

REGULAR MEETING of the Moonachie Planning Board called to order, Joyce Molinari in the chair, at Kathryn E. Flynn Civic Center on Thursday, June 21st, 2018 at 7:20 P.M.
J. Molinari called for Pledge of Allegiance to the Flag.

ROLL CALL: Mayor Vaccaro, C/ Surak-not present, J. Molinari, N. Derevyaniuk- present
J. Campbell-present, M. Meehan, V. Drozd, M. Lyons, J. Telesmanic- not present
Alternates – A. Arroyo, R. Petrella-present, C. Pallas- not present
Attorney- 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. Derevyaniuk and second by R. Petrella to approve the minutes of Regular Meeting of May 17th, 2018.

ROLL CALL: Molinari, Derevyaniuk, Campbell, Arroyo, Petrella.
All ayes. So ordered.

COMMUNICATIONS:

Bergen County Board of Chosen Freeholders- notice of introduction of a Site Plan Ordinance to establish Bergen County Standards for Sustainable Land Development Site Plans and notice of adoption of a resolution entitled “Notice of Intent to Establish Bergen County Standards for Sustainable Land Development Subdivision Plans”.

Bergen County Board of Chosen Freeholders- notice of adoption of a Site Plan Ordinance to establish Bergen County Standards for Sustainable Land Development Site Plans and adoption of Resolution Authorizing Adoption of Bergen County Standards for Sustainable Land Development Subdivision Plans.

Neglia Engineering Associates- notification on the submission of a flood hazard area verification to NJDEP for Modular Temp Classrooms project at Block 63, Lot 9.01 in the Borough of Little Ferry.

N. Derevyaniuk asked about the communication from Bergen County Freeholders.
Attorney Novello mentioned that for every subdivision in the County, the plans have to file with the town and the county and the County will establish standards for sustainable land development. He explained that this would be a new requirement that would have reviewed by the engineer.

R. Petrella mentioned about temporary classrooms in Little Ferry.

J. Molinari mentioned that the Washington school is being closed, and they need temporary classrooms until they decide what they will with the school.

Motion by R. Petrella and second by J. Campbell to file communications.

ROLL CALL: Molinari, Derevyaniuk, Campbell, Arroyo, Petrella.
All ayes. So ordered.

REPORTS: None

OLD BUSINESS:

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

Motion by N. Derevyaniuk and second by R. Petrella to approve Resolution#2018-4

**RESOLUTION#2018-4
PLANNING BOARD OF MOONACHIE
Application No. 17-SP1 and Docket#17-V2
Safwat & Pilar Tadrous
31 A Daniel Street
Moonachie, New Jersey 07074
Block 5, Lot 2.02.**

WHEREAS, Applicant had made application to the Planning Board of Moonachie for a site plan and variances (“C” Bulk Variances and “D” use variance) to permit the construction of a two-family dwelling in a one family dwelling zone and for other bulk variances; and

WHEREAS, Michael Goodman, Esq., Attorney for the Applicant, indicated that the scope of the application has been revised based upon review comments received from the Board Engineer and the revised plans request only one variance, the "D" use variance. The Board inquired as to whether the applicant would reside in the proposed new home and Mr. Goodman indicated that the applicant would not reside in the proposed new home.

WHEREAS, the application was presented by Michael Goodman, Esq., Attorney for the Applicant, and testimony was received from the following parties:

- a) Richard B. Schommer, PE, PP, 119 Cherry Hill Road, Suite 110, Parsippany, NJ 07054, as to the proposed new construction and in review of site plan and variance request;
- b) Safwat Tadrous, Property Owner and Applicant, as to the history of the property, the basis of the application and the basis of applicant's request for relief.
- c) The following exhibits were marked into evidence:

A - 1 Application dated 5/17/17

A-2 Site Plan dated 1/3/18

A-3 Boswell's Review letters dated 5/30/17, 2/12/18

A- 4 Zoning Denial letter dated 11/1/16

A-5 Aerial Drawing dated 6/15/17 by Schommer

NOW, THEREFORE, the Planning Board makes the following Findings of Facts based upon the evidence presented at the public hearing of April 5, 2018 at and May 17, 2018 at which a record was made:

Richard B. Schommer, PE and PP, testified that he holds a degree in Engineering and holds NJ PE and NJ PP licenses and that he has testified before many land use boards in NJ over his 30 years of practices. Mr. Schommer was accepted as an expert witness by the Board in Engineering and Planning. Mr. Schommer provided the Board a brief explanation of the existing site conditions and the overview of the site plan. In review of the Aerial Drawing (A-5), Mr. Schommer testified that there are five houses on same side of Daniel Street and three on other side of Daniel Street and that the property is in a R-1 zone with fairly small lot sizes. Further, he testified that the subject property is 60 x 150 or 9000 sq ft which is almost twice the minimum lot size required for a single family dwelling to be built in the R-1 zone. Also, the new construction would eliminate a current non-conforming garage and the site work would level the property. Mr. Schommer explained that the property is within the AE flood zone and was built in 1954 but has been vacant since superstorm Sandy because it cannot be renovated due to the severe damage. Further, he testified that on the larger lots situated on Daniel Street there are other multi-family houses; specifically, Lot 1.01 is a two family and Lot 17 is a two family.

Mr. Schommer reviewed the flood elevations in testifying that the proposed construction would elevate the first floor elevation to be two feet above the FEMA Base Flood Elevation (BFE). The base flood elevation is 8 feet (NAVD 88) and the applicant's proposed construction is at 10 feet and that the proposed new construction would minimize impact onto flood storage capacity and bring about compliance with flood elevation via flood vents as shown on the drawings. Further, the applicant's design includes storm water measures and the applicant did revise the application based upon the review comments by the Board Engineer and has removed all of the C variances and site plan request; thereby in full compliance with all bulk variances and the only variance request is the D use variance for the construction of a two-family dwelling in a one-family dwelling zone.

Mr. Schommer reviewed the D -1 positive criteria and testified that the relief requested would support the purposes of zoning: e) appropriate population density and he noted that in this zone an office is a conditional use which would be permitted and has a more intense use and that a two family home is a less intensive use; i) promote a desirable visual environment by removing a vacant, old house and bring in a new home conforming to the flood elevation and increase streetscape; and m) promote a more efficient use of land and add to housing stock and housing diversity.

Mr. Schommer reviewed the D-1 negative criteria and testified that the relief requested would not create a substantially detrimental impact on neighboring properties and would not change the character of the neighborhood. The size of the lot supports the size of the building which meets and provides two enclosed parking spaces per unit and would not be substantially detrimental to the zoning ordinance or zone plan.

The Board questioned the potential for changing of the character of the neighborhood and noted that the same size structure could be built as a one family dwelling and a colloquy ensued regarding the effect of granting the requested variance, with the explanation of the Board counsel.

Further, the Board discussed the following conditions of approval:

- a) The Applicant stipulates that they will comply with the engineering conditions stated in the Boswell review letter of 2/12/18;
- b) The Applicant must submit to the NJDEP for flood plain approval and receive a Flood Hazard Individual Permit in accordance with NJAC 7:13 or letter of “No Interest”;
- c) The house will be less than 35 ft in height;
- d) The Applicant shall submit certified drainage calculations to the Board Engineer for review and approval;
- e) The Applicant will perform and submit percolation test and soil log results to the Board Engineer for review and approval;
- f) The house will have no basement;
- g) The Applicant stipulated to the installation of bollards next to the garage area located within the garage on first floor to protect the area; especially the gas meters; and
- h) The Applicant stipulated to revising the plan to contain a half-bath on the first floor, removal of the wet bar and appurtenant plumbing and removal of the access door on the first floor.

NOW, THEREFORE, the Planning Board hereby approves the proposed variance as follows:

1. The Applicant’s request for a Use Variance in accordance with N.J.S.A. 40:55D-70 (d)(1) variance to allow a two-family home in a one-family zone is approved with the following conditions:

- a) The Applicant stipulates that they will comply with the engineering conditions stated in the Boswell review letter of 2/12/18;
- b) The Applicant must submit to the NJDEP for flood plain approval and receive a Flood Hazard Individual Permit in accordance with NJAC 7:13 or letter of “No Interest”;
- c) The house will be less than 35 ft in height;
- d) The Applicant shall submit certified drainage calculations to the Board Engineer for review and approval;
- e) The Applicant will perform and submit percolation test and soil log results to the Board Engineer for review and approval;
- f) The house will have no basement;
- g) The Applicant stipulated to the installation of bollards next to the garage area located within the garage on first floor to protect the area; especially the gas meters; and
- h) The Applicant stipulated to revising the plan to contain a half-bath on the first floor, removal of the wet bar and appurtenant plumbing and removal of the access door on the first floor.

2. The Board finds that the Applicant has satisfied the criteria under sub-section (D) of the relevant statute. The Board finds that: (1) the application relates to a specific piece of property; (2) the purposes of the Municipal Land Use Law would be advanced by a deviation from the Zoning Ordinance’s requirements; (3) the variance can be granted without substantial detriment to the public good; (4) the benefits of the deviation substantially outweigh any detriment; and (5) the variance will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. The Board finds that granting the variance 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 Engineer/Planner’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 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 variance would substantially outweigh any detriment.

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

1. Approvals of all other government agencies and utilities having jurisdiction over any aspect of the Project.
2. The Board retains jurisdiction as to any interpretation of this resolution.
3. Satisfaction by Applicant of the representations and commitments made in the submission testimony and in the record made available by Applicant before the Board.
4. Deposit of the appropriate amounts into escrow and payment of requisite application fees pursuant to ordinance and reasonable requirement of applicable Borough Professionals.
5. 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 17, 2018 meeting, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on June 21, 2018.

ROLL CALL: Molinari, Derevyanik, Campbell, Arroyo, Petrella.
All ayes. So ordered.

NEW BUSINESS:

N. Derevyanik mentioned that at the last meeting it was discussed informing the Police and Fire Departments for applications and in the past there used to be a form letter that went to both departments for approval. He made a recommendation to reinstate the notification for a variance to Police and Fire Department.

Secretary mentioned that Engineer sent notice for this application for new home to the Police and Fire Departments.

Attorney Novello mentioned that in other towns, the applicant for sub-division or variance is obligated to send notification and plans to various departments and the Board could change its bylaws or Ordinance regarding this and create a list for notification. He mentioned that he would look into by-laws.

PUBLIC HEARING(Regular):

No one wishing to be heard.

Motion by R. Petrella and second by N. Derevyanik to close public hearing.

ROLL CALL: Molinari, Derevyanik, Campbell, Arroyo, Petrella.

All ayes. So ordered.

Motion by J. Campbell and second by N. Derevyanik to adjourn meeting at 7:40 P.M.

ROLL CALL: Molinari, Derevyanik, Campbell, Arroyo, Petrella.

All ayes. So ordered.

ATTEST:

Supriya Sanyal
Secretary