

February 27, 2008

A regular meeting of the Allendale Board of Adjustment was held in the Municipal Building on February 27, 2008.. The meeting was called to order at 8:08 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. Chamberlain, Ms. Hart, Mr. Manning, Mr. Nestor and Ms. Weidner were present. Mr. Jones and Mr. Redling were absent. Mr. Landel was also present.

Ms. Tengi moved, seconded by Mr. Jones, to approve the minutes of November 28, 2007 as submitted. On voice vote, all members voted in favor.

Appointment of Board Attorney

Mr. Landel announced that he was stepping down as the Attorney for the Board this evening. He has served in that position for thirteen years and has found this to be one of the most rewarding parts of his practice.

Ms. Hart nominated Mr. Mike Nestor for the position of Attorney to the Board. Mr. Manning seconded the nomination. Mr. Nestor is an attorney and has served as a member of the Board for eight years. On roll call Ms. Hart, Ms. Chamberlain, Ms. Tengi, Mr. Manning and Ms. Weidner voted in favor.

Ms. Tengi stated that it will be an advantage to Allendale to have him as the Board's Attorney.

Mr. Nestor resigned from his position as a member of the Board.

Approval of Minutes

Ms. Hart moved, seconded by Ms. Chamberlain to accept the minutes of January 23, 2008 as presented. On voice vote, all members voted in favor.

A Resolution of Memorialization was submitted by the Board Attorney with regard to the Everett and Odette Bonan Variance Application. Ms. Hart moved, seconded by Ms. Tengi to approve the resolution as submitted. On roll call Ms. Hart, Ms. Chamberlain, Ms. Tengi and Ms. Weidner voted in favor.

M. Throdahl Variance Application

38 Carteret Road
Block 1503.01, Lot 16

Mr. Barry Poskanzer of Poskanzer Skott Architects, was present representing Mr. and Mrs. Throdahl. Mr. Poskanzer was sworn. Mr. Poskanzer said he is the architect, planner and the agent for the applicants and he has the power to act on their behalf. He

noted that page three of the application was signed by the applicant and himself as the agent.

Ms. Tengi said she would be more comfortable if Mr. Poskanzer could produce a power of attorney. Mr. Poskanzer reiterated that he is authorized to represent his client. Ms. Chamberlain said she was comfortable with proceeding as Mr. Poskanzer is a neighbor of the Throdahl family and the architect for the property. It was decided that if the application was approved it would be conditional upon receiving the power of attorney from the Throdahls.

Mr. Poskanzer said drawing T-1 shows the site plan of a four acre parcel at the bend of the road on Carteret Road. His client is removing a tennis court in order to reduce the impervious coverage on their property.

A second drawing labeled SP-1 shows a close up detail of the existing house, storage shed and the tennis court beyond. The storage shed will be connected to the main house by an arbor. Mr. Poskanzer views the arbor as being attached to the house so it is not an auxiliary structure. The shed has two "man" doors which Mr. Poskanzer would like to make 1 ½ feet wider so they become garage doors.

An existing three car garage was turned into a two car garage when one of the bays in the existing garage was made into a guest room. Mr. Poskanzer is asking for the Board to approve four garage bays because two garage bays presently exist and the two new ones that will be added will only be visible from Mr. Poskanzer's house. Mr. Poskanzer said he understands the code was written to disallow a separate garage structure that is not part of the house. He views the proposed structure as being part of the house.

Mr. Manning stated that as a Board member he is charged to interpret the code to the best of his ability. He believes that Allendale's code does not allow for two separate garages or more than three garage doors.

Mr. Nestor said he wanted to ensure that the Board understands that Mr. Poskanzer is not an attorney.

The Board was shown Exhibit A-1, Page A-7, Drawing 3 which displays the entry garden walls and an arbor that extends from the house on the left to the shed on the right. It is attached to the house.

Ms. Hart noted that in addition to the issues with the garages, the side yard setback requirements will be increasing from 35 to 40 feet if this application is approved. Ms. Hart stated that a variance will probably be needed to construct the shed. Mr. Poskanzer said he had a permit to build the shed.

Ms. Tengi said that she didn't think the arbor would make the shed a part of the house.

Mr. Manning said he did not see a unique hardship that would justify a variance.

Mr. Poskanzer responded that the hardship is that his client would like to have four garages. He added that if the Board would not allow a fourth garage, then they would like at least one garage bay in the new building.

Mr. Manning stated that since he has been on the Board it has never approved two separate garages nor have they ever approved a fourth bay.

Ms. Tengi commented that there is more than just aesthetics to prevent approving four bays or two separate garages. There are the factors of noise and nuisance. Although the bays would be concealed there are other intentions behind the zoning ordinance.

Mr. Poskanzer pointed out that having vehicles away from the street is an advantage to the neighborhood. He requested that at a minimum his client be allowed to have their third garage bay back.

Ms. Tengi commented that she sees the proposed shed as a separate structure. The arbor which connects the shed with the house is decorative. She does not see a hardship that would justify giving a variance for a separate garage structure. The applicant is asking the Board to further increase the non-conformity by granting this variance. Even though the Poskanzers are presently the only ones who see this side of the house, if they leave the house in the future, this change will effect another resident.

Ms. Hart asked what the Board can do with a variance application for an independent shed. Mr. Poskanzer said the shed isn't independent because it is attached to the house by means of an arbor.

Mr. Nestor responded that under Mr. Poskanzer's argument a shed could be built at the back of the property and still be part of the original house as long as it was connected by a very long arbor. He added that he doesn't think the argument is logical at some point.

The meeting was opened to the public for comments. When there were none, the matter was returned to the Board.

Mr. Poskanzer said the stream on the property and the narrowness of the property are hardships. Also the ordinance was changed fifteen years after the house was built.

Ms. Tengi asked if there is an architectural code or guide about what can connect one structure to another structure.

Mr. Poskanzer responded that there was not. In some towns the degree of distance is mandated. In terms of connectedness there isn't a problem with the type of connection.

With regard to the notice, Mr. Nestor said the notice was adequate to cover the variances that were being sought. He told Mr. Poskanzer that the feeling of the Board seems to be that the applicant is proposing two separate garages.

Ms. Chamberlain said she did not think a hardship had been established for the fourth bay. She said she does not have a problem with the configuration of the shed. She does not believe it is detrimental to the zoning ordinance and it has a minimal impact on the neighborhood. She recognizes the need for a variance for the two garages, but in this location she does not think having two would be detrimental to the ordinance or the intent of the ordinance. She said that Mr. Poskanzer could convert the existing garages to living space and build three bays in the back yard.

Mr. Poskanzer said his client would be willing to utilize two car bays in the shed and have one under the house. He added that he wanted to make sure the Board isn't talking about two separate structures, just two separate garages. He noted that he designed a house across the street that has a two car garage facing backward and a garage in the house. Mr. Nestor asked if the Board had approved that situation.

Mr. Manning said that Ms. Chamberlain had brought up a viable alternative. He added that there were three bays at one time, the fact that the owners made that into living space is a self-imposed hardship.

Mr. Poskanzer agreed to return to the March 26th meeting of the Board.

Ms. Tengi asked if anyone was present for the appeal and interpretation of the soil moving permit for Northern Highlands High School. When no one responded, Ms. Tengi announced that application would be carried to the next meeting of the Board.

Michael Karvellas Variance Application

43 Heights Road
Block 403, Lot 17

Mr. Rutherford announced he was filling in for Mr. Whitaker as the attorney for the applicant. Mr. Rutherford was accompanied by Mr. Douglas Doolittle. Mr. Doolittle was accepted as an expert planning and engineering witness. Mr. Doolittle was sworn.

Mr. Nestor marked the following as exhibits:

- Exhibit A-1 Plan
- Exhibit A-2 Vicinity map
- Exhibit A-3 Packet of photographs.

Mr. Rutherford said the property is located on the south side of Heights Road, three homes in from Crescent Avenue. The rear property line is located to the south. The property is 100 feet wide and 157 feet deep. It slopes from north to south and cross slopes east to west. The property is required to be 20,000 square feet although this property is 17,803 square feet. Currently a vacant older home with a detached garage exists on this property.

The proposed addition has a wrap around front porch, a deck and a lower patio. The existing home will be expanded within the existing setback. The required side yard setbacks are 24.6 feet on both sides of the property. Proposed is one side yard with a

setback of 17.83 feet. The substandard width and area of this property will not be affected by this application.

The house which currently consists of 1 ½ stories will expand to two stories. The height of the house will conform with the zone requirements.

There will be dormers and different pitches to the roof. The house is proposed to have a wrap around porch and vegetation. The Board was shown the vicinity map that shows the location of the existing home as well as how it will look when it is expanded.

The application complies with the impervious coverage requirement and the floor area ratio requirement as well as the height.

With regard to the photographs marked as Exhibit A-3, Mr. Doolittle said they were taken within the past few days. Photo A-3a looks at the home slightly to the east and shows the landscaping on the lot. Photo A-3b shows the other side line that is heavily wooded.

Ms. Chamberlain noted that the proposed house will more than double the square feet of living area. The grade will remain the same across the front of the house but it will be lower as it goes to the back yard. A swale will take the water to the back to an open grade inlet over a seepage pit.

The garage will be finished to match the look of the home. It will not have a second floor and there are no plans to increase its size from 1 ½ bays to a two car garage. The applicant does not believe there are any wetlands issues on the west side of the house where the ground slopes down.

There was discussion about the height of the proposed house and where the bottom grade will be measured from. Mr. Nestor asked if Mr. Doolittle could testify that the height of the house will not exceed 35 feet from the lowest grade. Mr. Doolittle responded that he could.

Mr. Rutherford said the applicant had not planned to call his architect to testify. The architect's total square footage is given as 4106. That number was originally listed as 3195 and then it was adjusted to 4106. The allowable floor area ratio is 23.4% and the applicant has proposed 23%. Impervious coverage is allowed to be 41.22 and the applicants propose 27.8.

There are no other existing buildings on the property.

Ms. Hart noted that with the mud room take off the side yard setback will be 14.8 feet. The other side yard setback dimension is 30.57 feet. It was noted that there was a problem with some of the architect's calculations and some of those did not seem to be correct.

Ms. Tengi questioned whether the square footage as shown on the plan is correct for determining the floor area ratio.

The meeting was opened to the public for questions for Mr. Doolittle.

Mr. James Carroll of 33 Heights Road was sworn. Mr. Carroll asked if Mr. Doolittle considered the proposed house to be a benefit to the neighborhood. Mr. Doolittle responded that he did.

Mr. Carroll said there are at least six houses on Heights Road up to and including a split level home which are all relatively small compared to the proposed home. He noted that several of the structures are Cape Cod or split level homes.

Mr. David Highland of 26 Heights Road was sworn. Mr. Highland noted that the size of the basement would be increased and he asked if it would be used for living area.

When there were no further comments the matter was returned to the Board.

It was observed that there will be doors from the patio into the basement which is not specified to be used as living space. Ms. Hart observed that the appearance of the structure from the rear is that it will be a three story house which is prohibited. Mr. Rutherford said he will need to review what is proposed with the town's zoning ordinance.

Mr. Tengi asked if the Board has dimensions of the basement as it relates to square footage and height. She observed that the older part of the basement appears to be planned for storage but asked about the dimensions for the portion with doors. Mr. Doolittle responded that the room would measure 20 x 12 feet.

The meeting was opened to the public for general comments.

Mr. James Carroll said he had received a notice citing specific sections of the ordinance, but when he tried to compare those sections with the code, they were not consistent. The section that was referred to in the code deals with AA properties but this house is in the A zone.

Ms. Hart agreed that it appeared the Construction Code Official had quoted the wrong section of the code.

Mr. Rutherford said there are two letters from Mr. Wittekind. The first refers to the property being in the AA zone, and the second was revised to say the property is in the A zone.

Ms. Tengi said she didn't think the notice was defective because the sections were listed incorrectly.

Mr. Carroll who was previously sworn, said he didn't see why there would be a hardship on this property because the owner had all the information up front before the property was purchased.

Mr. Dave Highland who was previously sworn, said he was not against improvement but he did not want to see a house approved that was out of character with the neighborhood.

Mrs. Melissa Mulder who was previously sworn, said she wanted to echo what Mr. Highland had said. The other houses on this street are modest and she is afraid they will be dwarfed by this structure.

When there were no additional comments, the meeting was closed to the public.

Mr. Rutherford called Mr. Karvellas to testify. Mr. Karvellas was sworn.

Mr. Karvellas said he lives at 7 Stone Fence Road in Allendale. He has heard the testimony this evening and he wants to tell the Board what he has in mind for the property. He lived at 77 Heights Road for over a year and he and his wife like the street and the people who live on it. Every day they discuss if they should move to this property once it is approved. The house across the street is 4100 square feet so he doesn't think 3500 square feet should be an issue. He has no intention of building a McMansion. The house will be tasteful and will be built properly. The garage will stay as it is and will only be re-roofed. He could have put up a bigger house but he doesn't believe the area calls for that.

With regard to the hardship that would justify granting a variance, Mr. Karvellas said he is trying to work with what is already there. This is a two bedroom home but it is out of step with what a modern home should be. The hardship is that strict adherence to the ordinance will limit what could be done to the property.

The Board observed that the elevation on the architect's plans gives the appearance of a three story house and Allendale allows for only 2 ½ stories. Mr. Rutherford said that a basement shouldn't count as a story since the bulk of the basement is below grade.

There was also concern expressed about the architectural plans differing from the engineer's plans. The Board is not comfortable with the square footage since the applicant is so close to the floor area ratio maximum.

Ms. Weidner commented that the house is well designed. She added that the style will enhance the neighborhood.

Mr. Nestor asked for information to be brought to the Board next month about how the basement will be used. He also asked that the architect be present next month and for the applicant to also address the number of stories in the house.

Mr. Ralph Giannella of 8 Crescent Place said he is concerned about drainage because the applicant's property is higher than his and he lives directly behind the proposed house.

Ms. Tengi announced that the Board has seen many changes this month. Last month Mr. Blomberg resigned from the Board and stepped down as chair. This evening Mr. Nestor was elevated as Counsel to the Board. Two alternate members have become permanent members.

On a motion by Ms. Chamberlain, seconded by Ms. Tengi, the Board voted unanimously to adjourn at 10:55 p.m.

Respectfully submitted,

Gwen McCarthy
Recording Secretary