

REGULAR MEETING of the Moonachie Planning Board called to order, J. Molinari in the chair, at Kathryn E. Flynn Civic Center on Thursday, June 15<sup>th</sup>, 2017 at 7:15 P.M.

J. Molinari called for Pledge of Allegiance to the Flag.

C/Surak asked for moment of silence for passing of former Councilman and Borough Administrator Paul Hansen.

ROLL CALL: Mayor Vaccaro- not present, C/ Surak, J. Molinari, N. Derevyanik-present,  
J. Campbell- present, V. Drozd- not present, M. Lyons, J. Telesmanic - present  
Alternates – M. Meehan- present R. Petrella, C. Pallas- not present  
Attorney-J. Novello- present, Engineer- not present

Secretary stated that notice of the meeting was announced in accordance with the Open Public Meeting Act.

Motion by N. Derevyanik and second by J. Telesmanic to approve Minutes of Regular Meeting of May 18<sup>th</sup>, 2017.

ROLL CALL: C/Surak, Molinari, Derevyanik- ayes, Campbell-abstain  
Lyons, Telesmanic, Meehan- ayes.

Six ayes, one abstain. Motion carried.

#### COMMUNICATIONS:

Safwat & Pilar Tadrous, 31A Daniel Street- Site Plan and Variances (“C” Bulk Variance and “D” Use Variance) applications to demolish existing one family home and to erect a new two-family home.

Boswell McClave Engineering- recommendation for the Site Plan and Variance applications of Safwat & Pilar Tadrous, 31A Daniel Street, Block 5 Lot 2.02.

J. Molinari- stated that application was tabled for next month’s meeting on July 20<sup>th</sup>.

Motion by J. Telesmanic and second by N. Derevyanik to file communications.

ROLL CALL: C/Surak- recused, Molinari, Derevyanik- ayes, Campbell- recused,  
Lyons, Telesmanic, Meehan- ayes

Five ayes, two recused. Motion carried.

#### REPORTS:

None

#### OLD BUSINESS:

Motion by J. Molinari and second by N. Derevyanik to approve Resolution #2017-6:

RESOLUTION#2017-6  
MOONACHIE PLANNING BOARD  
Elizabeth Bassani  
8A Henry Street  
Moonachie, New Jersey 07074  
Block 7, Lot 16.01  
Appeal of Zoning Officer Denial of Permit

**WHEREAS**, Applicant had made application to the Moonachie Planning Board on appeal of the Zoning Letter of Denial issued by the Zoning Officer dated April 18, 2017 within which the Zoning Officer denied a permit to construct a new dwelling based upon the requirement of a variance from Ordinance 2004-18 (Face to Face Setback); and

**WHEREAS**, the application was presented by the Applicant, Elizabeth Bassani and Architect Daniel Dressel, 19 Edstan Drive, Moonachie, NJ.

**NOW, THEREFORE**, the Moonachie Planning Board makes the following Findings of Facts based upon the evidence presented at the public hearing of May 18, 2017 at which a record was made:

1. The property is in an R-1 zone. The applicant satisfied the statutory procedural requirements of filing of an appeal of a Zoning Officer's Decision wherein there is no requirement for publication of notice. Mr. Dressel testified that the application denied by the Zoning Officer complied in all of the Borough bulk zoning requirements and described the property as an irregularly shaped "flag lot". Further, Mr. Dressel testified that the sole issue before the Board was the interpretation of the face to face dimension ordinance requirement which was adopted in 2004 and that the flag lot was created before the subject ordinance. Also, he testified that, in his opinion, that the intent of the face to face ordinance was for development of multiple adjacent properties and that application of the face to face ordinance requirement upon the applicant's property creates an unreasonable hardship. Further, Mr. Dressel stated that the intent of the Moonachie Zoning Ordinance and the Municipal Land Use Law is that an adjacent property should not create a variance condition upon the applicant's property and cause the applicant's property to be any less developable than would be otherwise allowed if those adjacent structures were not built so close to their property lines. Finally, Mr. Dressel testified that, in his opinion, the relief requested can be granted with no substantial detriment to the public good and will not substantially impact the purpose of the zone plan and zoning ordinance of the Borough.

**NOW, THEREFORE**, the Moonachie Planning Board hereby makes the following Conclusions of Law based upon the foregoing findings of facts:

1. In interpreting Ordinance 2004-18, the Board determines that the intent of the face to face dimension requirement is not applicable to a single new family dwelling construction upon the facts and circumstances as presented by the Applicant. The Board agrees with the Applicant that the intent of subject Ordinance is for purposes of development of multiple adjacent properties.
2. The Board finds that the placement of the condenser unit should be in the rear yard of the property.

3. The Board finds that granting the appeal will not have a substantial detrimental impact upon the neighborhood, the Master Plan or the Zoning Ordinance. The Board finds that, based upon the applicant's architect's testimony and evidence presented by the Applicant, there exists a basis for granting the requested relief. The Board found that there will be no substantial detriment resulting to the public good, nor will there be an impairment of the zoning plan or municipal zoning ordinance and that the benefits of the deviation from the local zoning ordinance resulting from granting the relief would substantially outweigh any detriment.

**NOW, THEREFORE, BE IT RESOLVED** by the Moonachie Planning Board of the Borough of Moonachie that Applicant's appeal of the Zoning Officer's denial of permit is hereby granted pursuant to N.J.S.A. 40:55D subject to the following terms and conditions:

1. The Zoning Officer is directed to issue the permit for construction of the single-family home as applied for based upon the sole condition that the condenser unit be shown upon the plan in the rear of the property.
2. Approvals of all other government agencies and utilities having jurisdiction over any aspect of the Project.
3. The Board retains jurisdiction as to any interpretation of this resolution.
4. Satisfaction by Applicant of the representations and commitments made in the submission testimony and in the record made available by Applicant before the Board.
5. Deposit of the appropriate amounts into escrow and payment of requisite application fees pursuant to ordinance and reasonable requirement of applicable Borough Professionals.
6. The Applicant shall comply with the requirements of structural, fire and sanitary safety as provided for in the current edition of the New Jersey Uniform Construction Code.

The undersigned certifies the within Resolution was adopted by this Board at its Thursday, May 18, 2017 meeting, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on June 15, 2017.

ROLL CALL: C/Surak- recused, Molinari, Derevyanik, Campbell, Lyons, Telesmanic- ayes, Meehan- aye.

Six ayes, one recused. Motion carried.

**NEW BUSINESS:**

Application No. 17-SP1 and Docket #17-V2:

Site Plan and Variances (“C” Bulk Variance and “D” Use Variance) application of Safwat and Pilar Tadrous, 31A Daniel Street, Block 5, Lot 2.02

J. Molinari- mentioned that this application will be carried over for next month meeting on July 20<sup>th</sup>, 2017.

N. Derevyanik- asked why it will be carried over.

J. Molinari- stated that this carried over because it was at the applicant’s request.

J. Campbell- asked if he should have recused himself from the 8A Henry Street Resolution.

Attorney Novello- asked if the school was within 200’ of the property.

Secretary- stated no the applicant .

M. Lyons – asked if she has to recuse herself because she had worked with the applicant.

Attorney Novello- asked if she would have any prejudice in making a decision.

M. Lyons- wanted clarification for the future in case there is any question.

Attorney Novello- answered that 200’ notice creates the area that the member cannot be within and any special reason or prejudice the applicant would be obligated to bring up, not the Board.

He spoke about examples such as previous litigation or bias or favoritism. He mentioned that as long the Board member is affirming that will be fair and impartial.

M. Lyons- thanked Attorney Novello for clarification.

**PUBLIC HEARING(Regular):**

No one wishing to be heard.

Motion by C/Surak and second by J. Telesmanic to close public hearing.

ROLL CALL: C/Surak, Molinari, Derevyanik, Campbell, Lyons, Telesmanic, Meehan.

All ayes. So ordered.

Motion by J. Campbell and second by M. Lyons to approve Resolution#2017-7 to go into closed session at 7:24 P.M.

**RESOLUTION #2017-7**

WHEREAS, N.J. S.A. 10:4-12 allow for a public body to go into closed session during a public meeting, and

WHEREAS, the Moonachie Planning Board has deemed it necessary to go into closed session to discuss certain matters which are exempt from the public, and

WHEREAS, the regular meeting of this Board will reconvene,

NOW THEREFORE, BE IT RESOLVED, that Moonachie Planning Board will go into closed session for the following reason as outlined in N.J.S.A. 10:4-12:

Any anticipated litigation.

ROLL CALL: C/Surak, Molinari, Derevyanik, Campbell, Lyons, Telesmanic, Meehan.

All ayes. So ordered.

Motion by J. Telesmanic and second by N. Derevyanik to close closed session at 8:15 P.M.

ROLL CALL: C/Surak, Molinari, Derevyanik, Campbell, Lyons, Telesmanic, Meehan.

All ayes. So ordered.

Motion by M. Lyons and second by C/Surak to adjourn meeting at 8:16 P.M.

ROLL CALL: C/Surak, Molinari, Derevyanik, Campbell, Lyons, Telesmanic, Meehan.

All ayes. So ordered.

ATTEST:

Supriya Sanyal, Secretary