

February 24th, 2020
Hawthorne, NJ

The Regular Meeting of the Zoning Board of Adjustment of the Borough of Hawthorne was held on the above date at 6:45 p.m. in the Council Meeting Room of the Municipal Building, 445 Lafayette Avenue, Hawthorne, New Jersey, with the following present:

FLAG SALUTE

Vice Chairman Gallagher invited all present to join him in the Pledge of Allegiance.

“Adequate Notice of this meeting has been posted on the Municipal Bulletin Board, published in the legal newspaper of the Borough and a schedule, including date and time, provided to all persons entitled by law to same. “

ROLL CALL

Chair.....	Raymond Hallock - absent
Vice Chair.....	John F. Gallagher
Board Member.....	David A. Schroter
Board Member.....	Scott Chamberlin – arrived at 7:20
Board Member	Kevin Duffy
Board Member.....	Jack B. De Ritter - absent
Board Member.....	Annamarie Sasso
Board Member (Alternate #1).....	Victor Cuttitta
Board Member (Alternate #2).....	Eleanor C. Wenzke

Also, in attendance was , Board Attorney James Delia Board Engineer Mike Kelly, Representing Burgis Associates Steve Leighton, Planning Board Member Marylou DeMattia, and Board Secretary Joan Herve.

BILLS:

Vice Chairman Gallagher entertained a motion to approve the bill list and forward it to the Treasurer for payment, moved by Sassi, seconded by a Wenzke. On a roll call vote, all present voted yes. Motion carried.

Herald News:		
Notice of Action Taken:	\$51.66	
ZBA 2020 Meeting Schedule	\$39.62	
Record:		
ZBA 2020 Meeting Schedule	\$37.16	

APPROVAL OF MINUTES

Vice Chairman Gallagher entertained a motion to approve the minutes of the January 27th, 2020 re-organization meeting moved by Schroter, seconded by Cuttitta. On a roll call vote, all present voted yes, with the exception of Duffy who abstained. Motion Carried.

New Business

Robert & Cristen Verrengia 43 Sunrise Drive (Block 276.01, Lot 6)

Approved applicant who was seeking relief from Section 540; attachment 1 Schedule of Bulk & Coverage Controls. Applicant proposed a 629 s.f. addition to the rear of an existing single-family dwelling, a 265 s.f. second story addition over an existing single-story garage. A 268 s.f. patio is also proposed at the rear of the dwelling. The applicant also proposed to remove and replace existing retaining walls located in rear yard. Variances being sought; side yard variance is being request where a 15ft. setback is required and 11.1is being proposed. The combine side yard setbacks required is 40 ft. where 29 ft. is being proposed and any other variance deemed necessary.

Vice Chairman Gallagher entertained a motion to approve the above application, moved by Schroter, seconded by Cuttitta. On a roll call vote, all present voted yes.

OLD BUSINESS

53 Braen Avenue, LLC, 10 Sotnick Street (block 287, Lot 8)

Note: Regarding this application three members (Hallock, Schroter and Wenzke) of the Zoning Board had to recuse themselves, therefore the board retained a member from the Planning Board Mary Lou DiMattia who certified that she had listened to the entire tape recording of the hearing held on May 20th, 2019.

LLC Partners: 50% Richard Queen & 50% Selman Properties

The Applicant proposes to subdivide lot 8 and construct two-family dwelling on each lot; lot 8.01 19,388 s.f. (.045 acres), lot 8.02 26,168 s.f. (.060 acres). Site is located is located in the Residential, One (1) Family (R-1) Zone. Variances & Waivers being sought; minor subdivision and use variances and any other variances deemed necessary

Board Attorney Jim Delia explained to the board members and the public that Rayna LaRosa will not be able to testify on behalf of the Environmental Commission as she was elected as a Councilwoman which is a conflict of interest as it could be perceived she is representing the Council. Her report dated July 14, 2019 is a recommendation documentation it not a binding document it is just an advisory report only. Since Mr. Kelly as our ZBA Engineer is familiar with her report as well as is an expertise in this field he could provide any commentary if anything needs to be presented.

ROLL CALL was taken as suggested from the Board Attorney, Jim Delia Chamberlin, Cuttitta, Duffy, Gallagher, Sasso, DiMattia

Since the application was not heard since May 20th, 2019 Bruce Whitaker applicant's attorney, Mr. Riggs, applicant's Engineer and Mr. Preiss the applicant's planner all testified again, reiterating what was previously discussed as there were no changes in plans just in the steep slope which copies were submitted to the board as Exhibit A8.


Bruce Whitaker gave on overview of the applicant proposing to subdivide lot 8 and construct (2) two-family dwelling on each lot; lot 8.01 19,388 s.f. (.045 acres), lot 8.02 26,168 s.f. (.060 acres). Site is located in the Residential, One (1) Family (R-1) Zone. He feels this area is suitable for this use.

Exhibits: A-1-Zoning Board of Adjustment Application

- A-2-Tioigraoguc Survey
- A-3-Subdivision Plan
- A-4-Photographs of Neighboring Properties
- A-5-Rendering of Prospect Homes
- A-6, A-7-Lot Depth Graphic Scale
- A-8 – Slope Analysis**

Mr. Riggs application’s Engineer / Land Surveyor discussed the plans dated February 1st, 2019:

Zoning Requirement Zone R-1 one Family			
Description	Required	Proposed Lot 8.01	Proposed Lot 8.02
Minimum Lot Area	18,750 s.f.	19,388 s.f.	26,168 s.f.
Minimum Lot Area Per Dwelling Unit	18,750 s.f.	9,694 s.f.	13,084 s.f.
Minimum Lot Width	125 ft.	86.0 ft.	86.4 ft.
Minimum Lot Depth	150 ft.	228.9 ft.	299.8 ft.
Minimum Front Yard Setback to ROW	50 ft.	56.5 ft.	51.0 ft.
Minimum Front Yard Setback to CL	75 ft.	>75 ft.	>75 ft.
Minimum Side Yard Setback One/Both	15 ft./40 ft.	16.2 ft./43.2 ft.	16.0 ft./44.8 ft.
Minimum Rear Yard Setback	50 ft.	110.4 ft.	197.0 ft.
Maximum building Height Feet/Stories	35/2 1/2	<35/2 1/2	<35/2 1/2
Maximum Lot Coverage	25%	<25%	<25%
Maximum Impervious Coverage	50%	<50%	<50%
Minimum Dwelling Ground Floor Area	1,200 s.f.	>1,200 s.f.	>1,200 s.f.

 Indicates Variance Conditions

*indicates Pre-Existing Non-Confirming Condition

Variiances Requested:

540 Attachment 1 – Schedule of Bulk & Coverage Controls

Minimum lot are per dwelling of 18,750 S.F. required where 9,694 S.F. is proposed for lot 8.01 and 13, 084 S.F. is proposed for Lot 8.02

Minimum lot width of 125’ required where 86.0’ is proposed for lot 8.01 and 86.4 is proposed for Lot 8.02.

Section 540.10.A(1): Only single-family detached dwellings permitted in the R-1 Zone where two family dwellings are proposed for lots 8.01 and 8.02.

Section 540-159.C(2)(c):

Location of trees greater than 8” required where only the trees within the area of disturbances are shown (*the area beyond where we disturbed, they did not located trees over 8’ in size and he asked the board consider them not do that*). Mr. Kelly stated this is acceptable.

Section 540-160.A(3):

Disturbance of steep slope area in excess of those permitted for site for slopes 15% to 9.99% and from 20% to 24.99%.

Section 540-160.A(5):

A minimum of 25% of the lot shall be in non-steep slope areas where Lot 8.01 has 16.27% in non-steep slope areas.

The drainage being proposed - there will be on both sites a seepage pit to collected all the roof drains and all the storm water off the roofs, there will be trench drains at the bottom of the driveways before it hits the roadway, where the water will be collected into the seepage pit There will be 14 additional trees being remove 133 will remain in the undisturbed area in the rear of the site. Mr. Riggs read the requirements for the Steep Slope Ordinance in Chapter 540-160A(5) of Hawthorne Code Book. He

feels in his professional opinion the plans submitted meet the criteria of these sites and the adjoining sites.

Mr. Riggs continued with the changes in the Steep Slope Calculations, dated February 24, 2020 for the new area of disturbance, which he handed out to the board. Exhibit A-8

The area of Lot 8 prior to subdivision = 45,556 s.f.

Area Disturbed as part of previous subdivision = 14,860 s.f.

Total remaining area used for slope analysis calculation (shown below) = 30,696 s.f.

STEEP SLOPE CALCULATIONS FOR NEW AREA OF DISTURBANCE			
<i>Slope Category</i>	<i>Total Slope Area</i>	<i>Allowable Disturbance</i>	<i>Proposed Disturbance</i>
0% - 14.99%	7,656 S.F.	100% - 7,656 S.F.	3.40% - 260 S.F.
15% - 19.99%	13,272 S.F.	40% - 5,309 S.F.	31.45% - 4,175 S.F.
20% - 24.99%	4,945 S.F.	20% - 989 S.F.	28.61% - 1,415 S.F.
25% & Greater	4,823 S.F.	10% - 482 S.F.	0 S.F.
The slope category below eliminates the 464 S.F. area of reduction			
20% - 24.99%	4,945 S.F.	20% - 989 S.F.	19.23% - 951 S.F.

STEEP SLOPE PERCENT PER LOT BASED ON ALTERNATE SUBDIVISION LINE				
<i>Required Minimum 25% Lot Area Not in Steep Slopes</i>				
<i>Lot</i>	<i>Total Lot Area</i>	<i>Steep Slope Area</i>	<i>Non-Steep Slope Area</i>	<i>Percent Not in Steep Slopes</i>
8.01	22,505 S.F.	16,666 S.F.	5,839 S.F.	25.94%
8.02	23,051 S.F.	15,197 S.F.	7,854 S.F.	34.07%

Board Member Chamberlin – Stated he still has concern as many residents get serious water down stream and questioned with the (2) 1000-gallon seepage pits you are putting in, if there any overflows is it going to take all the water? Mr. Riggs stated you also have trench drains as well if the system fails it set up that it will back up through the drains. We do test to make sure the system should function without any issues. It will be self-sustaining.

Board Engineer Mike Kelly - asked Mr. Riggs to describe the current conditions of the site, how run-off currently run-off travels to the site from off-site as well as run-off that lands on these two properties. Mr. Riggs responded; The water is coming across the properties, the contours are coming from west to east across the property and slightly turn to the southeast and that running through the property, some of these run into the adjoining properties just immediate to the southwest What they are proposing is directing the water to the swales behind the houses then back out to the street. Mr. Kelly feels the design that has been provided has demonstrated to his satisfaction there will be no increase of run-off from the development of these proposed lots.

Mr. Kelly asked he would like some direction regarding the steep slopes. Do we concur with the applicant that the area is already disturbed and approved and should not be considered as part of this variance for steep slopes or do we consider, that it's been disturbed, now its in a steep slope condition? If they touch it, it has to meet our requirements. He will prepare a report and the Board could decide later. One item Mr. Kelly recommends if this is approved - a condition of approval to submit individuals plot plans prior to receive building permits for those lots.

Board Attorney Jim Delia – asked the applicant to provide the measurement of the swales and is there going to be any maintenance plans obligations. Mr. Riggs –we try not to make them concentrated swales, these are shown rather broad and wide. They are going to be 15 feet wide between the houses, it’s a gradual swale to catch the water. The objective is if you put a concentrated swale it would cause some erosion where has you spread it out over a larger swale the soil won’t be eroded easily. The maintenance is to keep the swales intact.

Representing Burgis Associates Steve Leighton – Questioned, how can you ensure the owner does not put a pool or patio over the swales. Mr. Whitaker responded the swales are deed restricted and has to be maintained by the owner. It’s an on-going condition that would run with the land.

Vice Chairman Gallagher opened the meeting to the public. He stated if anyone desired to be heard on Mr. Riggs testimony, please raise your hand to be recognized, come forward to the microphone state your name and address.

Seeing none, Mr. Whitaker called his next witness; Planner Richard Preiss

Richard Preiss, Planner for the applicant, stated he inspected the site and the associated documents/reports that were submitted. He presented the Board with Photo Exhibits taken on February 19, 2020 which was marked as Exhibit A-9 The area for development is surrounded by residential development on Sotnick itself by virtue of recent approvals. There are many two-family dwellings which are currently under construction to the southeast and the townhouse development, Lafayette hills which is located to the northeast. The single-family dwellings are located to the west north and south. There are business and professional offices located to the east of the properties along Goffle Road. The proposal is to sub-divide property into two lots constructing two 2-family homes. Both lots have frontage on Sotnick Street, the driveway would extend from the cul-de-sac to the dwelling for access. Each unit would be provided with two parking spaces, one space in the garage and a second space in the driveway. This is consistence with the requirements with the residential site improvement standards. Since this property is located in an R-1 single family zone a D1 use variance is required. Two-family homes are only permitted in the R-2 district which lies from the south of this property. Mr. Preiss discussed following variances relief required as well as the Steep Slope Compliance.

R-1 Zoning Schedule Compliance			
Requirement	R-1	Proposed Lot 8.01	Proposed Lot 8.02
Min. Lot Area per Dwelling Unit	18,750	9,694	13,084
Min. Lot Width (Ft.)	125	86.0	86.4
Steep Slop Compliance			
Steep-Slope Category	Maximum Disturbance Permitted(%)	Proposed	
0 to 14.99	100	45.99	
15 to 19.99%	40	50.85 (V)	
20 to 24.99	20	58.60 (V)	
25% and Over	10	0	

(V) Variance

Mr. Preiss also discussed the “C-1 & C-2” variance relief; he stated the benefits of granting the variances substantially outweigh any potential detriments.

In his opinion, he feels the property is particular suited for 2 two-family homes because of the unique characteristics, location and the surrounding uses.

Board Member Kevin Duffy – questioned if there anything in the Hawthorne zoning that allows or talks about transitional zones as Mr. Preiss argument is the proposed development is a transitional zone? Mr. Preiss stated that is not his testimony. The subject property is in the R-1 zone and the R-1 district runs on a diagonal in Braen Avenue and includes the top of the cul-de-sac, then along east/west direction where this particular lot is separate from the rest of the lots. Everything in the south is in the R-2 zone and everything to the north is in the R-1 zone. The houses that have been built on Sotnick is consistent with the zoning and these are all two-family. In this particular area uses across the street on Braen Avenue which are two-family and as you drive up Sotnick Street the houses to the left and right are predominant two-family and although there is a single-family on the opposite side of the street which was existing, then you have the subject property which in his opinion the sub-division into two lots and the development of (2) two-family will be consistent which have been develop in the area already and would not have a significant impact on these two homes.

Vice Chairman Gallagher opened the meeting to the public. He stated if anyone desired to be heard on Mr. Preiss testimony, please raise your hand to be recognized, come forward to the microphone state your name and address.

Seeing none, he asked our professionals if they had any questions.

Representing Burgis Associates Steve Leighton – The sub-division in question was approved at the Planning Board in July 2014 and there were 18 conditions attached to that application and one of those conditions he feels is relevant to this application. Amendment to the applications is to merge lots E & F and submission of revised plans would be amended. Mr. Whitaker explained that the applicant voluntarily withdrew during the course of the presentation, it was not a condition of approval. All they wanted was the plan revised and the applicant withdrew their request at that time. It should be noted that that was not the same applicant that is here tonight. Discussion ensued.

Applicant Richard Queen testified on the need for rentals in Hawthorne as questions came up regarding this matter. Mr. Queen stated he just put this listing up for rental and in one weeks’ time he already had (6) applications and (4) have been approved.

Board Attorney stated there is still some questions regarding the steep slopes and asked the Board Engineer Mike Kelly to explained what is needed for next hearing date. Mr. Kelly explained the steep slope plans that were submitted tonight they indicate an area that had been disturbed as part of the subdivision and some of those areas are in a steep slope condition and the applicant professionals are stating that area should not be included as part of the steep slope analysis and anything beyond that should be evaluated for the steep slope analysis. In his opinion you should evaluated it on its current condition and this will dictate whether they need a variance for a steep slope or not. Mr. Delia stated this is something we need see a full picture on the steep slopes. Mr. Whitaker stated this is a policy consideration you have to review because this would impact any home owner in the municipality if

those guidelines will be carried out that way. Discussion ensued; Mr. Delia will need more information before any determination is made.

Vice Chairman Gallagher entertained a motion to carry application to the April 20, 2020, moved by Chamberlin, seconded by Cuttitta. On a roll call vote, all present voted yes. Motion Carried.

ADJOURNMENT

At 9:58 p.m. Vice Chairman Gallagher entertained a motion to adjourn the regular meeting, moved by Chamberlin, seconded by Sasso. All in favor, "Aye".

THE NEXT REGULAR MEETING OF THE ZONING BOARD OF ADJUSTMENT
WILL BE ON
~MONDAY, MARCH 16, 2020 ~
WILL BEGIN AT 6:45P.M.

Respectfully Submitted,
Joan Herve, Secretary