones.

#### J. D'Arecca variance application- 78 Edgewood Road, Block 1402, Lot 4

James D'Arecca, 78 Edgewood Road, was sworn by Mr. Nestor. John Tudor, licensed architect, was sworn by Mr. Nestor. Mr. Tudor stated that he has been a licensed architect in New Jersey since 1993 and has testified in various municipalities in New Jersey. The Board accepted Mr. Tudor as an expert witness.

Mr. D'Arecca stated that the home is a 47 year old ranch style with four bedrooms one of which is quite small. The family room is undersized for a family of five and the entrance way is awkward. The proposed addition would solve these problems, however, this addition renders the home non-conforming due to the increased square footage. Mr. D'Arecca pointed out that they would have to come to the Board of Adjustment for relief no matter what size addition they propose to this home. They are in the AA zone and the new construction will be conforming, however, approval of the variance will allow the existing structure to remain as is.

Mr. Nestor clarified stating that the new structure will be 52' away from the neighbor on the right when looking at the front of the house and 47' away from the neighbor to the left. Mr. D'Arecca stated that they would only legally be able to add a minimum of 200

sq. ft. to remain conforming and doing anything meaningful to the home would require a variance.

Ms. Tengi opened the meeting to the public for questions or comments concerning this application. Lowell Brooks, 64 Edgewood Road, was sworn by Mr. Nestor and stated that he lives to the right of the applicant. He said that he is a former member of the Planning Board and he has no objections to the application. He noted that the setbacks are excellent, the height is not excessive and this will be one of the most attractive houses on the street when completed. He is concerned about the additional roof space and the water flow off the property and he asked for assurance from the engineer that this will not become an issue. Mr. Brooks was told that the appropriate engineering review will be conducted to determine the number and location of seepage pits on the property. The applicant indicated that he will comply with the engineer's recommendations.

No one else from the public came forward and Ms. Tengi closed the meeting to the public.

Ms. Hart questioned the height of the turret over the front door and the architect stated that it is 25' high.

Mr. Manning stated that no expansion opportunities were contemplated in 1962 when the house was built. If the structure had been positioned differently on the lot when originally constructed there may not have been the need for a variance even though the property is a perfect rectangular shape. Mr. Nestor added that the applicant has tried to adhere to the zoning codes to give the amount of living area required.

Ms. Tengi made a motion to approve the application based on the location of the house on the property. The addition in the rear does not further encroach on any side yard variance other than the bulk issue. The house is on a decent sized property and the benefits substantially outweigh the detriments to the neighborhood and will further the purpose of the Municipal Land Use Law and the Zoning ordinances of the Borough of Allendale. Ms. Chamberlain seconded the motion and the following members voted aye: Ms. Tengi, Ms. Hart, Ms. Chamberlain, Mr. Manning, Mr. Jones.

The meeting was adjourned at 11:15 P.M.

Respectfully submitted,  
Melinda Dorl

