

May 20th, 2019
Hawthorne, NJ

The Regular Meeting of the Zoning Board of Adjustment of the Borough of Hawthorne was held on the above date at 6:54 p.m. in the Council Meeting Room of the Municipal Building, 445 Lafayette Avenue, Hawthorne, New Jersey, with the following present:

FLAG SALUTE

Vice Chairman Gallaher invited all present to join him in the Pledge of Allegiance.

“Adequate Notice of this meeting has been posted on the Municipal Bulletin Board, published in the legal newspaper of the Borough and a schedule, including date and time, provided to all persons entitled by law to same. “

ROLL CALL

Chair.....	Raymond Hallock @ arrived at 7pm
Vice Chair.....	John F. Gallagher
Board Member.....	David A. Schroter
Board Member.....	Scott Chamberlin
Board Member	Kevin Duffy
Board Member.....	Jack B. De Ritter
Board Member.....	Annamarie Sasso
Board Member (Alternate #1).....	Victor Cuttitta
Board Member (Alternate #2).....	Eleanor C. Wenzke

Also present was Board Attorney James Delia; Board Engineer Mike Kelly; Board Planner Joe Burgis; and Board Secretary Joan Herve.

BILLS:

Vice Chairman Gallagher entertained a motion to approve the bill list and forward it to the Treasurer for payment, moved by Chamberlin, seconded by a De Ritter. On a roll call vote, all present voted yes. Motion carried.

Hawthorne Press for Legal Notices: \$40.56

APPROVAL OF MINUTES

Vice Chairman Gallagher entertained a motion to approve the minutes of the April 15th, 2019 Meeting moved by Schroter, seconded by Chamberlin. On a roll call vote, all present voted yes. Motion Carried with the exception of De Ritter and Sasso who abstained.

MEMORIALIZED RESOLUTION

Amedeo & Jahaida Moino, 10 Lee Avenue (block 229, Lot 25)

Vice Chairman Gallagher entertained a motion to Memorialize Resolution for approved applicant seeking to construct a two–story addition at the rear of a single family residence, moved by Chamberlin, seconded by Schroter. On a roll call vote, all present voted yes, with the exception of De Ritter, Sasso & Wenzke who were not eligible to vote. Motion Carried.

OLD BUSINESS

Vish Dev Star, LLC, 415 Wagaraw Road (block 19, lot's 5, 17,18,19,20 & 21)

As per the applicant, the hearing was tabled to the June 17th, 2019 ZBA meeting for the applicant seeking variances and waivers to expand a presently existing non-conforming motor vehicle fueling facility and to construct retail, commercial structure.

Vice Chairman Gallagher entertained a motion to table this application to the June 17th, 2019 meeting, moved by De Ritter, seconded by Chamberlin. On a roll call vote, all present voted yes. Motion Carried.

Chairman Hallock arrived at 7:00pm.

New Business

53 Braen Avenue, LLC, 10 Sotnick Street (block 287, Lot 8)

Note: Board Member Schroter recused himself from this application as he is employed by one of the LLC partners and Alt. Board Member Wenzke recused herself due to appearing on the applicant's 200' list; both left the dais and sat in the audience.

LLC Partners: 50% Richard Queen & 50% Selman Properties

Board attorney Delia stated he did work for Selman Properties over (2) years ago and in his opinion he does not have conflict.

Board Planner Burgis also stated he did work previous with Mr. Queen and in his opinion he does not have any conflict. Secondly, Burgis stated on his report he asked to strike the section of his report that states "*In its approval, the applicant agreed and the Planning Board conditioned, its major subdivision approval on consolidating the two single family lots located at the end of the cul-de- sac of Sotnick Street to: a) avoid unnecessary steep slope disturbances and b) to bring the development into closer conformity to the R-1 zone in which the lots were located*". This condition has been rescinded from the adoption of the resolution.


Applicants Attorney Bruce Whitaker added there was a prior approval for a subdivision but this lot was left out remaining as one individual lot. There was one time a proposal before the planning board for this subdivision however it was withdrawn. Now he is seeking a subdivision for a two-family use that is why he is before this board for a Use Variance as this location is in the R1 Zone. Attorney Delia pointed out to the Board there has been no prior decision as it relates to this application.

Bruce Whitaker gave an overview of the applicant proposing to subdivide lot 8 and construct (2) two-family dwelling on each lot; lot 8.01 19,388 s.f. (.045 acres), lot 8.02 26,168 s.f. (.060 acres). Site is located in the Residential, One (1) Family (R-1) Zone. He feels this area is suitable for this use.

Exhibits: A-1-Zoning Board of Adjustment Application
A-2-Tioigraoguc Survey
A-3-Subdivision Plan
A-4-Photographs of Neighboring Properties
A-5-Rendering of Prospect Homes
A-6, A-7-Lot Depth Graphic Scale

Mr. Riggs application's Engineer discussed the plans dated February 1st, 2019:

Zoning Requirement Zone R-1 one Family			
<i>Description</i>	<i>Required</i>	<i>Proposed Lot 8.01</i>	<i>Proposed Lot 8.02</i>
Minimum Lot Area	18,750 s.f.	19,388 s.f.	26,168 s.f.
Minimum Lot Area Per Dwelling Unit	18,750 s.f.	9,694 s.f.	13,084 s.f.
Minimum Lot Width	125 ft.	86.0 ft.	86.4 ft.
Minimum Lot Depth	150 ft.	228.9 ft.	299.8 ft.
Minimum Front Yard Setback to ROW	50 ft.	56.5 ft.	51.0 ft.
Minimum Front Yard Setback to CL	75 ft.	>75 ft.	>75 ft.
Minimum Side Yard Setback One/Both	15 ft./40 ft.	16.2 ft./43.2 ft.	16.0 ft./44.8 ft.
Minimum Rear Yard Setback	50 ft.	110.4 ft.	197.0 ft.
Maximum building Height Feet/Stories	35/2 1/2	<35/2 1/2	<35/2 1/2
Maximum Lot Coverage	25%	<25%	<25%
Maximum Impervious Coverage	50%	<50%	<50%
Minimum Dwelling Ground Floor Area	1,200 s.f.	>1,200 s.f.	>1,200 s.f.

 Indicates Variance Conditions

*indicates Pre-Existing Non-Confirming Condition

Variiances Requested:

540 Attachment 1 – Schedule of Bulk & Coverage Controls

Minimum lot are per dwelling of 18,750 S.F. required where 9,694 S.F. is proposed for lot 8.01 and 13, 084 S.F. is proposed for Lot 8.02

Minimum lot width of 125’ required where 86.0’ is proposed for lot 8.01 and 86.4 is proposed for Lot 8.02.

Section 540.10.A(1): Only single family detached dwellings permitted in the R-1 Zone where two family dwellings are proposed for lots 8.01 and 8.02.

Section 540-159.C(2)(c):

Location of trees greater than 8” required where only the trees within the area of disturbances are shown (*the area beyond where we disturbed, they did not located trees over 8’ in size and he asked the board consider them not do that*). Mr. Kelly stated this is acceptable.

Section 540-160.A(3):

Disturbance of steep slope area in excess of those permitted for site for slopes 15% to 9.99% and from 20% to 24.99%.

Section 540-160.A(5):

A minimum of 25% of the lot shall be in non-steep slope areas where Lot 8.01 has 16.27% in non-steep slope areas.


Waivers Requested:


293 Attachment 1 B(2)(b) – Checklist Subdivision Applications

Contours based on one foot intervals required where two foot intervals are provided.

Mr. Kelly does not take exception to this request.

Mr. Riggs explained after reviewing the Bowell’s reports there is nothing in that report as far as requirements are concerned that we do not meet. Boswell Engineering takes no exception to the drainage design, as submitted. They meet all the Hawthorne requirements regarding their drainage plan as there will be a reduction in the storm water run-off from the two lots proposed.

STEEP SLOPE CALCULATIONS			
<u>TOTAL SITE</u>			
<i>Slope Category</i>	<i>Total Slope Area</i>	<i>Allowable Disturbance</i>	<i>Proposed Disturbance</i>
0% - 14.99%	13,693 S.F.	100% - 13,693 S.F.	45.99% - 6,297 S.F.
15% - 19.99%	18,508 S.F.	40% - 7,403 S.F.	50.85% - 9,411 S.F.
20% - 24.99%	18,508 S.F.	20% - 1,706 S.F.	58.63% - 5,002 S.F.
25% & Greater	4,823 S.F.	10% - 482 S.F.	0 S.F.
	Indicates Variance Condition		

STEEP SLOPE PERCENT PER LOT				
<i>Required Minimum 25% Lot Area Not in Steep Slopes</i>				
<i>Lot</i>	<i>Total Lot Area</i>	<i>Steep Slope Area</i>	<i>Non-Steep Slope Area</i>	<i>Percent Not in Steep Slopes</i>
8.01	19,388 S.F.	16,233 S.F.	3,155 S.F.	16.27%
8.02	26,168 S.F.	15,630 S.F.	10,538 S.F.	40.27%
	Indicates Variance Condition			

SOIL MOVEMENT SLOPE REQUIREMENTS			
<u>TOTAL SITE</u>			
<i>Slope Category</i>	<i>Total Slope Area</i>	<i>Proposed Disturbance</i>	<i>Proposed Percent Disturbance</i>
0% - 5%	999 S.F.	506 S.F.	50.7%
5% - 10%	4,444 S.F.	3,674 S.F.	82.7%
10% - 15%	8,250 S.F.	2,084 S.F.	25.3%
15% & Greater	31,863 S.F.	17,790 S.F.	45.3%
<i>Total Site Area = 45,556 S.F.</i>			
<i>Total On-Site Disturbance = 20,710 S.F.</i>			
<i>Total Percent of Site Disturbed = 45.5%</i>			

They are adding approximately 56 hundred S.F. of additional approval for steep slopes. All the rest has been previously approved by the original application for the one-family home on this site. They are asking for the full variances that were previously approved as part of the original sub-division. There will be no disturbance to the rear of this property. Mr. Riggs read the requirements for the Steep Slope Ordinance in Chapter 540-160A(4) of Hawthorne Code Book. He feels in his professional opinion the plans submitted meet the criteria's of these sites and the adjoining sites.

Board Member Chamberlin stated he has concerns as many residents get serious water down stream and questioned Mr. Kelly, in reviewing these plans you feel (2) 1000 gallons seepage pits is going to take all the run-offs from these lots. Mr. Kelly responded, yes, they reviewed all the calculations and based on the area of impervious coverage they are proposing it is acceptable.

Board Planner Burgis questioned Mr. Riggs, do you identify the limited of disturbance around the property to protect the trees. Mr. Riggs response; yes. Mr. Burgis asked for the record can you identify how that area will be delineated during construction. Mr. Riggs responded they will be installing a fence along that line before construction so they don't disturb more than is necessary.

Board Member Duffy asked prior to Planning Board approval did the environmental commission review the plans. Mr. Whitaker stated he was not part of presenting that application, however he believes they did. Board secretary will follow up to see if this was reviewed previously by the environmental commission.

Chairman Hallock opened the meeting to the public. He stated if anyone desired to be heard on Mr. Riggs testimony, please raise your hand to be recognized, come forward to the microphone state your name and address.

The following residents all expressed concerns regarding the drainage in that area as they were all promised by professionals in the past when Lafayette Hills was built there would be no flooding and that was not the case;

Carmen Speranza, Lafayette Avenue; Carmen, Lafayette Ext; Kathy, 79 Braen Avenue; Carol, Owner of 84 & 58 Braen Avenue and Todd 39 Braen Avenue.

Mr. Riggs explained there site design; we are taking the storm water and putting a swale on the northern property line where it's grating between the two properties as well as a swale on the southern property line. Any water that is coming from the back now and gets to this property will be directed out toward the street or into their storm drain system. As to the other storm drain the residents discussed that is not part of this application.

Resident, 79 Braen Avenue asked all the water & mud that is being pump into her yard from that location now will there be a guarantee that is not going to happen once you put in all your drainage? Mr. Riggs responded he is not aware of the problem. Mr. Whitaker stated for the record they will look into it and the problem will be addressed and to make it clear for the record, part of the property that is involved with the original sub-division is property the resident sold. Mr. Kelly asked Mr. Queen to call his office to set up a meeting for them to meet at the property to discuss the concerns of neighbors regarding the soil erosion issues as this is the first time he his hearing this as well.

Applicant/Owner Mr. Richard Queen was sworn in to testify about the installation of the fire hydrant as a board member had a question. Mr. Queen explained they are in compliance with the original plans which called for a fire hydrant to be installed at the end of the cul-de-sac which they installed approximately (6) months ago.

Mr. Whitaker called his next witness; Planner Richard Preiss who stated he inspected the site and the associated documents/reports that were submitted. The area for development is surrounded by residential development on Sotnick itself by virtue of recent approvals. There are many two family dwellings which are currently under construction to the southeast and the townhouse development, Lafayette hills which is located to the northeast. The single family dwellings are located to the west north and south. There are business and professional offices located to the east of the properties along Goffle Road. The proposal is to sub-divide property into two lots constructing two 2-family homes. Both lots have frontage on Sotnick Street, the driveway would extend from the cul-de-sac to the dwelling for access. Each unit would be provided with two parking spaces, one space in the garage and a second space in the driveway. This is consistence with the requirements with the residential site improvement standards. Since this property is located in an R-1 single family zone a D1 use variance is

required. Two-family homes are only permitted in the R-2 district which lies from the south of this property. Mr. Preiss discussed following variances relief required as well as the Steep Slope Compliance.

R-1 Zoning Schedule Compliance			
Requirement	R-1	Proposed Lot 8.01	Proposed Lot 8.02
Min. Lot Area per Dwelling Unit	18,750	9,694	13,084
Min. Lot Width (Ft.)	125	86.0	86.4

Steep Slop Compliance		
Steep-Slope Category	Maximum Disturbance Permitted(%)	Proposed
0 to 14.99	100	45.99
15 to 19.99%	40	50.85 (V)
20 to 24.99	20	58.60 (V)
25% and Over	10	0

(V) Variance

Mr. Preiss also discussed the “C-1 & C-2” variance relief; he stated the benefits of granting the variances substantially outweigh any potential detriments.

In his opinion, he feels the property is particular suited for 2 two-family homes because of the unique characteristics, location and the surrounding uses.

Board Member Chamberlin asked to have the Environmental Commission review this application before continuing to see if they have any concerns regarding the steep slopes before he can make any decisions. He does not want to create more a problem in the future the residents who live their already. Board Agreed.

Chairman Hallock asked Mr. Burgis the last time we did a review of our Master Plan was there any consideration rezoning this particular property. Mr. Burgis stated at the time of the 2011 Master Plan, they have not considered this site. There is something to be said about the master plan general goal that talks about the diversity of housing types. He stated what the board has to weigh does the orientation of this property effect the land use designation. Mr. Whitaker added this is an additional opportunity to provide for two additional two-family homes that would not have any impact on the surrounding area.

Chairman Hallock opened the meeting to the public. He stated if anyone desired to be heard on this application, please raise your hand to be recognized, come forward to the microphone state your name and address.

Todd, 39 Braen Avenue

Resident reiterated again for years we heard there would be no flooding, the impact would be minimal, experts came in and they were totally wrong. We have nothing but problems on Braen Avenue and he feels this project is just going to add to it. It’s in an R-1 zone and it should stay an R-1 Zone. He asked the board to take a real hard look at it before making any decisions.

Kathy DeBrock, 71 Braen Avenue

Resident express concerns about the parking, she asked before making any decision to come and look at the development. Mr. Delia stated the “Residential Site Improvement Standards” which are state wide and tells every town what the parking requirements are, he explained this application meets those requirements.

Board Member Duffy stated you talked about the lot being oversized based on the other two families you are currently construction now and asked what the lot size would be when you exclude the area you are talking about putting a restriction on in the future for no development? Mr. Whitaker responded they will have that information for the board at the next meeting.

Chairman Hallock entertained a motion to carry this application to the June 17th, 2019 meeting in order for the environmental commission to review the application. Moved by De Ritter, seconded by Chamberlin. On a roll call vote, all voted yes. Motion Carried.

ADJOURNMENT

At 9:27 p.m. Chairman Hallock entertained a motion to adjourn the regular meeting, moved by Gallagher, seconded by Chamberlin. All in favor, “Aye”.

THE NEXT REGULAR MEETING OF THE ZONING BOARD OF ADJUSTMENT
WILL BE ON
~MONDAY, JUNE 17, 2019 ~
WILL BEGIN AT 6:45P.M.

Respectfully Submitted,
Joan Herve, Secretary