

CAUCUS SESSION: 7:15 P.M. Municipal Building First Floor Conference Room
Deal and Monmouth Roads
Oakhurst

REGULAR MEETING: 7:30 P.M. Public Meeting Room
Deal and Monmouth Roads
Oakhurst

MEMBERS Tracy Berkowitz, Alt. I
PRESENT: Mario Delano, Alt. III
Warren Goode, Chair
Brian Lefferson, Alt. IV
Russell Malta
David Messer

MEMBERS Jane Grabelle
ABSENT: Jennifer Lombardi
Leon Pflaster, Alt. II
Henry Schepiga, Vice Chair
Richard Van Wagner

OTHERS PRESENT Mark A. Steinberg, Zoning Board Attorney
Marianne Wilensky, Planning Administrator
William Fitzgerald, Board Engineer
James Higgins, Board Planner, left 8:15 P.M.
Margo Simpson, Board Secretary
Recording Secretary

Chairman Warren Goode announced that the notice requirements for the Open Public Meetings Act have been satisfied, a copy of the notice was sent to the Asbury Park Press, the Coaster, and the Atlanticville, posted in the Township Hall, and filed in the Office of the Township Clerk on July 11, 2008.

MINUTES FOR APPROVAL A motion was made by Warren Goode and seconded by Jane Grabelle to approve the **minutes from the meeting of February 12, 2009.**

In Favor: Berkowitz, Delano, Lefferson, Malta, Goode
Opposed: None
Ineligible: Messer
Absent: Grabelle, Lombardi, Pflaster, Schepiga, Van Wagner

MINUTES FOR APPROVAL A motion was made by Warren Goode and seconded by Jane Grabelle to approve the **minutes from the meeting of March 12, 2009.**

In Favor: Lefferson, Malta, Goode
Opposed: None
Ineligible: Berkowitz, Delano, Messer
Absent: Grabelle, Lombardi, Pflaster, Schepiga, Van Wagner

RESOLUTION MEMORIALIZATIONS

Catherine McCudden MOVED: Lefferson SECOND: Malta
Block 113, Lot 3 FAVOR: Lefferson, Malta, Goode
74 Deal Lake Point Rd OPPOSED: None
Wanamassa INELIGIBLE: Berkowitz, Delano, Messer
Bulk Variance ABSENT: Grabelle, Lombardi, Pflaster, Van Wagner,
Approval Schepiga

K & D Associates, L.P. MOVED: Goode SECOND: Malta
Block 140, Lot 109 FAVOR: Goode, Lefferson, Malta
735 Highway 35 OPPOSED: None
Wanamassa INELIGIBLE: Berkowitz, Delano, Messer
'd' Variance Approval ABSENT: Grabelle, Lombardi, Pflaster, Schepiga,
Van Wagner

K & D Associates, L.P.
Block 140, Lot 109
735 Highway 35
Wanamassa
Bulk Variance Approval

MOVED: Goode SECOND: Malta
FAVOR: Goode, Lefferson, Malta
OPPOSED: None
INELIGIBLE: Berkowitz, Delano, Messer
ABSENT: Grabelle, Lombardi, Pflaster, Schepiga,
Van Wagner

K & D Associates, L.P.
Block 140, Lot 109
735 Highway 35
Wanamassa
**Preliminary and Final Site
Plan Approval**

MOVED: Goode SECOND: Malta
FAVOR: Goode, Lefferson, Malta
OPPOSED: None
INELIGIBLE: Berkowitz, Delano, Messer
ABSENT: Grabelle, Lombardi, Pflaster, Schepiga,
Van Wagner

CARRIED
to the meeting of May 14, 2009

Edward and Linda DeRosa
Block 1.10, Lot 12
29 Rolling Meadows Blvd South
Wayside

Lisa Palandrano
Block 133, Lot 4
8 Oak Drive
Wanamassa

Gold Coast Automotive
Block 3, Lots 7, 8, 9
2123 Highway 35
Oakhurst

Umberto Rescinio
Block 1.15, Lot 6
101 Rolling Meadows Blvd South
Wayside

APPLICATION WITHDRAWN

Yogesh Lahoti
Block 37.10, Lot 1
30 Oxford Drive
Wayside

CONTINUED CASES

Ramon and Luz Gomez
Block 33.12, Lot 18
614 West Park Avenue
Oakhurst
Zone R-4

This is an application to erect a second-story addition and a one-story addition with variances for front yard setback, side yard setback and lot coverage.

Donald Passman, Architect for the applicant placed a colored rendering of the proposed house into **evidence A-4-04/02/09**. He explained that the existing house is a relatively small Cape Cod style house. The applicant is proposing a two-story addition and a one-story addition. At the last hearing the Board could not distinguish what the house would look like from the rendering. Mr. Passman colored it to show depth and the levels of the rooflines. The rendering showed how the peak is feathered down to the existing Cape Cod roof and how the gables matched.

Mr. Passman said that the applicant is asking for a number of variances for this non-conforming lot. They need front yard setback variances for both West Park Avenue and Fanwood Street. The lot coverage requirement is 27% and the applicant is asking for 30.3%. There is a shed that will be moved into a conforming location. The front porch and the shed total 160 square feet of lot coverage. The shed is needed to store items for outdoor maintenance. It will be 7.5' X 10'.

Chairman Warren Goode noted that he visited the subject site and there is not enough outdoor storage now for the items that were in the yard.

Cindy Gomez, daughter of the applicant and the person who will be living in the house with her children, explained that the house is empty now and they are cleaning up the yard. The items that Mr. Goode saw during his site visit will be removed.

Board Member Russell Malta asked for an explanation of the number of rooms in the house because it looked like there will be five bedrooms.

Mr. Passman explained that there is a room upstairs that is not a legal size for a bedroom and might be used for a play room. There will be four bedrooms.

Board Engineer William Fitzgerald felt that the colored rendering gives a much better perspective of how the house will look from West Park Avenue, which was a major concern of the Board.

Mr. Passman said that the applicant took putting in a basement into consideration and decided against it. Due to the narrowness of the lot, there is not enough room to put in an outdoor basement door. There are potential water table problems in this area and a new basement would be much deeper than the old one. The current stairway to the basement will be replaced and moved which will give more space in the existing basement. It will be about 500 square feet.

A motion to close the public hearing was made by Brian Lefferson and seconded by Tracey Berkowitz.

In Favor: Berkowitz, Lefferson, Malta, Goode
Opposed: None

A motion of approval was made by Brian Lefferson and seconded by Warren Goode.

In Favor: Berkowitz, Lefferson, Malta, Goode
Opposed: None
Ineligible: Delano, Messer
Absent: Grabelle, Lombardi, Pflaster, Schepiga, Van Wagner

To be memorialized on May 14, 2009.

Stephen DeLuca Block 22, Lot 57 244 Roosevelt Avenue Oakhurst Zone R-4	This is an application to erect one- and two-story additions, a second floor addition, and a covered front porch with variances for front yard setback, rear yard setback, and lot coverage.
---	--

Stephen DeLuca explained that they have redesigned the roofline of the proposed addition.

Planning Administrator Marianne Wilensky said that the applicant has not provided revised plans ten-days prior to the meeting as required.

Chairman Warren Goode explained to the applicant that none of the professionals have had an opportunity to review the new plan and it has not been on file for any neighbors to view. Therefore, the application must be carried to the next meeting and the applicant must submit the plans to the planning office for review.

No testimony was taken and this application was carried to May 14, 2009.

CARRIED CASES

Steven Grasso Block 33.23, Lot 8 1904 Vernon Street Oakhurst Zone R-4	This is an application to keep a shed with a variance for rear yard setback.
--	--

The Board's information packet was marked as **evidence B-1**. This packet contained the reports of the Board's professionals and in-house departments, which were read into the record. The Board Engineer had no issues with the applicant's request to keep a shed, but noted that he must abide by the construction department rules regarding the foundation for the shed.

Steven Grasso explained that he has moved a small shed to a conforming location. He has a larger shed that he cannot move. He wants to be able to leave the shed in its current location. It is a replacement for an old shed and he did not know that he needed to get a building permit or approvals to replace it.

Board Attorney Mark Steinberg asked why the applicant needs two sheds. Mr. Grasso said that he has three children and has accumulated a lot of items. He also has a lot of garden supplies. He placed photographs of the shed and property into **evidences A-1, A-2, and A-3**. There are no utilities or heat in the sheds.

A motion to close the public hearing was made by Russell Malta and seconded by Leon Pflaster.

In Favor: Berkowitz, Delano, Lefferson, Malta, Messer, Goode
Opposed: None

A motion of approval was made by Russell Malta and seconded by Mario Delano.

In Favor: Berkowitz, Delano, Lefferson, Malta, Messer, Goode
Opposed: None
Ineligible: None
Absent: Grabelle, Lombardi, Pflaster, Schepiga, Van Wagner

To be memorialized on May 14, 2009.

SEARCH Day Program, Inc. This is an application for amended site plan approval in order to change conditions of a previous approval.
Block 138, Lot 75
73 Wickapecko Drive
Wanamassa
Zone R-1
Attorney for the applicant: Mark Policastro, Esquire

The Board's information packet was marked as **evidence B-1**. This packet contained the reports of the Board's professionals and in-house departments, which were read into the record.

Board Planner James Higgins explained that the applicant received approvals several years ago to enclose a swimming pool. They now want to eliminate the pool enclosure and to change the six-foot fence to an eight-foot fence to help buffer the noise. On the south side of the pool they were approved to plant evergreens. They now want to plant alternative trees.

Board Engineer William Fitzgerald had no engineering concerns with the applicant's request. He noted that as part of the original approval, the applicant was to file an easement for the water service to the property to the west. This has not yet been done and it is necessary.

Mark Policastro, Esquire, representing the applicant, reiterated that the applicant wants to eliminate the enclosure and add an eight-foot fence. He explained that the applicant has met with all the adjoining neighbors and had addressed all their concerns about noise from the pool.

Mr. Higgins said that the proposed plan is satisfactory. The proposed eight-foot fence will not eliminate the noise, but will reflect the sound and the neighbors are satisfied.

Mr. Policastro presented Katherine Saldana, Director of SEARCH Day Program, who explained that the pool will not be used in the evenings and that there is only one day a year when the pool is used for Family Swim Day it is during the daytime. The classes using the pool only have six children in the pool at one time.

The plan, dated May 5, 2008, and revised through March 17, 2009, was marked as **evidence A-1**.

A motion to close the public hearing was made by Russell Malta and seconded by Tracey Berkowitz.

In Favor: Berkowitz, Delano, Lefferson, Malta, Messer, Goode
Opposed: None

A motion of approval of the **bulk variances** was made by Warren Goode and seconded by Russell Malta.

In Favor: Berkowitz, Delano, Lefferson, Malta, Messer, Goode
Opposed: None
Ineligible: None
Absent: Grabelle, Lombardi, Pflaster, Schepiga, Van Wagner

A motion to **reaffirm the previously granted use variance** was made by Warren Goode and seconded by Russell Malta.

In Favor: Berkowitz, Delano, Lefferson, Malta, Messer, Goode
Opposed: None
Ineligible: None
Absent: Grabelle, Lombardi, Pflaster, Schepiga, Van Wagner

A motion of approval of the **amended site plan** was made by Warren Goode and seconded by Russell Malta.

In Favor: Berkowitz, Delano, Lefferson, Malta, Messer, Goode
Opposed: None
Ineligible: None
Absent: Grabelle, Lombardi, Pflaster, Schepiga, Van Wagner

Memorialization will take place on May 14, 2009.

Morten and Susanne Nissov
Block 142, Lot 7.03
6 Mark Place
Wayside
Zone R-3

This is through lot. It is an application to erect a 5' chain link fence with a variance for front yard setback.

The Board's information packet was marked as **evidence B-1**. This packet contained the reports of the Board's professionals and in-house departments, which were read into the record.

Planning Administrator Marianne Wilensky explained that the applicant's property is a through-lot, which was the subject of a Planning Board subdivision approval. The subdivision granted approval for the fence and landscaping. The back of the property fronts on Roller Road, which is a higher elevation.

The Board Engineer had no concerns with the applicant's request.

Morten Nissov explained that a portion of the original fence in the back of the property burned in a fire. They need to replace the fence for the protection of their two dogs.

A motion to close the public hearing was made by Russell Malta and seconded by Mario Delano.

In Favor: Berkowitz, Delano, Lefferson, Malta, Messer, Goode
Opposed: None

A motion of approval was made by Tracey Berkowitz and seconded by Russell Malta.

In Favor: Berkowitz, Delano, Lefferson, Malta, Messer, Goode
Opposed: None
Ineligible: None
Absent: Grabelle, Lombardi, Pflaster, Schepiga, Van Wagner

To be memorialized on May 14, 2009.

Bruce Horn This is an application to enclose a carport and add second story additions with variances for front yard setbacks for the porch, two-story addition, and one-story addition, and for lot coverage.
Block 211, Lot 2
1901 Logan Road
Wanamassa
Zone R-4

The Board's information packet was marked as **evidence B-1**. This packet contained the reports of the Board's professionals and in-house departments, which were read into the record.

Planning Administrator Marianne Wilensky explained that there is a twenty-foot wide strip of land next to the subject property that is owned by the Township of Ocean. She previously suggested to the applicant that he ask the municipality if he can purchase that lot to alleviate the need for the lot coverage variance.

Bruce Horn explained that he has contacted the Township and the request needs to go before the Township Council at their next meeting. The property has a utility easement on it with underground cables for electric, cable, and telephone.

The Board Engineer William Fitzgerald had no engineering concerns with the application, but questioned the desirability of purchasing a lot that was full of utilities.

Chairman Warren Goode noted that purchasing the lot would be the cure for the lot coverage variance.

The Board had considerable conversation regarding this matter, including the possibility that it might be an exorbitant price for the applicant.

Mr. Horn said that he would like to sign the contract with his contractor for the work to the house. His son will be living in the house, which is in the estate of his father.

Chairman Goode said that the Board should not act on this application until after the Township Council meets to discuss selling the land.

Mr. Horn explained that the front yard variance is needed because of the curvature of the road in that location. The requirement is 30' and he is asking for 26'. They want to put a front porch on the house for better aesthetics. The footprint of the house itself will not change. The plans were marked as **evidence A-1 04/02/09**.

Chairman Goode carried this application to the meeting of May 14, 2009, and asked the Board Attorney to prepare a positive resolution for that meeting.

Russell and Betty Williams This is an application to erect a front porch with variances for front yard setbacks for both Wallace and Lake Avenues and for a variance for construction in a flood plain.
Block 5.03, Lot 9
1 Wallace Avenue
Oakhurst
Zone R-4

The Board's information packet was marked as **evidence B-1**. This packet contained the reports of the Board's professionals and in-house departments, which were read into the record.

Board Engineer William Fitzgerald noted that the construction of the proposed front porch will have no significant impact on the flood hazard area.

Planning Administrator Marianne Wilensky explained that the applicant obtained a flood plain variance four or five years ago for an addition. Now they are seeking to add a front porch that will not be covered.

Russell Williams explained that there is a standard porch on the house that does not fit with the new addition. He wants to add a porch that blends the house together.

A motion to close the public hearing was made by Russell Malta and seconded by Tracey Berkowitz.

In Favor: Berkowitz, Delano, Lefferson, Malta, Messer, Goode
Opposed: None

A motion of approval was made by Tracey Berkowitz and seconded by David Messer.

In Favor: Berkowitz, Delano, Lefferson, Malta, Messer, Goode
Opposed: None
Ineligible: None
Absent: Grabelle, Lombardi, Pflaster, Schepiga, Van Wagner

To be memorialized on May 14, 2009.

Steven Shamie

Block 69, Lot 13
606 Corlies Avenue
West Allenhurst
Zone R-5

This is an application to erect a shed with variances for side yard setback, rear yard setback, and height over maximum.

The Board's information packet was marked as **evidence B-1**. This packet contained the reports of the Board's professionals and in-house departments, which were read into the record. Planning Administrator Marianne Wilensky read her report into the record. She felt that there is no need for an oversized structure as the applicant proposes.

Board Engineer William Fitzgerald agreed that there is no reason to allow the over-sized shed without proper setbacks. He questioned why the shed would have to be 15' high.

Steven Shamie told the Board that he is in need of an over-sized shed because he had an 11' X 22' garage where he stored his mother's wheelchair, scooter, etc. He converted the garage into living space because there were only two bedrooms and he has four children. His mother does not live with him, but uses the scooter at his home. He needs the oversized shed for these items and for his family items and four children have a lot of stuff.

Mr. Shamie placed the following into evidence:

- Evidence A-1** A photograph taken from the applicant's property showing the corner of his property where the shed will be located. It showed the heights of the adjacent garages and/or sheds in the same corner of the property.
- Evidence A-2** An aerial photograph.
- Evidence A-3** A photograph of the existing shed that is rusted and old. It is approximately 7' X 7' and 5' high. It is about 8' from the house.
- Evidence A-4** A photograph of the front of the house after the garage conversion. A curb and hedge were added at that time.
- Evidence A-5** Two photographs of the four adjacent garages and sheds abutted up to the fence.

Mr. Shamie said that he has a very small back yard. If the shed is placed in a conforming location, it would be 12' from the house. One of the neighbors asked him to build a shed similar to his shed. He will side the shed to match the house. The proposed shed will not be visible from the street or from the neighbor's property.

Mr. Shamie explained that he would like to have the height in the shed so that he has more room to store things overhead. The shed will be in a low area of the yard and will have an overhead door. He will have to raise up the foundation because of the low area.

Mr. Fitzgerald questioned whether the grade will have to be changed in excess of two feet for the shed.

Ms. Wilensky noted that one of the recommendations of the Municipal Land Use Law is to promote light and air. The zoning was changed years ago to take the buildings off the property lines.

Board Attorney Mark Steinberg pointed out that the ordinance is not for the person, it is for the land. This applicant can put in a conforming shed. The property is 100' X 100'. He created his own hardship by converting the garage. The applicant has not provided any testimony as to why he needs the variances.

From the audience: Eric Blumenfeld, 607 Laurel Avenue, explained that he objects to the plan as proposed. He placed five photographs into the following evidence:

Evidence O-1 The photograph showed Mr. Blumenfeld's back yard and the fence that abuts Mr. Shamie's yard.

Evidence O-2 A photograph taken with the camera held over the fence showing the foundation of the proposed shed.

Evidence O-3 A photograph of Mr. Shamie's yard showing the start of the construction of the shed.

Evidence O-4 Mr. Blumenfeld's garage, which is abutted to the fence. It is 13.5' high.

Evidence O-5 A tape measure in front of the garage.

Mr. Blumfeld felt that a 15' high shed would dwarf his garage, that the criteria for a c.1. variance had not been met, and there are no grounds for a c.2. variance. The proposed structure does not meet the goals of the Municipal Land Use Law.

Mr. Shamie said that he was willing to compromise at a height of 12'.

From the audience, Melanie Nolan, 605 Laurel Avenue, owner of the property to the rear of the subject property, noted that there is no access to the back of Mr. Shamie's property for his mother to take the wheelchair out of the back yard.

Mr. Shamie said that he will put in a stone path for his mother's use.

Ms. Nolan was concerned with added impervious lot coverage and drainage. She noted that the proposed structure will be higher than any garage on the block.

The Board Attorney pointed out to the applicant that it is apparent that the Board is not pleased with this submittal and asked the applicant to redesign the proposal and return to the Board. Chairman Goode carried this application to the meeting of May 14, 2009.

Harold Dweck
Block 53, Lot 5
228 Crosby Avenue
Deal Park
Zone R-2

This is an application to erect a single family dwelling, a pool, a pool patio, and a cabana with variances for front yard setbacks for all of the above.

Attorney for the Applicant: Jennifer S. Krimko, Esquire

Board Member Mario Delano disqualified himself from this application.

The Board's information packet was marked as **evidence B-1**. This packet contained the reports of the Board's professionals and in-house departments, which were read into the record.

Both Planning Administrator Marianne Wilensky and Board Engineer William Fitzgerald agreed that the cause of all the variances in this application is the tennis court. If it were eliminated, all the variances would go away.

Representing the applicant, Jennifer S. Krimko, Esquire, placed the following into evidence:

- Evidence A-1** The plot plan, one sheet, dated March 18, 2009;
- Evidence A-2** Architecturals dated March 19, 2009;
- Evidence A-3** A colored rendering of the home;

and introduced the applicant's Architect, Kathy Zuckerman. Ms. Zuckerman explained that there is an existing dwelling and pool on the subject lot that will be demolished and a new home will be built. The tennis court is primary to the application because the family has several children. The proposed house will be 4,878 square feet with five bedrooms. There is a fence/wall combination that will be changed to comply with the ordinance. The lot is diagonally shaped and a traditional house with an open porch has been designed to fit into the neighborhood.

Ms. Wilensky questioned why the fence is listed as 4' high while the notice is for a 5' fence. Ms. Krimko said that at the time of the notice she did not know the height of the fence because the grading plan was not yet completed. She noticed for a higher fence to be safe.

Ms. Krimko presented Heather Zieziula, Planner for the applicant. An aerial of the subject property was marked into **evidence A-4** and a photo-board of 11 pictures marked A through H was marked as **evidence A-5**.

Ms. Zieziula referred to the aerial photograph, noting the existing development of single family homes in the area. She explained that this is an upscale, attractive neighborhood.

The applicant is asking for bulk variances. There is a house on the opposite corner that was granted variances similar to the applicant's proposal. There are conditions that are particular to this lot, unlike a typical corner lot. There are two front yards. The frontage on Crosby Avenue is 202', but it diminishes towards the rear of the property creating an odd lot geometry. The proposed placement of the tennis court and pool are in the best location on this lot. There are similar uses of property placed in the same fashion in the neighborhood.

Ms. Zieziula referred to a photograph, which was part of **evidence A-5**, showing the site as it currently exists. She additionally referred to other photographs showing the neighborhood homes, which were mostly on corner lots. Ms. Zieziula pointed out that because the lot is a corner lot the property owner cannot use it to the extent that interior property owners can use square interior lots.

It was Ms. Zieziula's belief that the variances could be granted without detriment to the public good because it is within the character of the neighborhood and is nothing out of the ordinary. There would be no negative impact to the Zone Plan and it promotes air, light and open space. There is an adequate separation between properties in this residential zone. This application is in conformance with the Master Plan.

Ms. Krimko noted that there will also be a shed on the property that will be conforming in size and location.

Board Member David Messer noted that the aerial photograph that was marked as **evidence A-4** showed that every lot on Holly Terrace is a corner lot, therefore the

subject lot is not uncommon in the neighborhood. The hardship seems to be created by the applicant by desire only.

Ms. Krimko referred to a board entitled *Sports Courts within ½ Mile of 228 Crosby Avenue*. This board was marked as **evidence A-6**. Ms. Krimko noted that there was another tennis court on a lot with three front yards.

Board Engineer William Fitzgerald agreed, pointing out that geometric lots create hardships.

Planning Administrator Marianne Wilensky noted that part of the problem lies in that there is a curvature in the road which creates an odd shaped lot. Of the eight properties shown on **evidence A-5**, she pointed out that it did not appear that any of the homes had a setback of 25'. In addition, the applicant's property will be completely new construction and the site plan and the engineering plan do not agree.

Chairman Warren Goode carried this application to the meeting of May 14, 2009.

Meeting adjourned 10:30 P.M.

Margo Simpson
Board Secretary
Recording Secretary