

MINUTES - ZONING BOARD

October 23, 2017

The workshop portion of the meeting was called to order at 8:00 P.M. by Mr. Illing, Vice Chairman.

ROLL CALL:

Members Present:

Mr. Illing
Mr. Pistol
Mr. Bovasso
Ms. Drake
Mr. Higgins

Members Absent:

Mr. Marotta
Ms. Hay

Alternates Present:

Mr. Trelease

Alternates Absent:

Ms. Dehnhard

Also in attendance: Nicholas Giuditta, Esquire, Ron Johnson, Zoning Officer, Ruthanne Della Serra, Interim Administrator/Scribe, Kathy Lenahan, Administrator/Scribe.

COMMUNICATIONS:

None

RESOLUTIONS OF MEMORIALIZATION:

None

MINUTES:

Motion to adopt the minutes of October 16, 2017 was made by Mr. Pistol, seconded by Mr. Trelease and passed on unanimous voice vote.

OLD/NEW BUSINESS

Ms. Della Serra requested that Board members please state their name prior to speaking or making a motion for the record.

The workshop portion of the meeting concluded at 8:04 P.M.

PUBLIC MEETING:

A public meeting of the Cranford Board of Adjustment was called to order by Mr. Illing on October 23, 2017 at 8:15 P.M. in Room 107 of the Municipal Building, 8 Springfield Avenue, Cranford, New Jersey. Mr. Pistol announced in accordance with the terms and conditions of the Open Public Meetings Act, the Westfield Leader or Star Ledger has been notified and the agenda posted in the municipal building as required.

Mr. Pistol explained the protocol, purpose and procedure that will be followed during the hearing.

Announcement made as to the withdrawal of the following application:

Application #ZBA-17-018:

322 Walnut Avenue, LLC, Applicant

322 Walnut Avenue

Block: 488 Lot: 15 Zone: R-2

Preliminary and final site plan to construct a three-story, twelve unit apartment building with the following variances: use variance multi-unit dwellings not permitted in the R-2 zone; to exceed maximum allowable impervious surface (§136-30, Attachment 1, Schedule 1); to exceed maximum allowable number of stories (§136-30 Attachment 1, Schedule 1); and to exceed the maximum allowable height (§136-30 Attachment 1, Schedule 1).

1. Application #ZBA-17-020:

Cranford Park Realty, LLC, Applicant

600 Lincoln Park East

Block: 505 Lot: 2 Zone: R-2

Expansion of a pre-existing non-conforming nursing home seeking to permit construction of an atrium (§136-38C(1) with interpretation and as to increase in impervious coverage of .04% (§136-30 Attachment 1, Schedule 1) and if necessary to proceed for variance relief.

John J. DeMassi, Esquire, appeared on behalf of the applicant. He explained the application before the Board. Stated it is a pre-existing non-confirming use. Applicant wishes to build an atrium which would cause a .04 % increase of impervious surface which essentially is 34 square feet. Cited case law NJ Supreme Court Case *Grundlehner v. Dangler* 29 N.J. 256 (1959). Which states if requesting a use variance and that variance is for a *de minimis* increase the zoning officer can issue without going to the Board.

Stated that the Master Plan update recommends nursing homes be a permitted use. However, ordinance has not yet been amended. Believes they are clearly in conformance with zoning plan.

Mr. Eli Hutman, appeared and was sworn in. He testified to the following through questions posed by Mr. DeMassi:

He is the administrator of Cranford Park Nursing Home. Cranford Park became a nursing home in 1964. To his knowledge it is a non-confirming permitted use. There are 82 clients and 100 beds. Reason for building atrium is to enhance the residents last years of life. It will have plants, heating and cooling. It will be open 24-7 and will be lighted. It will serve as an entrance to the facility. It does require approval from the Department of Community Affairs. An application has been forward to the Department of Community Affairs for their approval. Clients are not aware of the proposed atrium.

Questions posed by the Board ascertained the following:
Atrium will be lite only with interior lighting. No exterior lighting.

Mr. Illing opened the application to the public for questions of the witness with no one else appearing this portion of hearing was closed with the matter referred back to the Board.

Mr. Alastair Cornell appeared and was sworn in. He testified to the following through questions posed by Mr. DeMassi:

He is the CEO of Simply the Best Conservatories and Sunrooms. He has been retained by Cranford Park to build atrium. He has built over 250 atriums and 20 of this size. Presented a drawing of the proposed dwelling. Marked Exhibit A. Explained what different pages depict. Second page is the dimensions of atrium. Widest point is 82 feet 2 inches, deepest is 28 feet, main area is 16 feet and narrowing to 9 feet 4 inches.

Third page shows view from above the room. Roof is shown in segments and panes of glass. Entire roof will be glass.

Fourth page is the front elevation – 2 points of entry. Lower section shaded is an insulated panel and lighter shaded area are windows which will open for ventilation.

Fifth page is the side elevation – lowest point from front to back is 8 feet projecting to highest point 10 feet 10 inches. Roof is sloped. Studio style roof. Water will flow to front. Roof drains with gutters and leaders connected to an underground existing drain. Lighting installed will be individual lights to direct light downward. Exterior lighting should be installed at exit points.

The existing macadam will be removed and a new foundation will be laid conforming to building code. Will meet residential code. Has not done projects in Cranford before but has done some in New Jersey.

Questions posed by the Board ascertained the following:

Square footage of atrium is 1200 square feet. It will be 34 square feet larger than what is there now.

Mr. Illing opened the application to the public for questions of the witness with no one else appearing, this portion of the hearing was closed with the matter referred back to the Board.

James Watson from EKA Associates appeared and was sworn in. His credentials were presented to the Board and he was accepted as an expert witness in the field of planning.

He testified to the following through questions posed by Mr. DeMassi:

Site Plan marked Exhibit B consists of 4 pages: cover sheet, site plan, grading & drainage plan and original base map of site. It is in the R-2 zone and is an existing non-confirming use in a residential zone.

Questions posed by the Board ascertained the following:

There is a tiny portion of the southwesterly line in the 100 year flood area. It is nine feet below rear parking lot. Closest area to the flood zone is about 120 feet away. Area where atrium will be built is not in flood area. There will be no changes to building.

Applicant not sure if there was an impact during Hurricane Irene and does not know if they carry flood insurance. Was purchased by present owner in 2014. The 34 square feet is important to the project.

Mr. Illing opened the application to the public for questions of the witness with the following appearing:

Carl Mazzola – Restated Mr. Watson’s testimony that the proposed structure’s storm water will drain into an existing drain and asked where that drain was located. Also questioned if there are regulations that require additional storm water detention for new structures.

Mr. Watson testified to the following through questions posed by Mr. DeMassi; Square footage is 1200. Township Engineer did not request any information regarding storm water management data. Project is in an R-2 zone. A nursing home is considered an inherently beneficial use. A nursing home is basically the same thing as a hospital when talking about zoning law.

Cranford Park is a pre-existing non-conforming use. No new patients, no new employees. He has reviewed the master plan and the master plan recommends this parcel should be re-zoned to the RSC-1 zone, which has different bulk requirements. Bulk requirements for R-2 zone not conducive to a nursing home would be more suited to the RSC-1 zone. Only talking about 34 square feet of impervious coverage for a ramp for the nursing home.

Addressed negative criteria with zone plan and zone ordinance. Site is 2 ½ acres. Does not anticipate any flooding issues due to topography and minimal size of the coverage. 34 square feet is *de minimis*.

Questions posed by the Board ascertained the following:

Proposed atrium will not affect the existing drainage pattern. Everything drains toward Lincoln Park East. Replacing one type of impervious coverage with another type of impervious coverage.

Mr. Illing opened the application to the public for questions of the witness:

Carl Mazzola – Questioned how many catch basins are on Lincoln Park East, and if they are aware of what storm issues are on the street. Questioned if they know whether or not regulations require all storm water to be retained on the property.

David Shapiro – Property has existed for 45 years, has it ever been discussed to rezone the property.

Mr. Giuditta stated if there ever was a request to re-zone the property, residents within 200 feet would be noticed. He is not aware of any such proposal at this time.

Carl Mazzola – Of the 1200 square feet, what is the percentage of additional building coverage.

Mr. Watson – The building coverage is 13% of lot right now, it is going to 13.9%. Which is less than 1% of an increase. 25 % is allowable.

Mr. DeMassi presented his summation:

Application is twofold; the interpretation and use variance. Case law gives the Board authority to determine that this application is *de minimis*. It is 34 square feet which is a .04% increase. Discussed fees associated with the application.

Board has authority to tell zoning officer that he can make a judgment on this type of application. It does not have to go to the Board when application is determined to be *de minimis*. He is requesting that the Board make that determination.

If the Board determines that is not the case, then he feels they have clearly proven under the statute they are entitle to the variance. Burden is to show that it does not impair the zoning ordinance. Benefit is the need of ramp for wheelchairs. He requests that the Board interpret that they do not need a variance or grant the variance.

Mr. Illing opened the application to the public for comments with the following appearing:

Carl Mazzola, appeared and was sworn in. It may be *de minimis* but it is a non-confirming use in a residential neighborhood. Discussed the past ownership of the nursing home and architectural details of the home. He feels it is historical in nature. He is not in agreement with putting a commercial looking glass enclosure there. Asks that the Board deny applicant's request.

No one else appeared and this portion of the hearing was closed with the matter referred back to the Board.

DELIBERATION OF APPLICATION #ZBA-17-020:

Application #ZBA-17-020:

Cranford Park Realty, LLC, Applicant

600 Lincoln Park East

Block: 505 Lot: 2 Zone: R-2

Expansion of a pre-existing non-conforming nursing home seeking to permit construction of an atrium (§136-38C(1) with interpretation and appeal of Zoning Officer's decision requiring variance as to increase in impervious coverage of .04% (§136-30 Attachment 1, Schedule 1) and if necessary to proceed for variance relief.

Mr. Illing reviewed the testimony.

Board comments consisted of the following:

Not expanding the use. Feels it is a worthy project that would enhance nursing home and experience for the residents. With regard to the historic integrity, the Historical Preservation Advisory Board had no comments on the application. It is not on the historic registry for state or federal. There is no information as to what happened in Hurricane Irene. Property is 120 feet from river. Feels it is negligible and is an inherently beneficial use.

Mr. DeMasi stated that if the project required any onsite detention it would have been addressed in Engineer's report. Board of Adjustment has site plan overview. The Planning Board does not have jurisdiction to interpret. Site plan is before the Board. Township engineer would have addressed if there was drainage issue.

Motion to approve Application # ZBA-17-020, request for an interpretation of Cranford LDO § 136-38C(1) to mean that its construction of an atria does not require a variance to expand a non-conforming use because the development results in an increase of impervious coverage of only .04%, was made by Mr. Bovasso and was seconded by Mr. Higgins with the following voting in favor of the motion: Mr. Illing, Mr. Pistol, Ms. Drake, and Mr. Trelease.

CONCLUSION:

There being no further business, a motion to adjourn the meeting was regularly made, seconded and passed. The meeting concluded at 9:36 P.M.

Jeffrey Pistol, Secretary