

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

REGULAR MEETING: 7:35 P.M. Public Meeting Room  
Deal and Monmouth Roads  
Oakhurst

MEMBERS Tracy Berkowitz, Alt. I  
PRESENT: Mario Delano, Alt. III  
Jane Grabelle  
Warren Goode, Chair  
Brian Lefferson, Alt. IV  
Russell Malta  
David Messer  
Henry Schepiga, Vice Chair  
Richard Van Wagner, arr. 7:55

MEMBERS Jennifer Lombardi  
ABSENT: Leon Pflaster, Alt. II

OTHERS PRESENT Mark A. Steinberg, Zoning Board Attorney  
Marianne Wilensky, Planning Administrator  
William Fitzgerald, Board Engineer  
Margo Simpson, Board Secretary  
Recording Secretary  
OTHERS ABSENT James Higgins, Board Planner

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 13, 2009.

**MINUTES FOR APPROVAL** A motion was made by Warren Goode and seconded by Jane Grabelle to approve the **minutes from the meeting of January 14, 2010.**

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

### **RESOLUTION MEMORIALIZATIONS**

**David Marshall**  
Block 103, Lot 7  
1307 Franklin Parkway  
Wanamassa  
**Bulk Variance Approval**  
MOVED: Goode SECOND: Schepiga  
FAVOR: Delano, Grabelle, Goode, Malta, Messer,  
Schepiga,  
OPPOSED: None  
INELIGIBLE: Berkowitz, Lefferson,  
ABSENT: Lombardi, Pflaster, Van Wagner

**Sandy L. DeMarco**  
Block 35, Lot 87  
38 North Woods Road  
Wayside  
**Bulk Variance Approval**  
MOVED: Goode SECOND: Schepiga  
FAVOR: Delano, Grabelle, Goode, Malta, Messer,  
Schepiga,  
OPPOSED: None  
INELIGIBLE: Berkowitz, Lefferson,  
ABSENT: Lombardi, Pflaster, Van Wagner

**George Bariscillo**  
Block 39.10, Lot 1  
2 Randi Lane  
Wayside  
**Bulk Variance Approval**  
MOVED: Goode SECOND: Schepiga  
FAVOR: Delano, Grabelle, Goode, Malta, Messer,  
Schepiga,  
OPPOSED: None  
INELIGIBLE: Berkowitz, Lefferson,  
ABSENT: Lombardi, Pflaster, Van Wagner

**CARRIED** to April 8, 2010

**Joseph Vassallo**  
Block 10, Lot 2.01  
104 Norwood Avenue  
Elberon Park  
Variance application

**Joseph Vassallo**  
Block 10, Lot 2.01  
104 Norwood Avenue  
Elberon Park  
Appeal

**David and Wendy Jemal**  
Block 44, Lots 7, 8.02  
404 Maple Avenue  
Deal Park  
Variance application

**Pitti Bimi**  
Block 22, Lot 81  
264 Norwood Ave.  
Deal Park

**August and Maureen Heckman**  
Block 33.30, Lot 1  
712 Dow Avenue  
Oakhurst

**Anne and Mark Cirlincione**  
Block 33.31, Lot 11  
714 Talmadge Avenue  
Oakhurst

**Dmitriy Posternak**  
Block 198, Lot 4  
1201 Franklin Avenue  
West Deal

**Gail Farca**  
Block 40, Lot 141  
5 Dwight Drive  
West Deal

**APPLICATION WITHDRAWN**

**Oakhurst Partners, LLC**

Block 33.34, Lots 5, 6  
1709 Route 35 North  
Oakhurst

**CONTINUED CASES**

**Joan Kittler**  
Block 25.09, Lot 8  
196 Delaware Avenue  
Oakhurst  
Zone R-4

This is an application to erect a new home with variances for lot area, lot width, front yard setback, side yard setback, total side yard setback, lot coverage, number of stories, and change in grade of more than two feet.

Board Member Mario Delano disqualified himself from this application. Board Member David Messer asked the applicant's attorney, Peter S. Falvo, Jr., Esquire, if he should be disqualified for personal reasons. Mr. Falvo did not feel that Mr. Messer need be disqualified.

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-2** and the reports were read into the record. Board Engineer William Fitzgerald said that he had no engineering issues with the revised plan.

Mr. Falvo placed the house plan, revised through December 2, 2009, into **evidence A-8**. The architectural elevations and floor plans, dated October 21, 2009, were marked as **evidence A-9**. Mr. Falvo explained that the revised plans address the concerns of the Board and the professionals as stated at the last hearing. The grading has been corrected to the rear of the property. The garage has been eliminated and the driveway elongated. The height has been reduced so that the foundation is not exposed.

Mr. Falvo said that the applicant has offered the home for sale to the adjacent property owners in a letter dated July 6, 2009. There was no response from the Baharonas and the Henrys declined the offer.

A motion to close the public hearing was made by Henry Schepiga and seconded by Jane Grabelle

In Favor: Berkowitz, Grabelle, Lefferson, Malta, Messer, Schepiga, Goode  
Opposed: None

A motion of approval was made by Henry Schepiga and seconded by Jane Grabelle.

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

To be memorialized on April 8, 2010.

### **CARRIED CASES**

#### **Walter J. Clifford**

Block 105, Lot 21  
1306 Maple Avenue  
Wanamassa  
Zone R-6

This is an application to construct a new single family dwelling where the previous dwelling was destroyed with variances for:

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>
Front yard setback	30'	25.4'	27.1'
Lot coverage	35%	?	44%

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record. Planning Administrator Marianne Wilensky read her report into the record. She explained that the applicant is replacing a house that was destroyed. The original house was 30' X 24' with a 720' footprint. The new house will have a 40' X 40' footprint for a two-story 1600 square foot house.

Walter Clifford explained that his house blew up and he wants to replace it with a larger house for himself, his wife, his son, and his 90 year-old mother who is in a wheelchair.

Deborah Clifford, wife of the applicant, said that they want to change the appearance of the house to help them emotionally because of the fire. She wants the washer and dryer on the first floor so that she will not have to go into the basement. The house will have adequate access for her mother-in-law, who will be able to access the house through the garage.

Chairman Warren Goode noted that the applicant is asking for a lot coverage variance for a required-size lot. He told the applicant that he needs to have justification for the Board to consider this.

Mr. Clifford noted that many of the homes in the area have additions. If the proposed house is looked at from the street, the addition is not visible. Mrs. Clifford said that when they got the formula for setbacks, they were mistaken and thought they could build within the entire envelope. The ultimate idea is to make the house more livable.

Planning Administrator Marianne Wilensky pointed out that the applicant is proposing a 12' X 40' garage, which is about 500 square feet. Reducing the size of the garage would reduce the lot coverage. She also noted for the Board that in visiting the neighborhood, homes with covered front porches are much more aesthetically pleasing than those without.

Mrs. Clifford explained that the size of the garage is because they have an antique car in storage and would like to bring it home. Mr. Clifford felt that reducing the size of the garage would affect the layout of the house.

Chairman Goode felt that it would be nice to know the other lot coverages in the neighborhood. The homes there are mostly Capes. The proposed house will be somewhat out of character with the other homes on the block. The applicant must make a case for the variances he is asking for.

Vice Chairman Henry Schepiga suggested reducing in size the entire house so as to still have the same number of rooms, but just a little smaller.

Chairman Goode carried this application to the meeting of April 8, 2010.

**Stella Kennedy**  
Block 38.03, Lot 14  
3 Upton Place  
Wayside  
Zone R-3

This is an application to keep a shed, construct a new shed, and widen a driveway with variances for front yard setback, side yard setback, and driveway width.

The Board's information packet, containing the reports of both the Board's professionals and in-house departments, was marked into **evidence B-1** and the reports were read into the record. Planning Administrator Marianne Wilensky explained that this applicant is before the Board because of an issue with violations for a shed and running a business from the home. Board Engineer William Fitzgerald noted that the applicant is seeking a variance for a driveway with a 43' width. He could not support this request.

Stella Kennedy explained that there is no commercial use on the property. Her son collects cars; he does not sell them. Mrs. Kennedy said that she has three cars and her grand-daughter has a car. The reason for all the sheds is because her son and his children moved in with her. She moved storage out of the basement so that the grand children can have their toys there.

Mrs. Kennedy continued to explain that her son has a tremendous amount of tools he uses to restore his cars, but it is not a commercial use. Her son lost his home, broke his back a while ago and now he has stenosis. She has forty years of items and holiday decorations that need storage. An addition was put on the house a number of years ago and she lost her two-car garage at that time.

Chairman Warren Goode asked what the size of the house is. Board Engineer William Fitzgerald calculated that it is approximately 3,400 square feet. Mrs. Kennedy said that she and her son with his three children live there in addition to another son.

Vice Chairman Henry Schepiga noted that the photograph in that packet that was previously marked as **evidence B-1** showed ten cars. Mrs. Kennedy's son said that he collects Firebirds and Camaros.

Chairman Goode asked why sheds were erected without permits. Mrs. Kennedy's son, Charles, said that the shed in question is a plastic shed.

Ms. Wilensky explained that there is a large shed that has no permits and a shed in the rear without permits.

Mrs. Kennedy said that she thought there were permits for the shed. She also added that she will be selling her cars because she does not drive any longer.

Mr. Schepiga felt that the applicant could not have thought she had a permit because the shed is not in a conforming location and requires variances. There is no justification to erect things without permits. Mr. Schepiga noted that there is no driveway in Ocean Township that is 43 feet wide unless it is in a commercial zone.

Chairman Goode asked for the justification for the request to widen the driveway to 43 feet. Mr. Kennedy said that he did have a permit for the garage and needs a wider driveway to access it without driving over the grass.

Board Member Richard Van Wagner noted that this is a self-created hardship. The ordinance does not justify fourteen cars on a property.

Ms. Wilensky pointed out that the largest garage permitted is 24' X 24' = 596 square feet. The property size does not permit the garage and all the sheds.

Board Member Brian Lefferson noted that there are a lot of cars parked on the property and in the street. Mr. Kennedy said that there are four cars in the street and they are all registered. He said that he restores the interiors, but does not do mechanical work.

Board Member David Messer asked how many classic cars there were. Mr. Kennedy said that he has a 1991 Mustang GT, a 1981 Turbo Trans Am, a black Formula car that he purchased in 1998, a 1986 F150 Lariat, and a Camaro SS. He said that he has collected cars since he was 18.

Chairman Goode asked what the justification is for the sheds. Mrs. Kennedy said that she needs storage for the items she uses for her flower beds, such as wheelbarrows and garden tools. She said she is willing to remove what was marked on the plan as 'proposed shed' and the plastic shed in the rear.

Ms. Wilensky said that what Mrs. Kennedy described at this meeting is totally different than what they submitted with the application. There are too many sheds and buildings on the property and Code Enforcement has been after them for years. The Board of Adjustment application was submitted in December of 2008. It took months and months for them to submit the required revisions.

Board Member Richard Van Wagner noted that the Board has made applicants adjust their proposals for a lot less than what this applicant is asking for. They want to expand on a lot that already has many things that are not approved.

Board Member Russell Malta suggested moving on the application as it stands. There needs to be a very good reason to allow this hearing to continue any further. The applicant has not said anything that lends to them correcting the situation.

Mr. Kennedy explained that he broke his back in March of 2008 and nearly died. He had several surgeries for many months which was his reasoning for not getting the information in timely.

Chairman Goode asked when the shed that is closest to the street was built. Mr. Kennedy said that he started putting up that shed in February of 2008 and broke his back while building the shed.

Board Attorney Mark Steinberg told the applicant that they need phenomenal planning reasons to get approvals for what they are asking for.

Mr. Schepiga asked Ms. Wilensky what will happen if the Board denies this application. Ms. Wilensky explained that the Zoning Officer has stayed his actions pending the outcome of the Board of Adjustment hearings. If the application is denied, he will send them a notice to remove the sheds in five days.

From the audience: Genaro DeSane, 4 Upton Place, a neighbor of the applicant, had a board of photographs placed into **evidence O-1**. The photographs showed vehicles that were not properly parked. He said that he has called the Police about the cars. The Police told the applicant that they must be properly parked. Mr. DeSane pointed out that one photograph showed Mr. Kennedy with braces on working on a car on a creeper under a car.

Mr. DeSane said that someone came from Tennessee to buy a car from Mr. Kennedy. At that time, the he had a confrontation and Mr. Kennedy and Mr. Kennedy pushed Mr. DeSane in the chest. The Police were again called told Mr. DeSane that he was making 'a mountain out of a molehill' and did not speak kindly to him.

On another date, Mr. DeSane said he witnessed a man from New York City who came to buy a car that was in the garage.

Mr. DeSane said that he sees Mrs. Kennedy drive her grandchildren to school. There are three adults and one grandchild living in the house. Mr. DeSane felt that Mr. Kennedy does repairs on the cars because he lays down plywood under the cars.

Mrs. Kennedy said that in January of 2010 she developed neuropathy and has not driven since that time because she is afraid to drive. She had not driven her grandson to school in five weeks. Mr. Kennedy said that he is disabled and collects Social Security.

Mr. Steinberg noted that the Board cannot consider personal reasons in their decision. The planning runs with the land.

From the audience: Albert Fico, 18 Sharon Drive, said that he has lived adjacent to the Kennedy's for fifteen years and has planted 15 Leyland Spruce trees to block the Kennedy property from view. He needs more trees because more sheds keep appearing and one is nine-inches from his property. The house has been expanded to twice the original size and they kept adding to the property without going through the correct process. The property is unkempt and none of the flowerbeds are maintained. It is a beautiful neighborhood and no one should be permitted to work there.

From the audience: Mahlan Grimes, 6 Sharon Drive, explained that half of his back yard faces the DeSane property and half faces the Kennedy property. The Kennedy property is atrocious. There is only a wire fence that the yard can be seen through. There are containers and jugs that have been there for years and they never rake.

Mr. Grimes said that he has counted up to fifteen cars on the property. There is a light from the Kennedy property that shines in Mr. Grimes' window and he can hear tools and work being done as late as 11:30 P.M.

Mr. Grimes asked if the illegally erected shed will remain. Ms. Wilensky explained that if the Board denies this application, she will instruct the Zoning Officer to send a notice to remove the sheds within five days or a summons will be issued.

A motion to close the public hearing was made by Henry Schepiga and seconded by Jane Grabelle

In Favor: Berkowitz, Grabelle, Malta, Messer, Schepiga, Van Wagner, Goode  
Opposed: None

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

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

This application was denied. Memorialization will take place on April 8, 2010.

**Suzanne Chiaffetella and Keith Kossman**

Block 34, Lot 69  
5 Kenneth Drive  
Wayside  
Zone R-3

This is an application to erect a fence with a variance for construction in a flood plain.

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

Board Engineer William Fitzgerald explained that the applicant is seeking to erect a fence with a variance for construction in a flood plain. There is also a drainage easement on the side of the subject property. Mr. Fitzgerald referred to the Flood Hazard Area Control Act Rules by the New Jersey Department of Environmental Protection which states that construction of a fence is permitted if it is located outside the floodway and has large openings so as to not catch debris.

Mr. Fitzgerald added that he could not tell if there would be detrimental impact. He explained that the fence should be outside the drainage easement and the applicant should obtain either an approval from NJDEP or a Letter of No Interest.

Applicant Suzanne Chiaffetella presented her father, Michael Chiaffetella, who explained that the fence will be kept off the easement and they will go to the DEP for approval.

Ms. Chiaffetella said that she wants the fence for privacy and safety for her dogs. It will also keep the wild animals off her property.

A motion to close the public hearing was made by Henry Schepiga and seconded by Jane Grabelle.

In Favor: Berkowitz, Grabelle, Malta, Messer, Schepiga, Van Wagner, Goode  
Opposed: None

A motion of approval was made by Henry Schepiga and seconded by Jane Grabelle with the conditions that the applicants will keep the fence off the easement and they will apply to the NJDEP for a permit or Letter of No Interest.

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

Memorialization will take place on April 8, 2010.

### **NEW CASES**

**Jennifer and James Policastro**  
Block 73, Lot 9.01  
517 Beechwood Avenue  
West Allenhurst  
Zone R-5

This is an application to demolish an existing home and erect a new single family home with variances for lot area, lot width, lot depth, front yard setback, rear yard setback, side yard setback, total side yard setback, and lot coverage.

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

Planning Administrator Marianne Wilensky explained that this property was the subject of a Planning Board subdivision approval. There was testimony at the Planning Board level that the house would be renovated. Now the applicant wants to remove the house and build a new home.

Attorney for the applicant, Gregory W. Vella, Esquire, explained that there are variances with this lot that run with the land. The applicant had intended to renovate the house, but when he came in for a permit the Zoning Officer denied the request, stating that more variances were required. The applicant chose to remove the house and build a better home on the lot. The setbacks will be increased and will be a major improvement to the property.

Mr. Vella presented his client, James Policastro, who explained that he planned to renovate the house inside and out. He placed into **evidence A-1** a letter that he said was from the Zoning Officer, but in reviewing the letter, Ms. Wilensky noted that it was not and was a computer printout with information on it.

Mr. Policastro referred to a photograph of the existing house, which was marked as **evidence A-2**. The picture showed a deteriorated house. The rear yard setback for the existing house is 6.4' and the proposed setback will be 5.5'. The front yard setback will increase from 7.8' to 8.6'

Board Member Russell Malta noted that the setbacks will be improved, but the lot coverage will increase from 57.7% to 58.9%. Mr. Vella explained that the house will be squared off in the back to give more impervious surface.

Vice Chair Henry Schepiga asked if there will be a basement. Mr. Vella said that a basement is not proposed at this time because soil borings have not yet been done.

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

In Favor: Berkowitz, Grabelle, Malta, Messer, Schepiga, Van Wagner, Goode  
Opposed: None

The Board did not take a vote. Chairman Warren Goode told the applicant to provide revised plans for the next hearing and carried this application to April 8, 2010.

Meeting adjourned 10:12 P.M.

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Margo Simpson  
Board Secretary  
Recording Secretary