

**BOARD OF ADJUSTMENT**  
**BOROUGH OF BERNARDSVILLE**  
**Minutes – March 19, 2018**  
**PUBLIC MEETING – 7:30 PM**

1. **Statement of Adequate Meeting Notice:** Read by Chairman Greenebaum.
2. **Flag Salute:** All present participated in the Pledge of Allegiance.
3. **Roll Call:**  
Present: Members Greenebaum, English, Giglio, Dello Russo, Sailliard, Kramer, Sedlak, Traynor and McDowell.  
Absent: Members Carton and Otteau.  
Board professionals present: Messrs. Rago, Brightly and Szabo.
4. **Approval of Minutes:** Minutes of the 1/15/18 meeting were reviewed.  
Motion to approve minutes as presented: Mr. Dello Russo. Second: Mr. English.  
Voice vote: All eligible members voted in the affirmative.
5. **Communications:**
  - A. Chairman Greenebaum reminded Board members, if they haven't already, to read the article regarding guidelines for Board members from the November/December 2017 issue of *The New Jersey Planner* that was distributed at the January meeting and later by email.
  - B. Mr. Sedlak reviewed for the Board recent activities undertaken by the Mayor's Downtown Revitalization Committee (of which he is a member) including an online survey and public visioning session scheduled to be held at the high school on Saturday, March 24. He explained the visioning session's planned interactive format, its goals and how it will be facilitated by Mr. Szabo and his firm, Burgis Associates. Mr. Szabo further explained the session's various charrette/workshop topics and their intended focus for producing actionable input on downtown revitalization via master plan amendments and ordinance additions. Mr. Sedlak said the report of the visioning session, once produced, will be posted on the Borough website.
6. **Old Business:** None.
7. **New Business:**
  - A. Application #18-01 – Roberts: FAR & bulk variances for residence, pool & patio additions 200 Old Army Road, B: 50, L:1, Z: R1; Deemed complete 2/27/18; Initial hearing 3/19/18.

Appearing on behalf of the application were owners Max and Kathleen Roberts, their attorney Frederick Zelle, engineer William Hollows and architect Eric Baker. Mr. & Ms. Roberts were sworn, Mr. Hollows and Mr. Baker were both sworn and qualified.

Exhibits introduced:

**A1:** 11" x 17" Front and rear color photos of house (1 ea.) and 11" x 17" (reduced) architectural drawings A-101, A-102, A-200, A-201, A-202, A-203, A-204, A-205 by Eric Baker Architects, all last dated 3/9/18.

**A2:** Colored site plan drawing sheet 2 of 2 by Murphy & Hollows Assoc., LLC, last dated 3/14/18.

**A3:** Architectural elevations drawing A-205.0 by Eric Baker Architects, last dated 3/9/18.

Mr. Zelley introduced the application stating that the structures on the property, also known as the Tall Oaks Estate and the Tommy Dorsey property, were constructed circa 1908. The property consists of the house and two accessory buildings: a two story carriage house and a three sided shed that the owners may fully enclose in the future. The current lot results from a 1997 subdivision. The owners wish to build an addition above the attached garage, which was the subject of a 2001 Board of Adjustment variance application, to provide a 2<sup>nd</sup> floor art studio, hobby room and cat lounges; construct a first floor addition on the Old Army Road side of the home overtop an existing patio to create a small morning/keeping room; construct an open covered walkway from the keeping room to a new elevator vestibule; and construct a swimming pool at the rear of the house, which is technically in the Old Army Road front yard of the property.

Ms. Roberts testified that she and her husband currently live in Chester and purchased the home in 2017 as they need larger living quarters. She listed their reasons for each of the proposed additions/renovations and added that the proposed pool is a small lap pool. The carriage house, which currently has a garage and two apartments, will no longer be used as a garage and the two upper floor apartments will be reduced to one. It will be used for visiting guests and possibly live-in domestic help in the future. It will not be used for outside rental. The garage will be converted to a recreation room on the first floor and an office for Mr. Roberts on the second floor. The shed, which is currently open on one side and included in the FAR calculation, will be fully enclosed in the future to become a heated workshop for Mr. Roberts. The Roberts intend to preserve several items remaining in the house that are reflective of the Tommy Dorsey era: including artwork created by Mr. Dorsey that's located on a wall in the second floor powder room; a pool table and piano that belonged to Mr. Dorsey, both located in the "Blue Room" on the second floor; a wash-up area with three sinks on the third floor and some bar fixtures that were removed from a built-in bar believed to have been located in the Blue Room and will be reconstructed there. The Roberts held a meet and greet on March 11 at the Bernards Inn to show invited neighbors, including the Audubon Society and Historic Committee, their plans for the property and to explain the reasons for the variance application. Ms. Roberts said she did not recall any negative comments regarding their plan from the attendees. There were no questions from the public for Ms. Roberts.

Mr. Roberts testified that they received very positive feedback from all the meet and greet attendees. He said when he discussed the plans with HPAC Chair Dan Lincoln, the missing comment contained in the HPAC report was never mentioned. His office, proposed in the carriage house, will not be for business use as he is retired. There were no questions from the public for Mr. Roberts.

Mr. Baker said he was retained for prior work on this property (circa 2001) that included interior renovations and an attached garage addition, which also obtained Board of Adjustment variance approval. He distributed exhibit **A1** packets to the Board and Board's professionals and confirmed that all of the drawings except A-205 are identical to those submitted with the application. Only the rear elevation on A-205 has been altered, relative to the balcony over the keeping room. A full size drawing A-205 was introduced and marked as exhibit **A3**. In describing the mixed architectural styles present, he stated that the main house has a height between 45' and 50', however none of the proposed additions will exceed the 35' maximum height. Referring to **A1**, Mr. Baker explained the proposed

additions and renovations. Existing exterior finishes will be duplicated for all of the new additions. The size of the house and property are typical for the neighborhood. All of the proposed additions have been kept to the minimum to minimize the magnitude of needed variances. Referring to **A2**, Mr. Baker explained that due to the house's orientation facing away from Old Army Road, the rear yard for the house is technically the front yard of the property, within which the proposed lap pool is to be located. He said the pool has been placed as close to the house as possible. Fencing that matches existing will be erected around the pool. The HPAC report was discussed but no changes to the architectural design were mandated by the Board. The garage doors on the carriage house will only be decorative in nature and not functional for parking cars.

Environmental Commission member Johanna Wissinger asked what material would be used for the pool deck, whether pervious materials were considered and if any trees will be removed. Mr. Baker replied that impervious blue stone is proposed in keeping with existing materials on site and no trees are to be removed.

Referring to **A2**, Mr. Hollows described the site and its predominately residential environs, stating that Bernards Twp. borders the south side of Old Army Road. The house sits on a knoll with the ground sloping downward on all sides. There are no wetlands on site and the house is served by well water and a septic system. Proposed additional impervious coverage includes the southeast side house addition, the pool, walkway to the pool and pool deck. Partial removal of the gravel pavement in front of the carriage house is proposed to reduce impervious coverage. The pool location was determined by centering it on the adjacent hallway and the location of existing landscape plantings the owners intend to preserve. Addressing the variances, Mr. Hollows indicated the required front yard setback is 215' where 162.7' is proposed to the pool. A maximum floor area of 13,890 S.F. is allowed where 15,018 S.F. is existing and 17,303 S.F. is proposed. 23,520 S.F. impervious coverage is allowed where 30,809 is existing and 32,011 is proposed. Much of the impervious coverage results from the long driveway that remained after the lot was subdivided. To mitigate the increase, about a third of the gravel pavement at the carriage house will be removed and the stone deck surrounding the pool will be built on only three sides. Mr. Hollows stated that his 3/14/18 drawing 2 of 2 has been amended in response to Mr. Brightly's 3/5/18 engineering report. Mr. Brightly indicated that due to the net 1,200 S.F. increase in impervious coverage and 659 S.F. increase in roof area, additional storm water infiltration facilities will be required with the standard deed restriction. He said that it is unlikely that the existing dry well(s) is sized large enough to accommodate the increase. If the new dry well is adequately sized and piped to pick up the carriage house roof runoff, that will satisfy the requirement for new stormwater facilities. Mr. Hollows stated they had no issues with any of the comments from the 2/27/18 planning report, the 3/9/18 zoning report nor the 3/12/18 Health Department report. The 3/13/18 Environmental Commission report was discussed earlier this evening with Ms. Wissinger. Chairman Greenebaum confirmed with Mr. Hollows that the special front yard setback requirement does not apply for this application. Relative to the overall lot size, the increased impervious coverage equals 1.13%. The Board discussed various locations for a dry well. It was noted that if the 329 S.F. carriage house patio were to be removed, the overall increase in impervious coverage would drop below 1,000 S.F. and no longer require collection. Only the increased roof area would have to be collected, as it exceeds 500 S.F. Ms. Roberts said that 8' to 9' tall hydrangeas will be taken from their existing residence and replanted around the pool to screen views from Old Army Rd. Mr. Roberts added that there is heavy vegetation at the perimeter that already screen views, except during winter. There were no questions from the public for Mr. Hollows.

Mr. Zelley summarized the application, laying out the positive and negative criteria for granting the requested D4 variance for FAR and C1 or C2 variances for the impervious coverage overage and deficient front yard setback for the pool. Chairman Greenebaum clarified that the front yard setback variance is 157.8' to the pool deck, not edge of pool.

Mr. Rago reviewed the conditions stipulated to by the applicant should the Board approve the application, which included removal of the carriage house/garage patio; elimination of one of the two carriage house apartments; no conversion of carriage house first floor to living quarters; no outside rental of the remaining carriage house apartment on second floor, new exterior building elements will match the existing, installation of a dry well for the net added roof area with deed restriction; and installation of appropriate 8' ~ 9' tall plants to screen outside views of the pool.

Upon deliberation, Ms. Kramer and Chairman Greenebaum spoke in favor of the application and the Board agreed that no substantial negative impacts would result by approving it.

Motion to approve the application as conditioned by the Board and agreed to by the applicant: Ms. Kramer. Second: Mr. Dello Russo.

Roll call vote:

All in favor: Members Greenebaum, English, Giglio, Dello Russo, Sailliard, Kramer and Sedlak. Those opposed: None.

**B: 2018 Professional Evaluations:** Chairman Greenebaum reminded members to complete the previously distributed evaluation forms and return them to him prior to the next meeting for his compilation.

**C: Review of draft memorial resolution for P. David Zimmerman:** Upon review, the Board approved the draft resolution as presented. Mr. Mottola will have it professionally printed with signature lines for the Board to formally adopt and sign it at its next meeting.

**D: The Board reviewed the 3/19/18 Bills List with Vouchers.**

Motion to approve and pay vouchers in the amount of **\$2,758.00**: Mr. Sedlak.

Second: Mr. English.

Roll call vote: All members voted in the affirmative, except members Giglio, Dello Russo and Traynor who abstained.

**8. Pending Applications:** The Board acknowledged the two pending applications listed on the agenda and their anticipated hearing dates.

**9. Executive Session: Matter of ongoing litigation re Bernardsville Petroleum Group, LLC.** Chairman Greenebaum read the prepared Open Public Meetings Act closed session resolution. A motion to close the public meeting and reconvene in executive session was made by Mr. McDowell and seconded by Mr. Sedlak.  
Roll call vote: All members voted in the affirmative.

It is anticipated that the matters discussed in closed session may be disclosed to the public upon determination of the Board that the public interest will no longer be served by such confidentiality.

Motion to close the executive session and reopen the public meeting: Mr. Dello Russo.

Second: Mr. McDowell.

Voice vote: All members voted in the affirmative.

**10. Comments from Members:** None.

**11. Comments from Staff:** None.

**12. Adjournment:**

A motion to adjourn was made by Mr. Sedlak. Second: Ms. Kramer.

Voice vote: All members voted in the affirmative.

Chairman Greenebaum adjourned the meeting at 10:28 pm.

Respectfully submitted,

Frank Mottola,  
Planning & Zoning Boards  
Administrative Officer

Keywords: Downtown-revitalization-Roberts-Old-Army-Dorsey-Zelley-Hollows-Baker-litigation.