

MINUTES - ZONING BOARD

September 24, 2018

The workshop portion of the meeting was called to order at 8:07 P.M. by Mr. Marotta, Chairman.

ROLL CALL:

Members Present:

Mr. Marotta
Mr. Illing
Mr. Pistol
Mr. Bovasso
Ms. Daly
Ms. Drake
Mr. Salomon

Members Absent:

None

Alternates Present:

None

Alternates Absent:

Ms. Hay
Mr. Trelease

Also in attendance: Nicholas Giuditta, Esquire, Ron Johnson, Zoning Officer, Kathy Lenahan, Administrator/Scribe, Bill Masol, Engineer

COMMUNICATIONS:

None

RESOLUTIONS OF MEMORIALIZATION:

1. **Application # ZBA-18-008**
Applicant: Destiny Living Ministries
Block: 534, Lot: 1, Zone C-2
The applicant proposes to operate a house of worship on the subject site where a house of worship is not permitted. Applicant is seeking a D(1) variance §255-36.D(1). No C variance relief is being requested. The subject property is a rental space in the Cranford Business Park, which is a two-story office building with 70,000 SF and 385 off-street parking spaces. The property is located within the C-2 Zone which does not permit houses of worship. The Cranford parking schedule requires houses of worship to supply 1 parking space per 3 seats or 1 parking space per 72" of pew length. The house of worship is proposing 10 pews totaling 1,152", which would result in 16 parking spaces required. The office sections would demand 4 parking spaces, which would total 20 parking spaces. The previous office uses demanded 20 parking spaces, so there is no increase in parking demand.

The Resolution of Memorialization, as amended (attached and made part of these minutes), was reviewed by the Board. After discussion, a motion to approve the resolution was made by Mr. Pistol, seconded by Mr. Salomon and passed by unanimous voice vote.

MINUTES:

Motion to adopt minutes of the September 17, 2018 meeting, as amended, was made by Mr. Pistol, seconded by Mr. Bovasso and passed by unanimous voice vote.

OLD/NEW BUSINESS

None

The workshop portion of the meeting concluded at 8:11 P.M.

PUBLIC PORTION:

A public meeting of the Cranford Board of Adjustment was called to order by Mr. Marotta on September 24, 2018 at 8:15 P.M. in Room 107 of the Municipal Building, 8 Springfield Avenue, Cranford, New Jersey. Mr. Marotta 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. Marotta explained the protocol, purpose and procedure that will be followed during the hearing.

1. **Application # ZBA 18-011**
Applicant: Carol Giamboi
21 Morse Street
Block: 462, Lot: 16, Zone R-3

Applicant is requesting a C-1 variance for a proposed 18' diameter pool and a 15' x 24' patio in the rear yard of property in excess of the lot coverage where 38% maximum is permitted and 48.26% is proposed (§255 Attachment 1, Schedule 1); and for a pool setback where 15' is required and 4.5' is proposed (§255.38B.2). The house is a pre-existing nonconforming owner occupied two-family.

Mr. Giamboi appeared and was sworn in. He explained the application. Requesting a variance for a pool to be put on the left section of house due to shade of a tree. Stated that 75 to 80% of house shades the backyard. Prefers left hand corner for pool. Pool will be above ground, 18 foot in diameter and will have ½ foot of sand to make sure it is level. Is made of steel.

Questions posed by the Board ascertained the following:

Property is not in the flood zone. People to left of him have an inground pool. People behind him have a patio. Increasing impervious coverage because he is requesting a patio. The Township engineer requested 2-foot-deep clean rock for drainage. Stated he would comply with engineer's request. If pool was put in different location, he would still not meet the setbacks. Would still need a variance for setback from the back fence. Property to the north does not have a garage, but property owner 30 feet away has a shed. Next door neighbor has an inground pool with a small shed. There are no structures within 5 to 10 feet of property. Between rim of pool and property line will have grass and stone. A 6-foot fence goes around perimeter of property. There is a tree that shades the yard. Pump system would be in corner similar to neighbor. Decking comes with the pool. There will be steps to deck. Distance between steps from house to steps for pool would be about 10 feet. Extending the patio to 15 x 25. Did put an addition on to the house that almost doubled the size of the house. The request for location of pool is due to shade of tree and size of house.

Applicant stated he and his wife want the pool for his daughter who has Down's Syndrome. Feels it would be better to have a private pool versus a town pool. Size of patio is for comfort and for chairs. Purpose of pool on left side is that it has the most sunlight. Other sides of property only get about 20% sunlight. The ideal location for a pool is to be in the sun. They purchased the house in 2013.

Mr. Masol, Township Engineer appeared and was sworn in. Stated that due to the 614 sq. ft. increase in impervious, the applicant would need to comply with the storm water management in the code. Stated they are given credit for 4 inches of pool as storm water storage. Half of their stormwater requirement was satisfied by the pool itself. Stated if they provide a 2-foot-wide x 2-foot-deep, $\frac{3}{4}$ inch clean stone trench around pool, that would satisfy the requirement of the storm water management. Stated they would exceed the requirement and satisfy the Township Code.

Mr. Giuditta stated the board members are voting on the application before them. Variance could be either C-1 or C-2. Asked members if the benefits from the deviation outweigh any of the detriments from the deviation. Not really a hardship situation, is more of a C-2 burden of proof. Hardship is more for topography or configuration of the site.

Mr. Johnson, Zoning Officer, stated that you cannot replace a nonconformity with another nonconformity even if a variance was issued.

Mr. Giamboi summed up the application. Stated he did not feel it would be a hardship on any of his neighbors. Neighbor to left has large inground pool and neighbors in back all have patios.

No one from the public spoke for or against this application.

2. **Application # ZBA-18-012**
Applicant: Patrick & Kristin Goldate
399 Prospect Avenue
Block: 276, Lot: 5, Zone R-1
Applicant is requesting a C-2 variance to permit construction of a two-story addition to the rear and side of the existing structure. The applicant is seeking relief for the rear setback and lot coverage. The required rear yard setback is 30' where 23.5' is proposed §255-34 Attachment 1, Schedule 1 and the impervious lot coverage maximum is 35% where 50% is proposed §255-34 Attachment 1, Schedule 1.

Kenneth Abrams and Patrick Goldate both appeared and were sworn in. Mr. Abrams credentials were presented to the Board and he was accepted as an expert witness in the field of architecture.

Mr. Goldate explained the application. They moved into their house 4 years ago. Stated they are lifelong Cranford residents with three children and looking to enhance the space that is outdated.

Mr. Abrams stated that the house is old. They have one bedroom upstairs and need more flexibility. Will be providing more open, usable space, and a better kitchen. Discussed the options. Decided to build over whatever is existing towards the back. Tried to minimize the lot coverage. Property has a jog in the left corner. Impervious coverage is existing, non-conforming. They are adding 84 sq. ft. over existing impervious space. Stated they want to keep the esthetics, minimize impact to anyone and give them functionality.

Questions posed by the Board ascertained the following:

The jog is 10 feet going in. 8 ½ on side yard and inward 10 feet to property line. They will be removing the existing brick patio and adding two sets of access stairs. Removing the bathroom located in the kitchen and putting in a mud room.

No one from the public spoke for or against this application.

3. **Application # ZBA-18-021**
Applicant: Bernadette Murphy
27 Wall Street
Block: 596, Lot: 7, Zone R-4
Applicant is requesting two C-1 variances to permit a second floor addition, nonconforming to front and side yard setbacks. Required front yard setback is a minimum of 25' where 12.39' is proposed §255-34 Attachment 1, Schedule 1 and the required side yard setback is a minimum of 7' where 5.86' is proposed. §255-34 Attachment 1, Schedule.

Ms. Murphy appeared and was sworn in. She explained the application. She has lived in the house for about 23 years. It is a 1098 sq. ft. two-bedroom one bath home. Requesting to add a second level to home. Will increase to 2200 sq. ft. Leaving one bedroom on the first floor and adding three bedrooms and an office on the second floor. Lot size is nonconforming. Front of house is 12.39 feet from street. Setting the second floor back. Everything is going straight up with setback in front of house. In backyard a 5 x 8 addition will be added to accommodate the rise in the stairs. No increase in impervious coverage. House is small, built in 1925. She needs to either build the addition or move. House was on the market for 6 months last year and only received one very low bid. People are not looking for two-bedroom one bath homes in Cranford. Within 7 houses of hers, there are 4 houses that have a second-floor nonconforming addition. Zoning changed in 2014. None of the houses on her side of the street have a confirming front yard setback. Average is 13.14 feet.

Arthur Henn, appeared and was sworn in. His credentials were presented to the Board and he was accepted as an expert witness in the field of architecture.

Stated it is a nonconforming lot. 4000 sq. ft. and 6000 sq. ft. is required. Went over the requirements of the setbacks. If ordinance had not changed they would have complied. Actually reducing the building coverage by 4%.

Questions posed by the Board ascertained the following:

Finishes will be same when done. Will make it a four bedroom, three bath and usable for the applicant.

No one from the public spoke for or against this application.

4. DELIBERATION OF Application # ZBA 18-011
Applicant: Carol Giamboi
21 Morse Street
Block: 462, Lot: 16, Zone R-3

Applicant is requesting a C-1 variance for a proposed 18' diameter pool and a 15' x 24' patio in the rear yard of property in excess of the lot coverage where 38% maximum is permitted and 48.26% is proposed (§255 Attachment 1, Schedule 1); and for a pool setback where 15' is required and 4.5' is proposed (§255.38B.2). The house is a pre-existing nonconforming owner occupied two-family.

Mr. Marotta reviewed the testimony.

Board comments consisted of the following:

Property is 75 x 100, not a small property by Cranford standards. Benefits do not outweigh the detriments. Is not a hardship. Does not need a variance for the side yard setback. Neighbors have pool on other side. Pool is not an inground pool and if it needed to be replaced, would need to come back before the Board. Engineer testified that everything related to impervious and storm water management, the applicant has agreed to comply with. Ability to care for a child with a

handicap. Rather leave a tree then take a tree down. Similar uses by neighbors on the other side. View as hardship based on where they can put the pool. There is an issue with setback no matter where he puts the pool. Property has a small yard. Placement of pool is one element; the other is increasing the impervious coverage from 38% to 48%; which is a 10% increase. Doing what is required for the storm water management. Questioning how much of property should be covered. Concerned about egress around pool. Size of pool is big. Takes up a lot of space.

Motion to **deny** Application # ZBA-18-011 was made by Ms. Daly seconded by Ms. Drake with the following voting in favor of the motion: Mr. Illing, Mr. Pistol, Ms. Daly, Ms. Drake and Mr. Salomon.

Mr. Marotta and Mr. Bovasso opposed the motion.

- 5. DELIBERATION OF Application # ZBA-18-012**
Applicant: Patrick & Kristin Goldate
399 Prospect Avenue
Block: 276, Lot: 5, Zone R-1
Applicant is requesting a C-2 variance to permit construction of a two-story addition to the rear and side of the existing structure. The applicant is seeking relief for the rear setback and lot coverage. The required rear yard setback is 30' where 23.5' is proposed §255-34 Attachment 1, Schedule 1 and the impervious lot coverage maximum is 35% where 50% is proposed §255-34 Attachment 1, Schedule 1.

Mr. Marotta reviewed the testimony.

Board comments consisted of the following:

Application is a minor addition to first floor. Made adjustment to be within the pre-existing nonconformity. Property is an irregular shape which triggered variance. Very nicely done floor plan. Space on second floor has no adverse impact to neighborhood. Fits very well with neighborhood. Benefits outweigh detriments. Looked at neighborhood, feels is a benefit to community and neighborhood. Good to see families investing in their homes.

Motion to approve Application # ZBA-18-012 was made by Mr. Illing, seconded by Mr. Pistol with the following voting in favor of the motion: Mr. Marotta, Mr. Illing, Mr. Pistol, Mr. Bovasso, Ms. Daly, Ms. Drake and Mr. Salomon.

- 6. DELIBERATION OF Application # ZBA-18-021**
Applicant: Bernadette Murphy
27 Wall Street
Block: 596, Lot: 7, Zone R-4
Applicant is requesting two C-1 variances to permit a second floor addition, nonconforming to front and side yard setbacks. Required front yard setback is a minimum of 25' where 12.39' is proposed §255-34 Attachment 1, Schedule 1 and the required side yard setback is a minimum of 7' where 5.86' is proposed. §255-34 Attachment 1, Schedule.

Mr. Marotta reviewed the testimony.

Board comments consisted of the following:

House is a small one story. Adding second story to existing footprint. Fits in neighborhood. Immediate neighbors have done the same thing. Makes house more marketable. Is a hardship. Is an extremely small lot.

Motion to approve Application # ZBA-18-021 was made by Mr. Pistol seconded by Mr. Illing with the following voting in favor of the motion: Mr. Marotta, Mr. Illing, Mr. Pistol, Mr. Bovasso, Ms. Daly, Ms. Drake and Mr. Salomon.

PUBLIC PORTION:

None

CONCLUSION:

There being no further business, a motion to adjourn the meeting was regularly made, seconded and passed. The meeting concluded at 9:20 P.M.

Jeffrey Pistol