

May 27, 2009

A regular meeting of the Allendale Board of Adjustment was held in the Municipal Building on May 27, 2009. The meeting was called to order at 8:05 p.m. by Shirley Chamberlain, acting in the Chair's absence.

The following members answered roll call. Mr. Redling, Mrs. Chamberlain, Mr. Manning and Mrs. Weidner. Mr. Jones, Mrs. Hart and Mrs. Tengli were absent. Also present was Mr. Nestor, Board Attorney.

On a motion by Mr. Manning, seconded by Mr. Redling, the minutes of the April 22<sup>nd</sup> meeting were approved as amended by Mr. Redling. Approval was unanimous.

Resolution of memorialization was submitted by the Board Attorney with regard to the Orchard Park Condominium Association variance application. Mrs. Weidner moved, seconded by Mr. Redling, to approve the resolution as submitted. On roll call, all members present voted in favor.

Resolution of memorialization was submitted by the Board Attorney with regard to the Robert Sherry variance application. Mr. Manning moved, seconded by Mr. Redling, to approve the resolution as submitted. On roll call, all members present voted in favor.

Resolution of memorialization was submitted by the Board Attorney with regard to the Ronald Matera variance application. Mr. Redling moved, seconded by Mrs. Chamberlain, to approve the resolution as submitted. On roll call, all members present voted in favor.

Resolution of memorialization was submitted by the Board Attorney with regard to the Peter Aubrey-Smith variance application. Mrs. Chamberlain moved, seconded by Mrs. Weidner, to approve the resolution as submitted. On roll call, all members present voted in favor.

Diane Chuback variance application – 735 W. Crescent Ave., Block 2204, Lot 1

Mrs. Chamberlain said this is a pre-existing condition. The minimum lot width and side yard setback is insufficient.

Mrs. Chuback was sworn. She said the existing deck is quite old and unsafe, so she would like to knock it down and replace it. The existing deck is nonconforming and this deck would replace it. The existing deck is 14 x 20. The new deck does add some square footage because it goes further down along the side of the house to meet the new back

door. Plans prepared by Chris Blake, architect, were marked Exhibit A-1. The plans show the existing deck as 14 x 20 and the new deck will be 17 x 31.

Mr. Manning said he visited the site and it appears that the old deck is already gone and work has started on the new deck.

Mr. Manning asked if the Code Official stopped by and checked the footings before they were done. Mrs. Chuback said her contractor would have to answer that. Mrs. Chamberlain said a building permit would not be issued prior to the granting of the variance.

Mrs. Chuback said the family has been out of the house for 6 months and this is part of the whole renovation. They are doing work inside as well and they have had a building permit for that. Mrs. Chamberlain said they are apparently not increasing the square footage inside.

Mr. Manning said he feels that 7 ft. is pretty close to the property line and he could not ascertain if there was a deck that close to the property line because it was gone. The new deck was already up. He is concerned that the footings are at the proper depth if it has not been inspected by the Building Inspector. Mrs. Chuback said the contractor was in charge of this. Mr. Manning said if the variance is not approved, the deck will have to come down.

Mrs. Chuback said she and her family have been away for a while and the work was not going to go any further until after this meeting. They have now moved back into the house.

Mr. Manning asked why couldn't the deck have been moved over 3-4 ft. more toward the center of the house. She said the old deck was a couple of feet more toward the end of the house and the new deck has been moved in a bit. Mr. Manning said looking at A-2 it appears the new deck is actually coming out more. Mrs. Chamberlain said the new deck is bumped in. The house is sitting on a diagonal. The property is a very long rectangle and the house is built on a diagonal, so by extending anything out further from the house you are encroaching more on the property line, so they just moved it to the right a little more.

Mr. Manning said his main concern is the footings. He would like the Code Official to make sure the depth is correct. If the deck collapses, someone may be hurt. Mrs. Chuback said the contractor has done an impeccable job with everything else and has followed the rules every step of the way. Mr. Manning said he feels this inspection is going to have to be a contingency.

Mrs. Chamberlain asked if the deck is already in place. Mr. Manning said the footings are there. The framing and trusses are there, but the cross boards are not. Mr. Nestor asked if the deck was an after thought to this project. Mrs. Chuback said it was planned

from the beginning but it wound up being a separate application because initially when it was declined, they had to have a separate application for the interior of the house. When that was approved, they went ahead with that portion of the project.

Mr. Nestor asked if applicant will agree to the condition that if the board does grant the approval that no further work be done until the footings are checked by the Building Inspector. Mrs. Chuback agreed to this stipulation.

The meeting was opened to the public for comments and there being none, the meeting was closed to the public.

Mrs. Chamberlain said the neighbor on the north side would be most affected. She asked applicant to describe the natural buffering between the two properties. Mrs. Chuback said his house actually sits much further ahead of her house. If a line were drawn from where her deck is straight across to his line it doesn't even touch his house. The only structure on his property that would be affected or would have a view of the deck would be his detached garage that sits in the back of his property. Also there are plantings on his property that cover a lot of the view of his property.

Mrs. Chamberlain commented that since the neighbor is not present this evening she presumes he has no problems with the application.

Mrs. Chamberlain said it is a unique situation that the house is situated so close to the property line and there is 400 ft. from the back of the house to the property line.

Mr. Manning moved to grant the variance. Any detriment to the Municipal Land Use Law would be outweighed by the fact that the deck is dangerous. It has not been moved any further over that he can see and he believes that granting the variance for safety reasons would be in everybody's best interests. The approval will be contingent on the checking of the footings by the Code Official. Mrs. Chamberlain seconded the motion. She added that this property is unique because the lot is narrow and extremely deep and the house is seated to one side of the property so there are few alternatives in terms of the placement of the deck. On roll call, all members voted in favor.

#### Lori and Anthony Caruso variance application – 16 Dogwood Drive, Block 1204, Lot 12

Mr. and Mrs. Caruso and their architect, Frank Hall, were sworn.

Mrs. Chamberlain said this is an application for an addition. It is an extension of the second story over the existing house and also the enclosure of an existing screened porch.

Mrs. Caruso said the work they are planning to do is over the existing footprint of the house. On the first floor there is an existing screened porch that was built originally with the house and it is falling down. They have two children who currently are sharing a bedroom, so two bedrooms will be added to the second floor. The intent is also to make the front of the house look more centered.

Photos were marked and A-1 shows the screened porch in the back that will be enclosed. A-2 shows the area where the second floor addition is proposed.

Mrs. Caruso said the only deficiency is the side yard setback and that is a pre-existing condition. Mrs. Chamberlain said that even with the new enclosed porch, the rear yard setback is more than adequate. Mrs. Caruso said there are no objections to their proposal from any of the neighbors.

The meeting was opened to the public for comments and there being none, the meeting was closed to the public.

Mr. Hall, the architect, said the addition does not encroach towards existing side yards in any way. The calculation that generates the required side yard is strictly a function of the gross floor area and has nothing to do with how close they are actually coming to the side yards. The side yards do not change as a result of the addition. The existing house, while it is not large in terms of square footage, is oriented to be fairly shallow in depth but long in width across the property, so even though the gross floor area does not become especially large, it generates a non-conformity based upon the existing side yards as they exist from the property line to the house. The hardship is the unique position of the house on the property.

Mr. Nestor pointed out that this will bring the house into conformity with the houses in the neighborhood.

Mrs. Chamberlain moved to approve the application as submitted. There is no further encroachment on the front, the side or the rear yard setbacks and she does not see any detriment to the Municipal Land Use intent of the Borough. The hardship is based on the way the house pre-exists on the lot. Motion seconded by Mr. Redling. On roll call, all Board members present voted in favor.

#### Edward Christie variance application – 30 High Street

Mr. Christie was sworn. Mrs. Chamberlain said this house is in the B-2 zone. There is a deficient lot area, right side yard setback, front yard setback and rear yard setback.

Mr. Christie said this is a two-family duplex and he owns the entire building. The addition is proposed to the north side of the house to enlarge that unit. The house on the tenant side is fairly close to the neighbors and he is moving towards his garage where there are essentially no neighbors because he is the last house on the street. The house has two bedrooms and one bath on each side and now that he and his wife have a child, they need the addition or will have to sell the house and leave.

Mr. Christie said there is no bathroom on the ground floor of the house and there is only one bathroom on the top floor.

Mr. Nestor marked the drawings dated January 20, 2009 as Exhibit A-1. He asked applicant to describe the proposed addition.

Mr. Christie said he wants to come out from the side of the house approximately 14 ft.; not the entire length of the house which is 24 ft. Downstairs the existing dining room will be made slightly wider and then a family room to the side of that with a small bathroom. Above that will be a master bedroom, essentially turning the housing into a 3 bedroom with two half baths and one full bath.

Mr. Nester asked if the new addition is going to be in the right of way shown on page 2 of 3 in the last diagram on the lower part of the page. Mr. Christie said no, that line is showing the setback and the right of way is beyond that. He is not going into the right of way. He is moving towards the right of way in the corner of the property by only about 7 ft. The setback has to be 25 ft. and he calculates it as 18 ft. Right now the garage, which is pre-existing is much closer to that existing setback and so is the deck which he received a variance for 3-4 years ago.

Mr. Christie said there used to be woods in the back but a builder was able to put in townhouses as a Mt. Laurel project which essentially tower over his property. He planted a lot of trees and now they have come in very full and he can't see how anybody in the townhouse project would care about his proposal. As far as High St. is concerned, there is nobody to the side of him as he is the last house on the street. The corner of the addition moves toward the townhouse development and the right of way. He added that the right of way is about 15 ft. wide.

Mr. Manning said the floor area ratio is increasing by 5% and questioned whether that would impact the setbacks. Mr. Nestor said the bulk of the building would affect the setback, but it does not affect the FAR according to Mr. Wittekind's calculations.

Mrs. Chamberlain asked about the distance between the new addition and the garage. Mr. Christie said it is approximately 8-10 ft. He may eventually put down pavers as a path to the garage.

Mr. Christie said the property is unusual because it is pie-shaped and the frontage on the property is very long.

The meeting was opened to the public for comments and there being none, the meeting was closed to the public.

Mr. Manning moved to approve the variance as presented. There is a hardship involved with this very irregular shaped piece of property. He believes that hardship outweighs any detriment to the Land Use Act as it pertains to the Borough of Allendale. He believes what applicant is proposing will enhance the house as well as the look of the neighborhood and the infringement on the setback is minimal. Motion seconded by Mrs. Chamberlain. On roll call, all Board members present voted in favor.

On a motion by Mrs. Chamberlain, seconded by Mr. Redling, the meeting adjourned at 9 p.m.

Respectfully submitted,

Barbara Knapp