

**MINUTES OF THE REGULAR REMOTE ZONING BOARD
OF ADJUSTMENT MEETING HELD ON APRIL 13, 2021**

Chairman Byrne called to order the regular (**Zoom**) meeting of the Board and announced the meeting was duly advertised in compliance with the Open Public Meetings Act by notice sent to the Daily Record, Suburban Trends and posted on the bulletin board and website at Borough hall.

**PRESENT: BYRNE, DUBOWSKY, ERICKSON, KUBISKY, WOLFSON, ZALEWSKI
AND ZAPF**

ALSO PRESENT: BOORADY, ENGINEER AND LIPARI, COUNSEL (filling in for Alexander)

Chairman Byrne stated the first order of business is approval of the March 9th, 2021 meeting minutes. Are there any corrections?

Mr. Zapf stated there are a couple of little grammatical things, but I have a question on page 11. Mrs. Monaco's husband was sitting in on the hearing and all of a sudden he starts giving testimony, but I don't recall him being sworn in and that's not reflected in the minutes.

Chairman Byrne asked are you sure it is Mr. and not Mrs.

Mr. Zapf stated it says Mr. DePalma and when we swore in the Spielbergs, Mr. DePalma weighed in on the bushes and the lighting, but that is something that needs to be checked.

Chairman Byrne stated well let's ask Michael. We had an applicant's husband testify, although I don't know if that was testimony because he was having a conversation with the neighbor.

Mr. Zapf stated yes.

Chairman Byrne asked do you have the minutes from last month's meeting.

Mr. Lipari stated I do I have them in front of me.

Chairman Byrne stated so the applicant's husband did have some testimony during the public portion but I don't know if that is testimony to the application, or if it is just answering questions from his neighbors.

Mr. Zapf stated Michael I think the point is, we didn't swear him in and I think he just weighed in in talking to the neighbors but it is on the record.

Chairman Byrne stated I don't think he testified towards the application at all, at least I don't see his name anywhere.

Mr. Lipari stated if he did not testify I don't think that is anything fatal. It doesn't really need to be corrected or modified but you might want to go back and check the minutes. But again if the Board believes they have enough evidence of sworn testimony to support the decision of the application that should be sufficient.

Chairman Byrne stated hang on one second, I'm getting a phone call.

Mr. Zapf stated Tom, the husband that wasn't sworn in, they were asking about the bushes in the back, fence in the back and the only question that they actually asked and he weighed in on was the patio that was there which he said was going to remain. Other than that, it was are you going to change anything in your yard that the Spielbergs liked. The only thing he testified to was the patio and it was going to remain and stay where it is now

Mr. Boorady stated I don't think it was anything of value that he would have said.

Mr. Zapf stated okay.

Mr. Boorady stated even the patio wasn't anything of importance.

Mr. Zapf stated okay. Michael is that good?

Mr. Lipari stated that sounds good to me.

Mr. Zapf stated other than that, I'll make a motion to approve the minutes as presented.

Chairman Byrne stated that was Joan and she confirmed he didn't testify towards the application. Is there a second?

Mr. Dubowsky seconds.

Mrs. Kubisky stated that's the minutes of March 9th right?

Mr. Zapf stated right. You have to call the roll.

Roll call:

Yes: Zapf, Dubowsky, Byrne, Kubisky and Zalewski

No: None

Abstain: None

Mrs. Kubisky stated we're all good Mr. Chairman, the minutes are approved.

Chairman Byrne stated the next order of business is Variance Application #2020-1 by Anna Patricia Autieri, on property known as Block 7.04, Lot 1.10 on the municipal tax map also known as 38 Randolph Street. This is a consideration of a resolution of memorialization. I don't know if anyone looked through it?

Mr. Zapf stated I did and I didn't see any changes. Mary, it's the same people that voted on the minutes that can vote on the resolution.

Ms. Ward stated I'm here.

Chairman Byrne stated Mary was doing so well.

Ms. Ward stated I know I could hear everything but I couldn't unmute myself.

Chairman Byrne asked how did you get in.

Ms. Ward stated I dialed a different number and that connected me. Apparently I lost my connection to the Borough's internet.

Chairman Byrne stated we are on the Autieri resolution.

**LINCOLN PARK BOARD OF ADJUSTMENT
RESOLUTION**

**ZONING PERMIT #2020-82Z
Variance Application #2020-1**

WHEREAS, Anna Patricia Autieri ("Applicant") has filed an application before the Lincoln Park Zoning Board of Adjustment ("Board") with regard to property owned by the Applicant known as 38 Randolph Street, Lincoln Park, New Jersey, also identified as Block 7.04, Lot 1.10 on the official tax maps ("Property"); and

WHEREAS, notice was published in the official newspaper of the Board and all persons located within 200 feet of the Property and required utilities have been notified according to law,

and a virtual public hearing (via Zoom) was held before the Board on March 9, 2021; and

WHEREAS, based on the hearing and a review of all the testimony and documents submitted in conjunction with the application, the Board makes the following findings of facts:

1. The Property is in the R-15 Zone. The Applicant proposes to construct a 503 square foot addition to the existing single-family dwelling. The addition will be an Extended Family Dwelling Unit located in the rear yard of the property. The Applicant will also remove a portion of the existing deck and patio. The Extended Family Dwelling Unit is a permitted use in the R-15 Zone.

2. The Applicant submitted to the Board for its review the following material:

1. Standard Development Application Form (Section 17-82.1-A);
2. Checklist for General Information;
3. Checklist for Board of Adjustment Variance Application;
4. W-9, Request for Taxpayer Identification Number and Certification, signed by Donna M. Monaco, dated August 14, 2020;
5. Official Search for Municipal Liens, dated August 12, 2020;
6. Request for Certified List for Property Owners within 200 feet;
7. Borough of Lincoln Park Zoning Permit denial, signed by Sal Marino, Zoning Official, dated June 24, 2020;
8. Letter enclosing the copy of the property deed, signed by Anna Patricia Autieri, dated November 12, 2020;
9. Survey of Property for 38 Randolph Street, prepared by Anthony Marucci of Marucci Engineering Associates, LLC, dated November 23, 2019;
10. Architectural Site Plan, Floor Plans, and Elevations, enclosing two (2) sheets prepared by Nicolas Salerno, R.A. dated June 15, 2020, bearing two (2) revisions, last revised November 11, 2020.

3. The Applicant has requested a bulk variance for impervious coverage (27.6% proposed; 24.43% existing; 25% maximum permitted). The Applicant has also requested a variance for the side yard setback for the existing shed (6.6 feet existing and proposed; minimum of 10 feet required), which is a pre-existing non-conforming condition.

4. The Applicant and her daughter, Donna Monaco, testified at the hearing. Anthony Marucci, a licensed professional engineer and planner, also testified at the hearing in support of the application.

5. The Applicant explained that she intends to reside in the Extended Family Dwelling Unit. The Applicant is 81 years old and suffers from arthritis. The Extended Family Dwelling

Unit will be located on the ground floor, so the Applicant will not have to climb any stairs. The Applicant's daughter will also reside at the property. The Extended Family Dwelling Unit will be a one-story structure.

6. Antony Marucci testified that the criteria for a bulk variance is satisfied since the Extended Family Dwelling Unit is a permitted use in the zone, it will provide safer living conditions for the Applicant, and it satisfies the criteria set forth in the Borough's zoning code for an Extended Family Dwelling Unit (Section 28-5.1B). Mr. Marucci also testified that the construction of the Extended Family Dwelling Unit will improve the stormwater conditions at the Property, and that there will be no adverse impact on any adjacent properties.

7. During the hearing, the Board Engineer reviewed his report dated December 22, 2020. The Applicant agreed to the requirements set forth therein. The Applicant also agreed to submit a Grading Permit to the Board Engineer for his review and approval, which will provide for a stormwater retention system.

8. During the public portion of the hearing, Theresa and Jamie Spielberg (22 Patania Court) asked questions about the stormwater runoff and lighting. In response, the Applicant agreed to only use residential lighting fixtures and to aim the outdoor lights down.

9. The Board concluded after reviewing all of the testimony, exhibits submitted and documents included with the application, that by reason of the exceptional narrowness, slope and/or configuration of the Property, the strict enforcement of the provisions of the ordinances would result in exceptional and undue hardship upon the Applicant. Further, pursuant to N.J.S.A. 40:55D-70(c)(2), the benefits of the deviations from the zoning ordinances outweigh any detriments.

10. The application is consistent with the intent and plan of the zoning ordinances of the Borough of Lincoln Park and will not adversely impact the neighborhood or surrounding properties.

NOW, THEREFORE, BE IT RESOLVED, that based upon the testimony and facts as found above, the Lincoln Park Zoning Board of Adjustment does hereby grant the application and the requested variances on the following terms and conditions:

1. This Resolution is subject to any comments offered by the Boroughs Engineer and Construction Official on the application and the plans. The Applicant shall comply with any requirements imposed by the Borough's Engineer and Construction Official with respect to this

application or the plans.

2. The Applicant shall comply with the comments set forth in the Board Engineer's report dated December 22, 2020, including the submission of a Grading Permit for the Engineer's review and approval.

3. The Applicant shall use only residential lighting fixtures and bulbs for all outdoor lighting and the outdoor lights shall be pointed down and away from the adjacent properties.

4. The Applicant shall record a deed notice as required by Section 28-5.1B of the Borough's zoning code.

5. The Applicant shall obtain all required permits and approvals from the Morris County Soil Conservation District, the Borough Fire Department, and all other applicable agencies for the proposed development of the Property.

6. The Applicant is hereby notified of the following Borough Code that is incorporated into this Resolution:

§ 17.3.9. Expiration of Variance.

Any variance from the terms of Chapter 28, Zoning, hereafter granted by the Zoning Board of Adjustment permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance or unless such permitted use has actually been commenced within one year from the date of entry of the judgment or determination of the Zoning Board of Adjustment, except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Zoning Board of Adjustment to the governing body, or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding, except, further, in the case of a variance which also involves a subdivision or site plan approval, the variance shall extend for the full period of preliminary or final approval or any extensions thereof pursuant to the Act.

7. Before a Certificate of Occupancy may be issued, the Applicant must submit six (6) copies of an as-built topographic survey as well as the Borough's Project Completion Report signed and sealed by the Applicant's surveyor or engineer. Any remaining balance in the Applicant's escrow account will not be returned until the Project Completion Report has been properly submitted. The Applicant must submit to the Board Secretary a status report from the Borough's Finance Officer confirming that all Borough fees for the Property and this application are current.

8. All other rules and regulation of any governmental agency having jurisdiction over the Property shall be complied with, including but not limited to the payment of all taxes, water and sewer charges and application fees and/or charges. No alteration of any construction plans submitted with this application and on file with the Board shall be permitted without the Board's

prior written approval.

Mr. Zapf made the motion to approve the resolution as presented.

Chairman Byrne asked is there a second.

Mrs. Kubisky seconds

Roll call:

Yes: Zapf, Kubisky, Byrne, Dubowsky, and Zalewski

No: None

Abstain: None

Ms. Ward stated the resolution is approved.

Chairman Byrne stated the next order of business is Variance Application #2021-01 by Ryan Vasnelis, on property known as Block 52, Lot 3.2 on the municipal tax map also known as 45 Hunter Road. This is a completeness waiver request for Item 12. The applicant is here right?

Mr. Vasnelis stated I'm here.

Chairman Byrne asked what are we looking for.

Mr. Boorady stated Mr. Chairman, they are going to ask for the waiver of the slope adjustment. If they are approved for that waiver, then they can continue on with the public portion.

Chairman Byrne stated okay.

Mr. Boorady stated Item #12 is for the slope adjustment but there is really no earthwork since a deck is being constructed. I would recommend that the waiver be granted.

Chairman Byrne stated okay.

Mr. Zapf asked what number is that Tom.

Mr. Boorady stated Item #12 on the checklist, slope adjustment on the general checklist. I don't have the prongs or the checklist with me, but maybe Joan has it and she can confirm.

Ms. Ward stated yes. I believe the checklist is attached to your report too.

Chairman Byrne stated yes.

Mr. Zapf stated I see it.

Ms. Ward stated I have the prongs and it is #12 on the general checklist. Is the Board going to grant the waiver?

Chairman Byrne stated well that's the recommendation from our engineer.

Mr. Zapf stated if that's the recommendation from our engineer do we vote on it first?

Ms. Ward stated yes. You would need to vote on that first so the application can be deemed complete.

Mr. Zapf made the motion to grant the waiver.

Chairman Byrne asked for a second

Mr. Dubowsky seconds.

Roll call:

Yes: Zapf, Dubowsky, Byrne, Erickson, Kubisky, Wolfson and Zalewski

No: None

Abstain: None

Ms. Ward stated the application is now deemed complete.

Chairman Byrne asked we should now open the public portion.

Ms. Ward stated we need to get him sworn in by Michael.

Chairman Byrne stated okay.

Mr. Lipari swore in Ryan Vasnelis.

Chairman Byrne stated now we can open the public portion.

Ms. Ward asked do you want Ryan to state on the record an overview of the project and then go through Tom's report.

Chairman Byrne asked Mr. Vasnelis to state on the record what your plans are.

Mr. Vasnelis testified currently we have an existing deck and we are ripping that up and putting a new deck on that is going to be where the existing deck is and it's going to expand a little bit. The reason for the variance application is because the deck is going out to the rock wall which is up about 5 or 6 feet off the ground and a couple of feet back from what is our property line and we are next to conserved land that can't be built on. Because we are near that land about 7 feet off of that property line at the closest point that is the reason for the application.

Chairman Byrne stated okay.

Mr. Vasnelis testified also nobody is going to be able to see the deck that wouldn't be able to see it now. I don't know if that would make a difference, but we are not like coming up on somebody's property where it will be a hindrance to them.

Chairman Byrne asked does anyone have any questions for the applicant. No? Tom do you want to go through your report?

Mr. Boorady stated sure. My report is dated March 23rd, 2021 and it's three pages long. On the first page I list all the documents we received and I had recommend completeness subject to the waiver that was just granted for steep slopes.

The property is conforming and is just over 15,000 sq. ft. where a minimum of 15,000 sq. ft. is required. The property was created by subdivision and the Board has a copy of the resolution approving this subdivision with nonconforming lot frontage and also a nonconforming front yard. Those variances were approved by the Planning Board under Application #598.

In addition to the lot frontage and the front yard, the existing deck is about 17 feet from the side yard which is technically also a variance condition. But as outlined under Borough Code 28-4.2.G.(2) that deck that is currently there is arguably conforming since you are allowed a reduction in side yard when your lot width doesn't meet the minimum requirement, but to make it easier I called that out as a variance since it didn't meet the 20 feet.

So moving on, that deck will be demolished and a new deck will be constructed, mostly within its place and then expanded to the west side or the middle of the house and that encroaches on the side yard and that is that little interior corner of the lot. If everybody has the survey, if you measure from the corner of that interior corner to the new deck, it shouldn't be any less than 7 feet. It might even be a little bit more like 7.3 feet. That variance is really where 20 feet is required to the side yard, but again the Borough Code Section 28-42.G.(2) allows you to reduce

your side yard when you have insufficient lot frontage and I do those calculations in the middle of page 2 but I won't recite them verbatim. It boils down to a combine total side yard of 29.5, 20 is provided on the left which means you'd have to have a minimum of 9.5 on the right and he is going to be at 7 with the deck, so it amounts to about a 2½ foot variance on the right side. That is the only variance being requested on the right side of that deck. Seven is proposed, where 9.5 is required with the allowable reduction.

I don't have any engineering concerns with the variance, and my only technical comments are the left side yard and I just want to confirm that the deck won't encroach any more than the minimum permitted which is 20 feet. I think the applicant should affirm that the left side yard will be at least 20 feet to the deck.

Mr. Vasnelis testified it is not going out to the left any further than it is.

Mr. Boorady stated okay that's conforming now and it will be. I usually have some conditions, if the Board decides to grant the approval and those are listed at the beginning on page 2 and I would recommend that the Board makes my comment numbers 1, 2, 3 and 4 conditions of approval, and those are standard conditions of approval should there be any approval.

Chairman Byrne stated okay. Does anyone on the Board have any questions regarding that for Tom?

Mr. Zapf stated no.

Chairman Byrne asked so Tom you are saying 1, 2, and 3.

Mr. Boorady stated and 4.

Chairman Byrne stated alright so that is all standard stuff.

Mr. Boorady stated yeah.

Chairman Byrne asked does anyone on the Board have any questions for the applicant or Tom.

Mr. Zapf stated I have one question for Tom. On the front page of your report #5 it says, W-9, Request for Taxpayer Identification was signed by Donna J. Monaco.

Mr. Boorady stated I'm sorry that was the prior application.

Mr. Zapf stated in the same night we have two Donna Monacos.

Mr. Boorady stated yeah.

Mr. Zapf stated I wondered if that was a mistake because I've done that myself.

Mr. Boorady stated that's a mistake that's a cut and paste. I usually use my last letter and change the names, I apologize.

Mr. Zapf stated you don't have to apologize I've done that.

Mr. Boorady stated that's my template but everything else should be right.

Mr. Zapf stated okay.

Chairman Byrne stated so we have one attendee Bob. Can you hear us? You are on mute. Bob, can you unmute?

Mr. Zapf stated he is unmuted.

Chairman Byrne asked can you hear us Bob. We just lost his audio but he is still there. If you can hear us, can you respond please?

Mr. Boorady asked is he with the applicant or a member of the public that wants to ask questions.

Chairman Byrne stated I don't know because it just says Bob.

Mr. Boorady asked does the applicant know who he is.

Mr. Vasnelis testified I sent letters out to one or two Roberts on the certified list that I got from the tax assessor, but I haven't heard of anybody asking me any questions about this meeting so I wouldn't know who that is.

Chairman Byrne stated okay. Bob can you put something in the chat there?

Ms. Ward stated I only heard from one woman who resides in Skyline Village inquiring about the application. When she realized it was for a deck replacement and expansion with a variance, she wasn't interested in participating in the meeting.

Chairman Byrne stated alright. I just put something in the chat and I don't know if you can see that?

Mr. Boorady stated there is a Robert Thorpe, Robert Russel and a Robert Piro from 41 Hunter Road.

Chairman Byrne stated so Bob I need to hear from you. I did put something in the chat but I don't know if you can see that? We can't hear you, maybe you can dial in on the phone number that was in the notice. I don't know how we want to handle this? So Bob I'm going to remove you from the meeting and have you rejoin.

Ms. Ward stated I could hear you on that number but I couldn't unmute myself. I have another number, perhaps he could dial in on that number.

Mr. Zapf stated Joan we could see you were muted.

Ms. Ward stated I know I could hear you, but I couldn't unmute with that number.

Chairman Byrne asked who is 1-973-633-9878 is that you Bob. You should be allowed to talk and it doesn't show him muted. Bob if you could hit 9 on your phone that will unmute you.

Mr. Boorady stated the 633 number I believe is Robert Thorpe.

Chairman Byrne stated okay they both should be allowed to talk.

Mr. Boorady stated if you are calling from the 633 exchange, Mr. Thorpe press 9 to unmute yourself from the phone which looks like a land line.

Chairman Byrne stated yeah.

Mr. Zapf stated there is a 346.

Chairman Byrne stated that's me Tom.

Mr. Zapf stated you've got that same symbol there.

Chairman Byrne stated so when I joined it said you will be muted throughout the meeting. I can't move me to a panelist so I hope Bob and Bob are still on.

Mr. Vasnelis asked if they call the number I called in on, would they be able to hit the pound sign.

Mr. Boorady stated that's a good idea.

Chairman Byrne stated yeah but they are not on here and we have no way of telling them

because we don't know who they are. I'm not comfortable without getting some comments from the public and moving forward with this.

I just dialed in but it doesn't allow you to speak. My concern is that we can't talk to either one of them if they had something they want to say, and we shouldn't move forward without hearing from them.

I'm going to try to call in again. I just dialed in and it said I would be muted throughout the meeting. This could be a configuration problem, but I am still unable to unmute myself and there is no setting for me to do that.

Mr. Zapf asked do we have both of their phone numbers.

Chairman Byrne stated I was just looking to see if we can grab their phone numbers.

Mr. Zapf stated one is 633-9878. Do you know what the other one is?

Chairman Byrne stated I do not.

Mr. Zapf stated one of us could dial that number and if they answer, hold them up to our microphone and let them give their testimony.

Chairman Byrne stated well someone would have to try to contact them.

Mr. Zapf stated well I can do it.

Chairman Byrne stated and give them the regular panelist number that we have.

Mr. Zapf stated I was just going to put them on my cell phone on speaker.

Chairman Byrne stated I would just like them to log in. If you want to call them and give them the panelist number that we have. Ryan what was the number you dialed in on?

Mr. Boorady asked do you want Thorpe's number, I can give it to you to call.

Mr. Zapf stated the 633-9778 number.

Mr. Boorady stated you can put him up to the microphone.

Mr. Zapf stated yeah that is what I was thinking.

Mr. Boorady stated I've done that before and it works.

Mr. Zapf asked Michael if he was okay with that.

Mr. Lipari asked with having him on the participant line.

Mr. Zapf stated I was going to call him on my cell and hold it up to the speaker.

Mr. Lipari stated providing he can hear us and we can hear him that's a way to do it.

Mr. Zapf stated let's do it.

Mr. Lipari stated I don't know if he has any comments but let's give it a chance. If for some reason it doesn't work, we can address it at that time.

Chairman Byrne stated I'm fine with that.

Mr. Zapf stated Mr. Thorpe, I'm Vice Chairman of the Zoning Board of Adjustment.

Mr. Thorpe stated I couldn't unmute myself. I called in a couple of times but I couldn't speak so I just hung up.

Mr. Zapf stated I'm going to put you on speaker and hold you up to the microphone.

Mr. Thorpe stated I have nothing to talk about I just wanted to listen to the meeting.

Mr. Zapf stated well there you go.

Mr. Thorpe stated sorry to confuse you guys.

Mr. Zapf stated well that's alright.

Mr. Thorpe stated I was having trouble dialing in.

Mr. Boorady stated I have a quick question for you Tom, was he both people?

Mr. Zapf asked were you Bob.

Mr. Thorpe stated I was Bob.

Mr. Thorpe stated I called in several times and the mute button doesn't work.

Mr. Boorady stated okay you were Bob and Robert the same person.

Mr. Thorpe stated yes.

Mr. Zapf stated thank you sir, good night.

Mr. Thorpe thanked the Board.

Chairman Byrne stated if there is no other public wishing to speak on this application I think we can close the public portion on this. Does anyone have any issues with that?

Mr. Zapf stated no.

Chairman Byrne stated that was unfortunate, so Joan we can close the public portion.

Ms. Ward stated okay.

Chairman Byrne asked what else do we have to do.

Ms. Ward stated a motion if you are going to approve it.

Mr. Zapf made the motion to approve.

Mr. Dubowsky seconds.

Chairman Byrne stated and that motion is with Tom's recommendations with all four items right?

Mr. Zapf stated yes.

Chairman Byrne stated okay.

Roll call:

Yes: Zapf, Dubowsky, Byrne, Erickson, Kubisky, Wolfson and Zalewski

No: None

Abstain: None

Ms. Ward stated it is approved and it will be on for the next meeting.

Chairman Byrne stated that's all we have. Joan, I just want to mention we need two alternates to

be appointed.

Ms. Ward stated I know. Council hasn't appointed anyone. If anybody knows of someone who would like to volunteer, please have them send their resume' to the council.as it is a council appointment.

Chairman Byrne stated okay. Sorry for the choppy start but it definitely wouldn't unmute.

Ms. Ward stated I had that same problem.

Chairman Byrne stated get your internet fixed too.

Ms. Ward stated oh I plan on that as we have a big meeting on Thursday night.

Chairman Byrne asked is there a motion to adjourn.

Mr. Zapf moved to adjourn.

Mrs. Kubisky seconds.

Meeting adjourned at 8:10 P.M.

Respectfully submitted:

Joan Ward, Secretary

Patrick Byrne, Chairman