

Call to Order:

The Zoning Board of Adjustment meeting was called to order at 6:34 p.m. on May 18, 2023 by Chairman Cummiskey who read the following statement, “Notice of this meeting was given as required by the Open Public Meetings Act in the Annual Notice of Meetings on January 20, 2023 and a copy was posted on the 2nd floor bulletin board in Town Hall and also posted on the Township’s website. In addition, notice of this evening’s public hearing was published on May 8, 2023. Be advised no new item of business will be started after 10:30 p.m. and the meeting shall terminate no later than 11:00 p.m.”

The Board saluted the Flag.

Roll call; Mr. Colavita, Mr. Cummiskey, Mr. Kerr, Mr. Kozak, Mr. Powers, Mr. Rice, Mr. Salvadori, Mr. Seidenberg, Mr. Fiore, Mr. Heverly, Council Liaison, Mr. Kernan, Planner. Also present; Ms. Orbaczewski, Secretary, Ms. Gallagher, Clerk Transcriber. Excused; Mr. Carino, Mr. Sander, Engineer, Solicitor.

Public Hearings:

1. #23-20 Therese Posey – Lot Coverage Variance

The applicant is requesting a lot coverage variance to allow 35% lot coverage where 30% is the maximum permitted for the concrete walkway around the existing inground swimming pool, along with any other variances or waivers deemed necessary by the Board. The property is located at 1848 Serenity Court, also known as Block 128.0203, Lot 24 in the R-2 Zoning District.

Motion passed to deem the application complete. Present is the applicant Therese Posey, she was sworn in by Mr. Fiore. Ms. Posey explained that she is requesting a variance for additional concrete to be poured around her inground pool. Mr. Kozak asked if there were any drainage issues currently. Ms. Posey replied no. Mr. Fiore asked how far the sidewalk would be from the property line. Ms. Posey stated that they are only requesting an additional 2 feet, since they are already 6 to 8 feet from the fence line.

Motion passed to open the hearing to the public. There being none, motion passed to close the hearing to the public.

Mr. Fiore reviewed the application for the Board.

Motion to approve by Mr. Powers, seconded by Mr. Colavita. Roll call vote; Mr. Powers, Mr. Colavita, Mr. Cummiskey, Mr. Kerr, Mr. Kozak, Mr. Salvadori, Mr. Seidenberg. Nays- Zero. Abstentions- Zero.

Public Hearings: (continued)

2. #23-13– Jason Miller – Side Yard, Rear Yard, & Lot Coverage Variances

The applicant is requesting a side yard variance to allow 6.33 ft. where 7.5 ft. is required for the existing garage and driveway, a rear yard variance to allow 6.4 ft. and 14.5 ft. respectively where 37.5 ft. is required to allow the existing basketball court and hoop structure, a lot coverage variance to allot 54.6% where 30% is the maximum permitted. There is also the proposed replacement of a yard drain on Lot 4 to connect to the existing rear yard drain on Lot 5, along with any other variances or waivers deemed necessary by the Board. The property is located at 1036 Weston Drive, also known as Block 129.0303, Lot 5 in the R-2 Zoning District.

3. #23-14 – Jason Miller

The applicant is requesting a rear yard variance to allot 1.4 ft. where 37.5 ft. is required for the existing pavilion and play turf area, a lot coverage variance to allow 40.1% where 30% is the maximum permitted, along with any other variances or waivers deemed necessary by the Board. The property is located at 1025 Suffolk Drive, also known as Block 129.0303, Lot 6 in the R-2 Zoning District.

Michael McKenna was present, attorney for the applicant. Mr. McKenna briefly reviewed the applications. He explained that the applicant does own both properties and the testimony will cover both applications. The professionals to testify were sworn in by Mr. Fiore. Jack Gravlin and Tiffany Morrissey were sworn in by Mr. Fiore and both gave their credentials for the Board. Motion passed to deem the applications complete. Mr. Gravlin stated that he was hired by the applicant to prepare a grading plan and to analyze the existing drainage at the site. Mr. Gravlin stated that there are existing drainage easements on these lots as well as adjoining lots. He stated that they did find a failed rear yard drain on the neighbor's property on Lot 4 that the applicant intends on fixing by reinstalling and connecting it to their own drainage system that flows into the sewer in the street. He stated that they will reconstruct the inlet and sod after it's done.

Mr. Kozak asked if either of the properties go up for sale, with this drainage situation affect the resale. Mr. Gravlin replied no. Mr. Kozak asked who would be responsible for the maintenance. Mr. Gravlin replied there would be very little maintenance, but it would be the responsibility of the property owner not the applicant. Mr. Gravlin suggested that they could have a document drawn up giving the property owner permission to tie into the existing drainage on the applicant's property. Mr. Fiore asked Mr. McKenna if that would be a recorded document. Mr. McKenna replied yes, subject to Board approval. Mr. Fiore stated that he remembered that there was an issue with drainage through the entire development over the years.

Ms. Morrissey reviewed her report for the Board. She stated the applicant is seeking a side yard and rear yard variance on Lot 5 for a basketball hoop. She stated the applicant is seeking a side yard variance on Lot 5 for the existing garage and driveway. Ms. Morrissey stated there is a variance requested on Lot 5 for impervious coverage. Ms. Morrissey stated a rear yard variance is requested for Lot 6 for an existing pavilion. She stated there is also a variance request for

Public Hearings: (continued)

2. #23-13 – Jason Miller (continued)
3. #23-14 – Jason Miller (continued)

impervious coverage on Lot 6 that includes a turf area. Ms. Morrissey stated there are also requesting a side yard variance for the stone driveway on Lot 6. She noted that request was not in the original application. She stated that the improvements to the lots are beneficial and provides space for the family to enjoy their backyard. Ms. Morrissey stated that the negative criteria has not been met and that there is no substantial detriment to the public good or the zoning ordinances.

Mr. Kozak asked how long the property has been like this. Ms. Morrissey stated that during Covid a lot of it was added. Mr. Kozak asked if there's been any issues with drainage or neighbor complaints. Mr. McKenna replied there's been no problems with the exception of the Lot 4 drain issue. Mr. Colavita asked if the property was on Weston or Suffolk. Ms. Morrissey explained the applicant lives at Weston Drive. He also owns the Suffolk property and rents it out to friends. Mr. Kozak asked where the neighbor's drain would pump to. Mr. Gravlin replied there is no pump, it will drain by gravity into the storm drain.

Motion passed to open the hearing to the public. There being none, motion passed to close the hearing to the public.

Mr. Fiore stated to the Board that they would vote on each application separately. Mr. Fiore reviewed #23-13, stated that the variances requested were for a side yard variance, a rear yard variance, a lot coverage variance and placement of a yard drain that connects to the existing drain on Lot 5. He stated there would be an agreement drawn up between Mr. McKenna and himself that will serve as a notice to any future owners of the property.

Motion to approve application #23-13 by Mr. Powers, seconded by Mr. Kerr. Roll call vote; Ayes- Mr. Powers, Mr. Kerr, Mr. Cummiskey, Mr. Colavita, Mr. Kozak, Mr. Salvadori, Mr. Seidenberg. Nays- Zero. Abstentions- Zero.

Mr. Fiore reviewed application #23-14 for the Board. He stated that the applicant is requesting variances for Lot 6 to include a rear yard variance, a lot coverage variance and a side yard variance for the stone driveway.

Motion to approve application #23-14 by Mr. Powers, seconded by Mr. Colavita. Roll call vote; Ayes- Mr. Powers, Mr. Colavita, Mr. Cummiskey, Mr. Kerr, Mr. Kozak, Mr. Salvadori, Mr. Seidenberg. Nays- Zero. Abstentions- Zero.

4. #23-15 – Bonnie Boychuck – Use Variance (postponed from 5/4/23)

The applicant is requesting a use variance to allow two principal uses on the same lot; a residential use and a commercial use. The applicant is requesting to use the existing garage as an automobile restoration shoe and to allow the 11 plus shipping containers for storage of automobiles, along with any other variances or waivers deemed necessary by the Board. The property is located at 1812 Herbert Boulevard, also known as Block 301, Lot 19 in the R-2 Zoning District.

Public Hearings: (continued)

4. Bonnie Boychuck (continued)

Motion passed to deem the application complete. Ms. Boychuck was sworn in by Mr. Fiore. Ms. Boychuck stated that she purchased the property with the garage and storage units already existing. She stated it was a pretty good deal and she had wanted something so she can store her uncle's vehicles. Ms. Boychuck learned after the fact that the storage units were never approved to be there. She would like to have the garage approved to be used for antique car restoration to help make ends meet to keep the house. Mr. Cummiskey asked if all of the storage units were full. Ms. Boychuck replied that 9 are full, 2 are not. Mr. Fiore asked when she purchased the property. Ms. Boychuck replied November of 2019. Mr. Fiore asked if it was being used as a business now. Ms. Boychuck replied that he is doing work in it. Mr. Fiore asked who she was referring to. Ms. Boychuck replied that would be Stephen Hopkins, he was the previous owner of the property.

Mr. Cummiskey asked her exactly how many units are on the property. Ms. Boychuck replied 11. Mr. Colavita asked what was in all the units. Ms. Boychuck replied a couple motorcycles, 3 pick up trucks, an old Cadillac, a camaro and that 2 trailers have parts in them. Mr. Colavita asked if the shop was being used by someone else. Ms. Boychuck replied yes, but Mr. Hopkins does live with her now. Mr. Colavita asked if it was being rented out. Ms. Boychuck replied no, they live with me. Mr. Rice asked if the vehicles in the trailers were in good standing or were they the vehicles that needed to be worked on. Ms. Boychuck replied that 7 of them are ready to roll, just being kept out of the weather, and that 3 of them need some repair. Mr. Salvadori asked if there was 11 units and 9 were already occupied with restored vehicles. Ms. Boychuck replied that 2 of them have part, and there are 6 with restored vehicles. Mr. Salvadori asked when the shop opens, what would happen with the vehicles once they are restored. Ms. Boychuck replied that she hopes to move them out as she gets them in. Mr. Salvadori asked if they will be sold. Ms. Boychuck replied yes.

Mr. Cummiskey asked if the vehicles were registered and insured. Ms. Boychuck replied no. Mr. Powers asked if she purchased the home from the original owner. Ms. Boychuck replied no, she purchased the home from the bank, it was foreclosed. Mr. Powers asked if the original owners were there. Ms. Boychuck replied that after she bought the home, the original owners contacted her and asked her if they could use the garage. Mr. Powers asked if the bank notified her about the condition of the property. Ms. Boychuck stated that she misunderstood that there were violations on the property, and that is why she is here trying to make it right. Mr. Kerr asked if this was a commercial zone. Mr. Kernan replied that it is a residential zone. Ms. Boychuck added that there are a few other businesses in the vicinity of her property. Ms. Boychuck also stated that it would not be advertised. Mr. Salvadori asked if she had to be licensed for a business. Ms. Boychuck replied that she did apply for a New Jersey tax.

Mr. Fiore stated that if the Board approved a use variance this evening, that she would have to come back for a site plan and that she would probably have to remove everything from the property until she gets the site plan. Ms. Boychuck replied that she understood. Mr. Fiore wanted to make sure that she understood the complications of this process. Mr. Colavita asked if there was a licensed business operating there. Mr. Fiore replied no, Ms. Boychuck replied no. Mr. Fiore stated

Public Hearings: (continued)

4. Bonnie Boychuck (continued)

that if the application is denied tonight, she can appeal it, but she can't come back next year and try again. Ms. Boychuck stated that she does understand but she doesn't know what else to do. She also stated that she does not care if she's approved or not because she will shut the business down. Ms. Boychuck stated that she really just wants to keep the storage on the property. Mr. Colavita stated that he asked if the business was registered because she would have to appear with attorney representation if that was the case.

Mr. Kernan stated that the residential and commercial uses on this property would be allowed in a commercial zone, but this is not the case. Mr. Kernan stated that the use of an automotive restoration is not permitted in the R-2 zone. Mr. Kernan stated that he asked for testimony on hours of operation, employees parking, noise, equipment used, but Mr. Boychuck is not here to answer those. Mr. Kernan asked if Mr. Boychuck was her uncle. Ms. Boychuck replied no, but Mr. Hopkins does have vehicles stored in the trailers as well as her uncle. Mr. Kernan stated that it may be defined as a vehicle storage yard, or possibly a junk yard as Mr. Fiore pointed out. Mr. Kernan stated there is a lot going on at this property. Mr. Kernan read 175-93 from the Township code book. Mr. Kernan read the parking section 175-123 from the Township code book. Mr. Kernan read part of 175-131 from the Township code book regarding auto service stations. Mr. Kernan asked if there was a pit or a lift for repairing the autos. Ms. Boychuck replied it was an electric lift.

Mr. Kernan stated if it were deemed an automotive service station, there are strict parameters as to how many vehicles can be there, no registered vehicles can be outside of the service station. Mr. Seidenberg asked how many vehicles were stored outside. Ms. Boychuck replied there was a lot. Mr. Kernan stated to be frank, that it looked like a junkyard. Mr. Kernan stated that if she got approval for the auto restoration business and keeping the storage trailers, all of the other stuff would have to be removed in a timely fashion. Ms. Boychuck stated that she had all of them out of there at one point. She added that there are about 17 vehicles there now that were bought in an auction lot by Mr. Hopkins. Mr. Kernan asked if those vehicles were unregistered. Ms. Boychuck confirmed they were not registered.

Mr. Fiore stated that the burden is on Ms. Boychuck that she has to prove to the Board that approval of this variance(s) would not be a detriment to the public good. Ms. Boychuck stated that she does have a fence around the property, they do not do any work outside of normal hours and there's no loud equipment running. Mr. Fiore went on to summarize the purpose and intent of zoning. Mr. Fiore stated that she needs to be prepared to answer the questions from the Planner, and to possibly return for site plan so did she want to continue this evening. Mr. Kernan stated that she should be able to provide testimony as to why the approval would benefit or advance the zoning of the Township. Mr. Colavita recapped what Mr. Fiore and Mr. Kernan both stated; that Ms. Boychuck would need to be able to demonstrate to the Board what specifically she is requesting to do. Ms. Boychuck stated that she is not looking for a junkyard. She just wants to have storage and a repair. She stated that it would not be a service shop like oil change and brakes. Mr. Powers asked why Mr. Hopkins was not here with her for the hearing. Ms. Boychuck replied that he was out of state due to a death in the family. Mr. Kernan suggested a continuation so that Mr. Hopkins could

Public Hearings: (continued)

4. Bonnie Boychuck (continued)

appear also. Mr. Fiore stated that she would have to request to the Board for a continuance and waive any time restrictions on the application. Ms. Boychuck asked for a continuance so that Mr. Hopkins can attend also. Mr. Fiore suggested that perhaps she could withdraw her application and then refile when Mr. Hopkins could appear. Ms. Orbaczewski stated that she would have to notice the public again and that would be a cost to the applicant. Mr. Fiore then stated he withdraws his suggestion for Ms. Boychuck to withdraw her application. Mr. Powers and Mr. Kerr both stated that she should ask for a continuance. Mr. Cummiskey asked the applicant if she was requesting a continuance. Ms. Boychuck stated that she was requesting a continuance, she was waiving the time and she will bring Mr. Hopkins to the next hearing on June 15th.

Motion to approve the continuance request by Mr. Powers, seconded by Mr. Seidenberg. Voice vote; all ayes.

Mr. Fiore announced that this application will be postponed to the next date, June 15th at 6:30 p.m. and no further notice is required.

Public Portion:

Motion passed to open the hearing to the public. There being none, motion passed to close the hearing to the public.

Report: None

Minutes:

Motion passed to approve the minutes from the regular meeting on 5/4/23.

Adjournment:

The meeting was adjourned at 7:47 p.m.

These minutes are an extract from the meeting that was held on the above date and are not a verbatim account or to be construed as an official transcript of the proceedings.

Respectfully submitted by: Amy Gallagher, Clerk Transcriber