

BOARD OF ADJUSTMENT  
BOROUGH OF BERNARDSVILLE  
**Minutes – May 17, 2021**  
VIRTUAL ONLINE MEETING

1. **O.P.M.A. Statement:** A statement of adequate meeting notice and adherence to the state mandated emergency remote meetings protocols, as set forth on this meeting's web-posted agenda, was read by Chair, David Greenebaum, at 7:31 pm.

2. **Roll Call:**

Present: Members Carton, English, Greenebaum, Kramer, Sailliard, Slocum and Traynor.

Absent: Members Dello Russo, McDowell and Sedlak.

Board professionals present: Attorney Louis P. Rago, Engineer Robert Brightly and Planner John Szabo, Jr.

3. **Meeting Minutes:** Review minutes of 4/5/21.

Upon review a motion to approve the minutes as presented was made by Mr. Carton and seconded by Ms. Kramer.

Voice vote:

All eligible members voted in the affirmative.

4. **Communications:** The following were distributed to and/or discussed by the Board:

A. 5/4/21 N. O'Brien, Esq. email request for hearing continuation to 6/7/21 w/ corresponding decision deadline extension. (re 5B).

B. 5/17/21 N. O'Brien, Esq. updated email request for hearing continuation to 6/21/21 w/ promised decision deadline extension.

C. 5/17/21 A. Ochs, Esq. email request for hearing continuation to September or October 2021 w/ decision deadline extension to 12/31/21.

D 5/3/21 F. Mottola FW of A. Suriano 4/28/21 email to BOA & PB re 2021 Financial Disclosure Statements notice.

Chair Greenebaum urged Board members to file their statements and Mr. Szabo cautioned members that fines are regularly issued to those that do not file on time.

5. **Old Business:**

A. Continued Application #19-09 OCHS – Bulk variances for residential addition and retaining wall; 180 Round Top Road, B: 81, L: 24, Zone: R-1A; Received 9/24/19; Decision required by 2/29/20. Previously heard 12/2/19 & 11/16/20; Previously scheduled to be continued **this evening** w/hearing deadline extended to 5/31/21; request for postponement to Sept. or Oct. 2021; decision deadline extended to 12/31/21.

*[Eligible to vote: Greenebaum, Sailliard, Kramer, Traynor, McDowell and Slocum.]*

On the advice of Board engineer Brightly (so that the applicant does not miss the planting season), the Chair announced that the hearing would be continued on 9/7/21. And although not required, he requested that the applicant re-notice, given the length of time since the application

was last heard. Mr. Rago agreed to reach out to Ms. Ochs to make that request. Environmental Commission (EC) Chair Johanna Wissinger expressed similar concern about missing the planting season in case slope stabilization planting is required of the applicant. Mr. Szabo advised the Board that it could amend its by-laws to require applicants to re-notice when there exist substantial periods of time between hearings due to applicant-requested adjournments.

**B. Continued Application #20-01 NJ AMERICAN WATER CO., INC. – Fenwick Tower**

–Preliminary and Final Major Site Plan with Conditional Use & Bulk Variances for replacement water tank at Mendham Road; B: 5, L: 5, Zone: R-1; Deemed complete & hearing commenced on 11/16/20, also heard on 3/1 & 4/5/21; *Scheduled to be continued 5/17/21; request for postponement & corresponding decision deadline extension to 6/21/21.*

*[Eligible to vote: Carton, English, Greenebaum, Kramer, Sailliard, McDowell and Slocum.]*

Per the above correspondence, Chair Greenebaum announced the continuation of this application to June 21, 2021, as requested by the applicant; no further notice to the public is required. David Amerikaner, Esq., attorney for neighborhood objector Mr. Paul Savas, was provided the opportunity to express his client's concerns over the applicant-requested hearing delays in light of their claims of urgency. He questioned NJAW's interim plan to provide adequate water from the time its contract with MCMUA expires and the completion of construction of the water tower, possibly a year or more later. Chair Greenebaum advised Mr. Amerikaner to raise these issues when the application is next continued as the applicant is not present this evening.

**6. New Business:**

**A. Application #21-01 PARAGANO** – Bulk Variances for Additions and Renovations to Existing Single-family Residence; 40 Flintlock Court; B: 80, L: 33.13, Zone: R-2; Received 2/23/21; Decision required by 6/23/21; Deemed complete 3/25/21; Decision required by 7/23/21; Scheduled to be heard this evening.

Appearing on behalf of the application were owner/applicant Vincent Paragano and architect Daniel Lincoln. Board member Carton cleared with Mr. Rago there would not be a conflict for him to hear the application due to a similar application he filed with the Board several years ago.

Mr. Paragano, was sworn and assented to Mr. Carton's participation in the hearing. He provided some history of his family's time in the subject residence (built in 1976) and described the site and its environs. The home is a four-bedroom, three story structure. Due to various maladies that have been afflicting their daughter since 2012, certain physical changes to their home are required to accommodate her needs. The family's two-year search for suitable housing for the daughter has been unsuccessful. Accordingly, this application seeks dimensional variances to accommodate the addition of a handicapped accessible suite of rooms in which their daughter can reside, be cared for by her parents and age in place. Essentially, the applicants wish to create a mother-daughter type of dwelling. Mr. Paragano stipulated that his family would never seek to rent the suite of rooms once their daughter no longer resides in them. The proposed plans were shown to the two neighbors with homes adjacent to where the additions will be constructed. Due to the slope of the property, visibility of the addition by neighbors will be minimis.

There were no questions for Mr. Paragano from the Board, its professionals or the public.

Mr. Lincoln was sworn, with his credentials were already known to the Board. He displayed his site and building drawings to describe the proposed modifications to the dwelling and to explain the variances being requested. The proposed 1.5 story addition with basement, will be attached to the north/driveway side of the building. It requires a rear yard setback variance to be 33.9' from the property line where 50' is required. A front yard setback variance is required due to the increased building width; 79' is proposed where 83' is required. The proposed driveway expansion triggers the need for a lot coverage variance for 11,518 S.F. where 10,215 S.F. is allowed. Mr. Lincoln explained the modified floor layouts and their functionality. The size of the driveway expansion is attributable to the driveway's fixed connection a the cul-de-sac. 280 S.F. of the lot coverage overage comes from a rock outcropping. The size of the addition is attributable to the accessibility and function requirements of the spaces added. The rear yard setback requirement cannot be met due to the position of the existing dwelling. He confirmed for Mr. Brightly that the modified driveway will adhere to the 10' side yard setback requirement. He was not certain if the 17% allowable front yard impervious coverage is exceeded but added that the current amount of front yard coverage is not changing. The applicant stipulated they have no issues complying with all of the comments in the engineering report.

In response to questions by EC Chair Johanna Wissinger, Mr. Lincoln stated they are prepared to be flexible in locating the dry well should they encounter subsurface rock. Mr. Paragano was not agreeable to using a pervious paving material for the new section of driveway based on known maintenance and performance issues. He closed by opining that this type of housing stock would be a benefit to the community due to its scarcity. He would agree to an imposed deed restriction that would limit the use of the dwelling to only one family.

There were no comments on the application by members of the public or the Board.

A motion to approve the application with the applicant's stipulations and conditions outlined by Mr. Rago was made by Ms. Kramer and seconded by Mr. Traynor.

Roll call vote:

All in favor: Members Carton, English, Greenebaum, Kramer, Sailliard, Traynor and Slocum.  
Those opposed: None. Those abstaining: None.

**B. Application #21-02 ADAMS** – Bulk Variance to Rebuild Detached Garage for Single-family Residence 77 Mullens Lane, B: 59, L: 7, Zone: R-4; Received 2/25/21; Scheduled to be heard this evening.

Appearing on behalf of the application were owners Jennifer and James Adams. Both were sworn by Mr. Rago. Mr. Rago reminded the Board that the requested waivers, except for the exclusion of a signature block, were heard and granted at the 5/3/21 meeting.

Ms. Adams explained that they are applying to reconstruct their 1940's era detached garage that was destroyed in a storm. It will be rebuilt in generally the same location but will be slightly larger to be able to accommodate two cars, as the prior garage could not. The proposed garage will be 24' x 32' whereas the former garage was 18' x 30'. The applicants propose to keep the prior nonconforming side yard setback of 5.24' where 10' is required. A floor area variance is also sought to exceed the 4,040 S.F. maximum allowed by 266 S.F. (Mr. Szabo clarified that this variance is not a FAR variance that requires a "d" variance.) Ms. Adams described the proposed structure, stating there will be a tool storage area in the rear and a stair to access an additional storage area in the attic. The old foundation will not support a new structure and to move the new garage so as to comply with the side yard requirement would position it out of alignment with the

driveway. Mr. Adams said that the shrubs on the left side of the garage would be removed during construction and replanted afterward. He stipulated agreement to a condition that would require the shrubs to be maintained and replaced if necessary. They did not consider putting windows on the left side of the garage as they did not anticipate their neighbor would want to have a view into their garage. He confirmed for Mr. Brightly that the dry well installed as a condition of an expansion approved by the Board in 2006 is located in the far right hand side of the property and will not be effected by the proposed garage. The applicants stated that they have no issues with complying with all of the comments in Mr. Brightly's review report of 4/21/21.

EC Chair Johanna Wissinger suggested the applicants consider converting an existing garden to a rain garden, which the applicants agreed to explore. She will send them resource materials. There were no other questions or comments from the public.

Mr. Rago reviewed discussed conditions. A motion to approve the application as conditioned was made by Mr. Carton and seconded by Mr. Traynor.

Roll call vote:

All in favor: Members Carton, English, Greenebaum, Kramer, Sailliard, Traynor and Slocum.  
Those opposed: None. Those abstaining: None.

**C. Review 5/17/21 Bills List w/ Invoices:**

Upon review, a motion to approve the listed invoices in the amount of \$7,283.38 was made by Ms. Kramer and seconded by Mr. English.

Roll call vote:

All members voted in the affirmative.

**7. Pending Applications: The Board acknowledged these applications and their respective status:**

*A. Application #21-03 HERNANDEZ - Bulk Variances to Expand Single Family Residence & Rebuild Detached Garage; 16 Woodland Road, B: 78, L:5, Zone: R-4; Received 3/23/21; Waiver requests, completeness determination and application scheduled to be heard 6/7/21.*

*B. Continued Application #20-07 BANK OF AMERICA (ATM) – Amended Site Plan w/ Dimensional Variances; 37 Morristown Rd.; B:125, L:8, Zone: C-1; Rec'd 8/12/20; Previously heard 11/2 & 12/7/20 and 2/16 & 4/5/21; Scheduled to be continued and decision deadline extended to 7/19/21.*

*[Eligible to vote: Carton, English, Greenebaum, Kramer, McDowell, Sailliard, Sedlak and Slocum.].*

*C. Application #21-04 PHILLIPS – Bulk Variances for Addition and Alteration to Single Family Residence at 21 Chestnut Avenue, B: 34, L: 3.01, Zone: R-2; Received 4/8/21; Pending completeness review.*

*D. Application #21-05 SHAVER – Bulk Variance for New Detached Shed on Single Family Residential Lot at 20 Southfield Drive, B: 28, L: 49.06, Zone: R-2; Received 4/22 & 5/4; Pending completeness review.*

*E. Application #21-06 GREGORY – Bulk Variances for New Detached Barn on Single Family Residential Lot at 130 Chapin Road, B: 3, L: 7, Zone: R-1; Received 4/29/21; Pending completeness review.*

*F. Application #21-07 SCOTT – Bulk Variances for Driveway and Patio Expansions at 371 Claremont Road B: 6, L: 10, Zone: R-1-10; Received 5/10/21; Pending completeness review.*

**8. Executive Session:** None.

**9. Comments from Members:**

Mr. Carton suggested the Board have a conversation with the EC regarding their frequent recommendations for the installation of rain gardens, in that there are certain difficulties in maintaining them and that there are other methods/types of storm water infiltration devices that may be more practical in certain cases. Mr. Brightly commented on the practicality of dry wells citing their ease of availability and capacity for storing large amounts of water within a small space. Mr. Carton said he just thought the Board should not be so locked into requiring just one type of stormwater control mechanism. Chair Greenebaum urged Mr. Brightly to advise applicants in his reports that alternate stormwater control mechanisms exist and may be considered in lieu of dry wells.

**10. Comments from Staff:** None.

**11. Adjournment:**

Motion to adjourn: Mr. Slocum.

Second: Mr. English.

Voice vote:

All members voted in the affirmative.

Chair Greenebaum adjourned the meeting at 9:15 pm.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Frank Mottola', with a stylized, flowing script.

Frank Mottola,  
Planning & Zoning Boards  
Administrative Officer

Keywords: Paragano-Lincoln-Flintlock-two-family-faulty-notice-Adams-Mullens-garage.