

**BOROUGH OF RARITAN**  
Planning Board Meeting  
**MINUTES**  
March 28, 2018

**CALL TO ORDER & FLAG SALUTE**

The Chairman called the meeting to order at 7:06 p.m. in the Raritan Municipal Building. He read the Open Public Meetings statement as follows: This meeting is called pursuant to the provisions of the Open Public Meetings Act. Notice of this meeting was sent to the Courier News on November 30, 2017 and The Star Ledger on January 10, 2018. In addition, copies of the notices were posted on the bulletin board in the Municipal Building, on the Raritan Borough website and filed in the Office of the Borough Clerk. They were also sent to those people who have requested and paid the cost for mailing same. Notices on the bulletin board have remained continuously posted. Proper Notice having been given, the Board Secretary is directed to include this statement in the Minutes of this meeting.

**ROLL CALL**

<b>Present:</b>	Mr. R. Miller Mayor C. McMullin Councilman N. Carra Mr. M. DeCicco Mr. W. Cunningham Ms. A. Goetsch Mr. T. Delacruz* (Arrived late)	<b>Absent:</b>	Mr. R. Zack Ms. D. Thomas Mr. J. Gausz Mr. J. Krajewski
-----------------	---	----------------	--

**Also Present:** S. Rubright, Board Attorney  
S. Schrek, Board Engineer  
M. Mulcahy, Zoning Official

**MINUTES**

**Motion** by Mr. Cunningham, **seconded** by Mr. DeCicco and unanimously carried to approve the **February 28, 2018 Minutes**, as presented.

**ROLL CALL**

*Aye: Chairman Miller, Councilman Carra, Mr. Cunningham, Mr. DeCicco, Ms. Goetsch*  
*Nay:*  
*Abstain:*

**TRC UPDATE**

The Chairman reported that there had been no TRC meetings and that there were none scheduled. Mr. Schrek provided details on how meetings are arranged. A brief discussion ensued on the purpose of the TRC as well as updating the ordinance to include a fee for same. The Committee was reconstituted to include Chairman Miller, Debbie Thomas and Mike DeCicco. Mayor McMullin asked Mr. Schrek about the status of three potential TRC matters which Mr. Schrek advised were not ready to schedule.

**ENGINEERING REPORT**

Mr. Schrek provided updates on the following matters:

- Block 81 (Waiting for compliance documents that were reviewed to come back).
- LabCorp (Construction started on first building with plan for completion of project pending).
- Quick Check (Proceeding accordingly).

- Route 202 "Strip Mall" (Ready for pre-construction meeting). There was a brief discussion about the status of the house on the property. Mr. Schrek advised that the sign off letter has to be reviewed due to its age, given the recent change in bonding requirements.
- Realignment of Orlando Drive (Moving forward with DEP flood hazard determination as discussed by the Board two months ago). There was a brief discussion about the fill on the site in response to a question from Mr. Cunningham about why it had been pushed back. Mr. Schrek advised that they only have preliminary approval and as such, must return to the Board.

\*Mr. Delacruz arrived at 7:16.

### **ZONING OFFICIAL REPORT**

Mr. Mulcahy advised he had nothing new to report.

### **APPLICATION/HEARING**

**Bongiovi**

**Block 40, Lot 3 (100 Second Avenue)**

Ms. Rubright clarified that that there were two separate lots and as such, two separate applications; the first for an impervious coverage and/or parking variance and the latter for a use variance.

**Attorney Kevin Hewitt** entered his appearance on behalf of the applicant and provided a brief overview of the relief associated with Lot 3. **Engineer David Stires** was sworn and qualified. He advised that a single plan had been submitted with respect to both applications.

Referencing Sheet 1 of the plan, Mr. Stires identified Lot 3. He spoke to the history of both lots and to the 1988 subdivision which created them with conditions, including site plan approval. He advised that Lot 3 had received approval for a two family house with four parking spaces in the rear while the existing garage, two parking spaces and 'presumably' a two family house were approved for Lot 3.01 [subject to Site Plan approval]. Mr. Stires indicated that they were appearing in order to perfect the subdivision. The Board Attorney clarified that site plans were never filed and related that the Board signed the deeds allowing the creation of the lots at the time of the subdivision approval even though the conditions had not been complied with. She further clarified that the site plans that were on the subdivision plans in 1988 were not viable/legitimate, prompting the current application. She offered that the Board would accept the history as related but took exception to the term "perfect" for the reasons as stated.

Mr. Stires advised that Lot 3 required onsite parking since the garage remained on Lot 3.01. Referencing previously submitted plans that provided for two parking spaces [presented as deminimus], he advised that the revised plan shows three in the rear and a driveway on the north side of the house. Mr. Schrek indicated that he had no objection to shorter stall lengths which Mr. Stires provided dimensions for.

Mr. Stires provided testimony regarding a pre-existing variance condition for lot width and on the variance for impervious coverage as the result of the need for onsite parking. The use of more pervious materials was discussed. Mr. Stires testified that the amount of coverage would be in keeping with the character of the neighborhood and called it "appropriate" given the deficiency of on street parking.

An extensive discussion ensued about drainage and driveway materials (stone v. macadam). The

Chairman pointed out that macadam is shown on the plan. Mr. Schrek advised that although the ordinance requires that the driveway be paved for homes designated as two [or more] family, it would be appropriate for the Board to allow the use of stone. The Board Attorney offered that the application would need to be amended in order to request a variance for a stone driveway as a mitigation measure.

Mayor McMullin opined that macadam would be better from a maintenance standpoint and that the benefit of stone on drainage would be deminimus. Further discussion on drainage ensued. Chairman Miller echoed Mayor McMullin's sentiments. Neighborhood impact was discussed and the Board Attorney referred to Mr. Stires' testimony on aesthetics and safety. Mr. Stires responded to a question from Chairman Miller regarding turning movements/mechanics of parking on the site.

The Chairman opened the floor to questions of the witness at 7:37. There were none.

**Motion** by Mayor McMullin, **seconded** by Mr. DeCicco and unanimously carried to approve the application as presented. The Board Attorney clarified that this was to grant the variance for impervious coverage for reasons as presented in testimony by Mr. Stires.

**ROLL CALL**

*Aye: Chairman Miller, Mayor McMullin, Councilman Carra, Mr. Cunningham, Mr. DeCicco, Ms. Goetsch, Mr. Delacruz*

*Nay:*

*Abstain:*

**Bongiovi**

**Block 40, Lot 3.01 (98 Second Avenue)**

**Use Variance**

Mayor McMullin and Councilman Bray recused themselves at 7:38.

Mr. Hewitt confirmed that he wanted to proceed with the hearing with the number of Board members present/available.

Mr. Stires was re-sworn. He identified Lot 3.01, re-oriented everyone to the plan and recapped previous testimony about the 1988 subdivision which created the lot without any house on it and a driveway at the south end. He spoke to a preexisting variance for lot width and testified that the existing improved lot area is 40.8% where 30% is permitted. He spoke to other existing conditions on the lot and described the garage which is the subject of the accessory use variance.

Mr. Stires outlined the proposal which he explained would entail leaving the garage for future development of the property with a single family home. He testified that garages are permitted/ located throughout neighborhood and that the site meets zone standards with the exception of the preexisting rear yard setback and lot coverage. He offered that they would like to market the property as it currently exists so that it can be developed to R4 standards with the exception of the preexisting conditions.

Mr. Stires reviewed what he offered were two options for development; the first of which entailed saving the freestanding garage in contemplation of constructing a single family dwelling while allowing the 40.8% coverage to remain. The other option, he explained would be to knock down the garage and

replace it with a front loaded garage.

In response to a question from Ms. Rubright, Mr. Stires confirmed that the garage is about 400 square [or 5%] of coverage. A discussion ensued about whether the pavement should be permitted to remain in order to keep the coverage at 40.8%. Mr. Stires clarified that the request to keep the current coverage would not exacerbate the existing non conformity and that keeping it would allow for a turnaround for a two car garage, a 10' drive and modest house with a sidewalk around 1800 square feet.

Mr. Schrek offered that the application was only to allow the garage. The Board attorney suggested that the Board could grant an approval subject to a condition to bring the impervious coverage down to 30% [as permitted] at the time of development. Mr. Stires provided further testimony about the need for the coverage to remain at 40.8%. The Board Attorney offered that the pavement was for a garage that was serving a house that is no longer on the lot. She reviewed the applicant's Notice and affirmed Mr. Schrek's comments about what the Board understood the application to be about.

Extensive discussion ensued on the status of the existing pavement. Mr. Schrek offered that this condition was ignored when the subdivision was created thus the need to address it now. Ms. Rubright affirmed this, adding that the deeds were filed although they should not have been. Chairman Miller asked if the Board were to grant the use variance just for the accessory structure to remain, where the pavement would stand. The Board Attorney suggested that there should be some kind of condition regarding the pavement. She asked Mr. Schrek whether he had reviewed the impervious coverage from a planning standpoint. Mr. Schrek confirmed that he did not since his understanding was that the application was only to allow the garage to remain on the lot without a principal structure.

Mr. Hewitt shared his experiences with [former] potential buyers as a justification for the variances. His comments spurred a discussion on whether new owners would have to come back to the Board.

Reading from the [2017] approval resolution regarding the subdivision, the Board Attorney advised that the applicant had no right to keep the coverage unless the Board approved it. She confirmed that the need for new owners to return to the Board if they intended to exceed the maximum permitted coverage would depend upon how the Board ruled at present. Extensive discussion ensued about the conditions under which a buyer would need to return to the Board. Ms. Rubright again suggested that the Board could allow the garage to remain but require removal of as much coverage as possible to get to the 30% permitted. Mr. Schrek offered that while the coverage was problematic because of both runoff and aesthetics, it would be possible to grant the variance for impervious coverage subject to a grading plan which could be reviewed when the applicant submitted Building Permits.

Reading from the [2017] approval resolution again, Ms. Rubright advised that any new house constructed on the lot must meet current zoning requirements except for lot width. She reiterated that the Board could grant the use variance for the garage with a condition to remove as much pavement as necessary to bring the coverage down to 30%. A discussion ensued about where that could be accomplished. Ms. Rubright reminded the Board that while overruling themselves in granting the 40.8% coverage would give the applicant some flexibility, it was not the Board Engineer's recommendation.

The Chairman opened the floor to questions/comments from the public at 8:04.

The Board Attorney once again offered that the Board could grant the use variance in order for the garage to remain as accessory without a principal building while removing as much coverage as would be needed in order to bring it down to 30% with a condition to return to the Board for anything in excess of 30%, or approval of a grading plan by the Board Engineer for anything less.

The Chairman opened the floor to public comment.

Speaking from the audience, Mayor McMullin commented on the driveway and offered that ripping out 10% of impervious coverage could put neighbors in harm's way from "muddy runoff." He asked the Board to consider leaving the coverage in place until such time as a proposal for development arises.

Further discussion ensued about removal of the pavement. Various conditions of approval regarding same were discussed, including imposition of a time limit. Mr. Cunningham offered that the condition could be that they must maintain 30% impervious coverage in order to build. Ms. Rubright concurred.

**Motion** by Mr. DeCicco, **seconded** by Mr. Delacruz and unanimously carried to grant a use variance permitting the accessory structure [garage] to remain without a principal structure on the lot while allowing 40.8% impervious coverage to also remain with a condition to reduce the coverage to 30% upon construction of a new house.

**ROLL CALL**

*Aye: Chairman Miller, Mr. Cunningham, Mr. DeCicco, Ms. Goetsch, Mr. Delacruz*

*Nay:*

*Abstain:*

**MISCELLANEOUS - ORDINANCE REVIEW 2018-02**

Mr. Schrek provided an overview of recent legislation [S3233] governing bonding for site plan improvements which he explained, this ordinance would enable. The Board Attorney clarified that 2018-02 amends the ordinance in order for it to be consistent with the new legislation.

There was a discussion about the need for a Master Plan consistency determination. The Board Attorney confirmed that she would send a letter to the Council outlining the Board's understanding that the Ordinance is consistent with State Legislation and is therefore recommended for adoption.

Mandatory Board Member training was discussed.

**PUBLIC COMMENT/ADJOURNMENT**

The Chairman opened the floor to public comment. There was none.

**Motion** by Mr. Cunningham, **seconded** by Ms. Goetsch and unanimously carried to adjourn the meeting at 8:31.

Respectfully submitted,

\_\_\_\_\_  
Nancy Probst, Planning Board Secretary

**APPROVED** \_\_\_\_\_