

**MINUTES
ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF CHATHAM
OCTOBER 21, 2021**

Mr. Vivona called the Regular Meeting of the Zoning Board of Adjustment to order at 7:37 PM.

Adequate notice of the meetings of the Zoning Board of Adjustment of the Township of Chatham was given as required by the Open Public Meetings Act as follows: Notice in the form of a resolution setting forth the schedule of meetings for the year 2021 and January 2022 was published in the *Chatham Courier* and the *Morris County Daily Record*, a copy filed with the Municipal Clerk and a copy placed on the bulletin board in the main hallway of the Municipal Building.

Roll Call

Answering present to the roll call were Mr. Vivona, Mr. Weston, Mr. McHugh, Mr. Silva and Mrs. Chang.

Mr. Borsinger and Mr. Fitt were absent.

Also present were Board Engineer John Ruschke, Board Attorney Scott Carlson and Planner Joanna Slagle filling in for Board Planner Frank Banisch.

Approval of Minutes

Mr. McHugh moved to approve the minutes of the September 22, 2021 meeting. Mr. Silva seconded the motion.

Resolutions

Calendar BOA -21-004 (March 22, 2021) Asma & Imran Haq, 38 Stafford Road, Block: 48.05 Lot: 19 Requesting variance for rear yard setback for a deck on non-conforming corner lot.

Mr. Carlson provided an overview of the application.

**RESOLUTION
Calendar No. ZBA -21-004**

RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY REGARDING THE APPLICATION OF IMRAN AND ASMA HAQ, 38 STAFFORD ROAD, CHATHAM TOWNSHIP

WHEREAS, Imran and Asma Haq (hereinafter the “Applicant”) is the owners of certain premises located at 38 Stafford Road, Chatham Township, New Jersey and designated as Block 77, Lot 2.02 on the Tax Map of the Township of Chatham, (hereinafter referred to as the “Subject Property”), and have applied to the Zoning Board of Adjustment of the Township of Chatham pursuant to the provisions of N.J.S.A. 40:55D-70(c) of the Municipal Land Use Law (MLUL) and Section 30-47.3 of the Land Development Regulations of the Township of Chatham (LDR) for the approval of variances from the requirements of Sections 30-75.2 of the LDR, and the revised General Ordinances of the Township of

Chatham to permit the demolition of the existing residential home and construction of a new residential home; and

WHEREAS, the Applicants represented themselves before the Board of Adjustment during the hearings on the subject application; and

WHEREAS, the Applicants have served the required Notice of Public Hearing, have filed proof of service in accordance with the pertinent statutes, have given public notice of the application by publication in the official newspaper of the Township of Chatham, and also have provided proof that no real property taxes and sewer charges are due and delinquent, and the matter having been heard by the Board of Adjustment at its regularly scheduled public meetings on July 22, 2021, and September 22, 2021.

WHEREAS, the Board of Adjustment examined, considered and placed on file with its records all the exhibits submitted by the Applicants and by the Board of Adjustment, has further considered all of the testimony and said exhibits received in evidence at the public hearings for the subject application, and the Members of the Board of Adjustment visited the subject property on September 11, 2021, and their observations made at such site visit have been set forth in the Site Visit Memorandum prepared and made a part of the record as Exhibit "A"; and

WHEREAS, the Board of Adjustment does hereby make the following findings of fact and conclusions:

1. The application is properly before the Board of Adjustment, which has the appropriate and exclusive jurisdiction to conduct hearings on the application for variance relief and to render a decision regarding a variance request in accordance with the MLUL and the LDR.

2. The subject property is a 21,780s.f. corner lot with frontage on Stafford Road and Thornley Drive in the R-3 Residential Zone. The subject property currently consists of a 1,494s.f. dwelling, associated walkways and driveways, and a rear deck. Given the configuration of the existing rear deck and existing setback distances to the principal structure, it is apparent that Stafford Road was previously designated as the principal street frontage for establishing the front, rear, and side yards for the subject property, as noted on the Existing Conditions Site Analysis. The subject application has been submitted to request variance relief for the reconstruction of the rear deck into the required rear yard.

3. The Applicants request the following variances for the proposed improvements:

a.) Minimum Required Rear Yard Setback Distance to Principal Structure: 50 feet required; 50.67 feet existing; 41.25 feet proposed (rear deck expansion) – Section 30-75.2.

b.) Minimum Lot Size: 25,000s.f. required; 21,780s.f. existing – Section 30-75.2.

4. The Applicant relied on their own testimony, which provided that the existing deck was in need of replacement. The proposed deck would expand the existing footprint and be more in keeping with the upgrades previously made to the dwelling.

NOW, THEREFORE, BE IT RESOLVED, on this 22nd day of September, 2021 that the Zoning Board of Adjustment of the Township of Chatham, under the authority of N.J.S.A. 40:55D-70(c) of the MLUL and Section 30-47.3 of the LDR does hereby grant approval of the requested variances.

BE IT FURTHER RESOLVED that variance relief is subject to the following conditions:

1. The Applicants shall pay any escrow deposits in addition to initial escrow deposit, if required, to offset any Township costs or professional services rendered by the Board's consulting engineer and the Board's legal counsel in connection with this application, including but not limited to services rendered in reviewing the plans and exhibits, inspections, and preparing this resolution of approval.

2. The Applicants shall comply with all Federal, State, Local and County laws and regulations as they may apply and shall construct the improvements in accordance with this application.

3. Any variance granted herein shall expire unless construction, alteration or uses permitted by the variance shall have commenced within one year from the date of approval, subject to reasonable requests for an extension.

4. Applicant shall comply with the recommendations proposed by the Board professionals in their reports.

BE IT FURTHER RESOLVED that the granting of the variance relief described herein shall not be construed to obviate compliance with any other requirements of the Land Development Regulations, insofar as such requirements relate to any construction, or to any other requirements established elsewhere than in such ordinance.

This Resolution memorializes the action taken by the Zoning Board of Adjustment approving the variance relief at its September 22, 2021 public meeting.

Mr. Weston moved to adopt Resolution BOA-21-004. Mr. Silva seconded the motion.

Roll Call: Mr. Vivona, Aye; Mr. Weston, Aye; Mr. Borsinger, Aye; Mr. Fitt, Absent; Mr. McHugh, Aye; Mr. Silva, Aye; Mrs. Chang Aye.

Calendar ZBA-21-002(February 24, 2021) Juniper Assisted Living Residence 1, 500 Southern Blvd, Block: 128 Lot: 3. The Applicant has requested variance for a maximum sign area (common sign for structure containing three or more stores or offices)

Mr. Carlson provided an overview of the application.

RESOLUTION
Calendar No. ZBA -21-002
RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY REGARDING THE APPLICATION OF JUNIPER ASSISTED LIVING RESIDENCE I, 500 SOUTHERN BOULEVARD, CHATHAM TOWNSHIP

WHEREAS, Juniper Assisted Living Residence I (hereinafter the “Applicant”) is the owners of certain premises located at 500 Southern Boulevard, Chatham Township, New Jersey and designated as Block 128, Lot 3 on the Tax Map of the Township of Chatham, (hereinafter referred to as the “Subject Property”), and have applied to the Zoning Board of Adjustment of the Township of Chatham pursuant to the provisions of N.J.S.A. 40:55D-70(c) of the Municipal Land Use Law (MLUL) and Section 30-47.3 of the Land Development Regulations of the Township of Chatham (LDR) for the approval of variances from the requirements of Sections 30-98.4.e and Section 30-98.4.b of the LDR, and the revised General Ordinances of the Township of Chatham to permit the demolition of the existing residential home and construction of a new residential home; and

WHEREAS, the Applicants was represented by Steven Azzolini, Esq. before the Board of Adjustment during the hearings on the subject application; and

WHEREAS, the Applicants have served the required Notice of Public Hearing, have filed proof of service in accordance with the pertinent statutes, have given public notice of the application by publication in the official newspaper of the Township of Chatham, and also have provided proof that no real property taxes and sewer charges are due and delinquent, and the matter having been heard by the Board of Adjustment at its regularly scheduled public meetings on July 22, 2021, and September 22, 2021.

WHEREAS, the Board of Adjustment examined, considered and placed on file with its records all the exhibits submitted by the Applicants and by the Board of Adjustment, has further considered all of the testimony and said exhibits received in evidence at the public hearings for the subject application, and the Members of the Board of Adjustment visited the subject property on September 11, 2021, and their observations made at such site visit have been set forth in the Site Visit Memorandum prepared and made a part of the record as Exhibit “A”; and

WHEREAS, the Board of Adjustment does hereby make the following findings of fact and **conclusions**:

1. The application is properly before the Board of Adjustment, which has the appropriate and exclusive jurisdiction to conduct hearings on the application for variance relief and to render a decision regarding a variance request in accordance with the MLUL and the LDR.
2. The subject property contains Juniper Village at Chatham, an existing senior living facility in the PI-1 Professional Institutional Zone. The facility currently has a 23s.f. monument sign located on

the north side of the main site ingress/egress drive with access to/from the east side of Southern Boulevard. The subject application has been submitted for a variance associated with the proposed installation of a 45s.f., unilluminated monument sign to replace the existing sign. The proposed monument sign is located within the same setback distance (181 inches (15.1 feet) from curb along Southern Boulevard) as the existing monument sign for the site, maintaining existing sight distance from the driveway egress.

3. The Applicants request the following variances for the proposed improvements:
 - a.) Maximum Sign Area (common sign for a structure containing three or more stores or offices) – 12s.f. allowed; 23s.f. existing; 45s.f. proposed – Section 30-98.4.e.
 - b.) Location of sign in PI-1 Zone – Signs shall only be placed on an exterior wall of a building; new freestanding monument sign proposed – Section 30-98.4.b.
4. The Applicant relied on the testimony of Robert Hamberg, Applicant's sign designer and installer, who provided that the Applicant seeks a variance for a new monument sign. The location and design of the sign would increase visibility from the driveway. It is similar in size to other existing signs on Southern Boulevard. The sign will not be illuminated.
5. The Applicant further relied upon the testimony of Frank Pascal, executive director of Applicant. He testified that the site is frequented by emergency responders and family members. The new sign is needed for improved visibility, as many people do not see the sign and pass the facility. The proposed sign is consistent with other signs in the area.

NOW, THEREFORE, BE IT RESOLVED, on this 22nd day of September, 2021 that the Zoning Board of Adjustment of the Township of Chatham, under the authority of N.J.S.A. 40:55D-70(c) of the MLUL and Section 30-47.3 of the LDR does hereby grant approval of the requested variances.

BE IT FURTHER RESOLVED that variance relief is subject to the following conditions:

1. The Applicants shall pay any escrow deposits in addition to initial escrow deposit, if required, to offset any Township costs or professional services rendered by the Board's consulting engineer and the Board's legal counsel in connection with this application, including but not limited to services rendered in reviewing the plans and exhibits, inspections, and preparing this resolution of approval.
2. The Applicants shall comply with all Federal, State, Local and County laws and regulations as they may apply and shall construct the improvements in accordance with this application.
3. Any variance granted herein shall expire unless construction, alteration or uses permitted by the variance shall have commenced within one year from the date of approval, subject to reasonable requests for an extension.
4. Applicant shall comply with the recommendations proposed by the Board professionals in their reports.

BE IT FURTHER RESOLVED that the granting of the variance relief described herein shall not be construed to obviate compliance with any other requirements of the Land Development Regulations, insofar as such requirements relate to any construction, or to any other requirements established elsewhere than in such ordinance.

This Resolution memorializes the action taken by the Zoning Board of Adjustment approving the variance relief at its September 22, 2021 public meeting.

Mr. McHugh moved to adopt Resolution BOA-21-002. Mrs. Chang seconded the motion.

Roll Call: Mr. Vivona, Aye; Mr. Weston, Aye; Mr. Borsinger, Aye; Mr. Fitt, Absent; Mr. McHugh, Aye; Mr. Silva, Aye; Mrs. Chang Aye.

Calendar BOA- 21-006 – Walter H. Pahl & Sarah L. Shore 53 Dellwood Avenue Block 77 Lot 2,02, The Applicants seek to construct an approximate 265 sq. ft. addition to an existing single-family home. The applicants intend to install an endless pool in the addition. A variance for building coverage is required.

Mr. Carlson provided an overview of the application.

RESOLUTION

Calendar No. BOA -21-006

RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY REGARDING THE APPLICATION OF WALTER H. PRAHL AND SARAH L. SHORE, 53 DELLWOOD AVENUE, CHATHAM TOWNSHIP

WHEREAS, Walter H. Prah and Sarah L. Shore (hereinafter the “Applicant”) is the owners of certain premises located at 53 Dellwood Avenue, Chatham Township, New Jersey and designated as Block 77, Lot 2.02 on the Tax Map of the Township of Chatham, (hereinafter referred to as the “Subject Property”), and have applied to the Zoning Board of Adjustment of the Township of Chatham pursuant to the provisions of N.J.S.A. 40:55D-70(c) of the Municipal Land Use Law (MLUL) and Section 30-47.3 of the Land Development Regulations of the Township of Chatham (LDR) for the approval of variances from the requirements of Sections 30-75.2 of the LDR, and the revised General Ordinances of the Township of Chatham to permit the demolition of the existing residential home and construction of a new residential home; and

WHEREAS, the Applicants was represented by Steven Azzolini, Esq. before the Board of Adjustment during the hearings on the subject application; and

WHEREAS, the Applicants have served the required Notice of Public Hearing, have filed proof of service in accordance with the pertinent statutes, have given public notice of the application by publication in the official newspaper of the Township of Chatham, and also have provided proof that no real property taxes and sewer charges are due and delinquent, and the matter having been heard by the Board of Adjustment at its regularly scheduled public meetings on July 22, 2021, and September 22, 2021.

WHEREAS, the Board of Adjustment examined, considered and placed on file with its records all the exhibits submitted by the Applicants and by the Board of Adjustment, has further considered all of the testimony and said exhibits received in evidence at the public hearings for the subject application, and the Members of the Board of Adjustment visited the subject property on September 11, 2021, and their observations made at such site visit have been set forth in the Site Visit Memorandum prepared and made a part of the record as Exhibit “A”; and

WHEREAS, the Board of Adjustment does hereby make the following findings of fact and conclusions:

4. The application is properly before the Board of Adjustment, which has the appropriate and exclusive jurisdiction to conduct hearings on the application for variance relief and to render a decision regarding a variance request in accordance with the MLUL and the LDR.

2. The subject property is a 22,000s.f. single-family residential lot located in the R-3 Residential Zone. The subject property currently consists of an existing dwelling with front portico, driveway with front entry garage, front walkway and rear patio. The subject property is situated such that approximately half of the lot is located in Chatham Township (front half, containing the majority of site improvements) and half is located in Chatham Brough (rear Half). The subject application has been submitted to request variance relief to permit the construction of a 265s.f. addition to the rear of the dwelling.

3. The Applicants request the following variances for the proposed improvements:

a.) Maximum Required Principal Structure Coverage; 2,720 feet permitted, 2,743s.f existing, 3,008s.f. proposed - Section 30-78.11.b.

4. The Applicant relied on the testimony of Carl Nichol, licensed professional architect, who provided that the Applicant seeks to put an addition on the existing dwelling to contain an endless pool. All mechanicals would be located within the addition.

5. The Applicant further relied on the testimony of John McDonough, P.P., who provided that the proposed addition would have minimal impact on the adjacent properties. Multiple purposes of

the Municipal Land Use Law would be advanced by grant of the variance. The variance would not create any detriment to the zone district or the zone plan.

5. The Applicant further relied upon his own testimony, which provided that Applicant seeks to construct an endless pool room to be added to the rear of the house. Entry would be through the garage. The appearance of the addition would minimally impact the neighboring properties as it would largely be screened by existing vegetation. All mechanicals will be located within the building.

NOW, THEREFORE, BE IT RESOLVED, on this 22nd day of September, 2021 that the Zoning Board of Adjustment of the Township of Chatham, under the authority of N.J.S.A. 40:55D-70(c) of the MLUL and Section 30-47.3 of the LDR does hereby grant approval of the requested variances.

BE IT FURTHER RESOLVED that variance relief is subject to the following conditions:

5. The Applicants shall pay any escrow deposits in addition to initial escrow deposit, if required, to offset any Township costs or professional services rendered by the Board's consulting engineer and the Board's legal counsel in connection with this application, including but not limited to services rendered in reviewing the plans and exhibits, inspections, and preparing this resolution of approval.

6. The Applicants shall comply with all Federal, State, Local and County laws and regulations as they may apply and shall construct the improvements in accordance with this application.

7. Any variance granted herein shall expire unless construction, alteration or uses permitted by the variance shall have commenced within one year from the date of approval, subject to reasonable requests for an extension.

8. Applicant shall comply with the recommendations proposed by the Board professionals in their reports.

BE IT FURTHER RESOLVED that the granting of the variance relief described herein shall not be construed to obviate compliance with any other requirements of the Land Development Regulations, insofar as such requirements relate to any construction, or to any other requirements established elsewhere than in such ordinance.

This Resolution memorializes the action taken by the Zoning Board of Adjustment approving the variance relief at its September 22, 2021 public meeting.

Mr. McHugh moved to adopt Resolution BOA-21-006. Mr. Weston seconded the motion.

Roll Call: Mr. Vivona, Aye; Mr. Weston, Aye; Mr. Borsinger, Absent; Mr. Fitt, Absent; Mr. McHugh, Aye; Mr. Silva, Aye; Mrs. Chang Aye.

Hearings

Calendar BOA -21-001(February 8, 2021) Lechner, Scott/Minelli, 6 Crestwood Drive Block: 74 Lot:4. Requesting Height Variance to construct a single-family dwelling (Revisions 4/30/2021. Complete 6-14-2021-First Hearing)

Mr. Silva read into the record the Site Visit Report for this application.

Mr. Lechner stated that their goal is to build a beautiful traditional colonial house. He stated that the lot is sloped, which is why the variance is needed. He also commented on the process and thanked the Board for hearing the application.

David Fantina, an engineer representing the applicant, presented engineering plans showing the elevations and grade on the site. He stated that a height variance is sought by the applicant. Mr. Fantina further discussed the drainage patterns on the site. He also stated that height definitions vary by municipality, and Chatham Township's definition is unforgiving because it is based on averages. Mr. Fantina stated that the proposed house will not loom over neighboring houses.

Mr. Fantina further stated that if the height deviation was 3.5, a D-Variance would be required. As such, care will be taken during construction to ensure that the building remains within the approved height. A surveyor will be on site when the roof beam is placed to be sure it is at the right elevation. Mr. Fantina stated that changes were made to the application based on comments in a memorandum from Mr. Ruschke's office. He also stated that a memorandum was received from Mr. Banisch which indicated that the positive and negative criteria need to be addressed. Mr. Fantina noted that he is not a professional planner, however in his opinion as a licensed professional engineer, the application satisfies both the positive and negative criteria. He stated that the positive criteria is satisfied by the hardship created by the slope that inhibits conformity with the Height Ordinance. The negative criteria is satisfied as there is not any negative impact on neighboring properties. Mr. Fantina noted that there were not any neighbors at the site visit, which indicates a lack of concern among the neighborhood from this application.

Mr. Vivona asked if the original house was a ranch. Mr. Lechner said that it was a 1.5 story cape. Mr. Vivona stated that the Board has had applications for several homes on Crestwood Drive, and cited another home that looms from one side but did not require a variance due to how height is measured. Mr. Vivona also commented on the slope on the subject property, and stated that the aesthetics of the proposed home would be affected by changing the design to have it conform to the height ordinance. Mr. Vivona said that the Board of Adjustment is usually hesitant to grant height variances so as not to set a precedent, however this property has merit.

Mr. Lechner said that the slope adds an integrity to the lot as well as some privacy, however it has also created design challenges.

Mr. Columbro, an architect representing the applicant, addressed the site conditions, and stated that they sought to stay within the limits of the current topography rather than alter the site. He also stated that a colonial revival aesthetic was chosen for this project, which has a simple form. Mr. Columbro described the three bays. He also presented the front, side and rear elevations, and discussed the measures taken to address height issues. He also stated that planters were added to the design to reduce the visual impact of the house. The siding of the proposed house will be clapboard siding. The proposed choices for the roof are hand-split cedar shakes or a natural slate roof. Mr. Columbro also addressed the ceiling heights. Mr. Vivona stated that some of the wall heights could have been larger, which would have created a monolithic look. He also noted that the shorter walls help the applicant lower the height of the structure. Mr. Columbro stated that the dormers are designed to be proportionately correct, and a lot of care was taken in the design of the house. Mr. Vivona opined that the planters help soften the exterior look of the house. He also cautioned to be sure that when the house is built that it not exceed what may be approved in the requested variance, as the applicant would need to return to the Board for a D-Variance.

Mr. Ruschke said that he does not have any additional comments. He also advised that the applicant should ensure during construction that the elevations are correct. Mr. Lechner stated that they will do everything they can to make sure things are done correctly.

Mr. Vivona asked if the drainage on the side of the house is on Township property. Mr. Ruschke stated that there is likely an easement. Mr. Vivona asked about a cement wall separating the culvert from the property. Mr. Ruschke said that he would review the plan to see if the wall

would belong to the Township or a private property owner. Mr. Fantina stated that it is on the applicant's property, and they will ensure that there is not any damage to the wall.

Mrs. Slagle stated that she does not have any additional comments.

Mr. Weston said that the height variance process is a way to deal with the bulk problem that was occurring in the Township. He also stated that the Board of Adjustment exists to deal with properties that do not match up with the zoning regulations, and he looks favorably on this application.

Mr. Weston moved to approve the application. Mr. Silva seconded the motion.

Roll Call: Mr. Vivona, Aye; Mr. Weston, Aye; Mr. Borsinger, Absent; Mr. Fitt, Absent; Mr. McHugh, Aye; Mr. Silva, Aye; Mrs. Chang Aye.

Mr. Vivona stated that a memorialization resolution will be on the agenda for the next meeting. He also further urged caution to ensure the as-built height conforms with the approved variance.

Calendar BOA-21-007 (July 14, 2021) Mr. & Mrs. Gallucci, 331 Lafayette Avenue, Block: 70 Lot: 46. Requesting a variance for the installation of an in-ground pool. (Complete 8-30-21- First Hearing). Escrow #34469

Mr. McHugh read the Site Visit Report into the record.

Michael Miller, an attorney representing the applicant, provided an overview of the application.

John Gallucci, one of the property owners, was called to give testimony. Mr. Gallucci explained the desire to install a pool, and stated that the impervious coverage from the driveway results in the need for a variance. Mr. Gallucci also stated that the Township was involved in the permit process for the raised patio in the rear of the property.

Mr. Miller presented photographs of the site to show the current conditions. Mr. Gallucci explained the purpose of the aerator in the pond. He also described the property's driveway, including the slope of the driveway. Mr. Gallucci also described the backyard area where the pool is proposed to be located. He also stated that having a pool will allow him to get exercise when he is unable to run.

Thomas Donohue, an engineer representing the applicant and appearing on behalf of design engineer Bob Weissman, presented the updated proposed plans for the subject property. Mr. Donohue described the existing dwelling, the driveway, and the existing pond. He also described the proposed drainage system, and stated that there will not be any detriment to neighbors.

Mr. Vivona asked if a variance would be needed if the driveway were at the normal limits. Mr. Donohue said that a variance would not be needed as there would not be an issue with impervious coverage.

Mr. Ruschke said that the comments in his report mainly addressed the lot grading. He also addressed whether an LOI is needed from the DEP. Mr. Ruschke further advised that the Fire

Official be contacted regarding the setback of the fire pit. He also addressed the management of stormwater from other properties.

Mr. McHugh moved to approve the application subject to the conditions in Mr. Ruschke's memorandum. Mr. Weston seconded the motion.

Roll Call: Mr. Vivona, Aye; Mr. Weston, Aye; Mr. Borsinger, Absent; Mr. Fitt, Absent; Mr. McHugh, Aye; Mr. Silva, Aye; Mrs. Chang Absent.

Mr. Vivona stated that a memorialization resolution will be on the next agenda, and permits can be acquired following the adoption of the resolution.

Calendar BOA -21-008 (July 26, 2021) Mikhail Ioffe, 15 Rockledge Trail, Block: 62.02 Lot: 1. Requesting a variance to allow to complete construction of a retaining wall to the adjacent property line and existing stone wall on the northeast side of the property, (Complete 9-1-21-First Hearing) Escrow#34477

Michael Ioffe was present to testify on the application.

Mr. LaConte read the site visit report into the record.

Mr. Vivona stated that the section of wall in question is 10 feet in length, and will be a continuance of an existing wall. He also stated that the proposed change is largely de minimis.

Mr. Ioffe stated that a 6-foot fence is proposed.

Mr. Ruschke stated that his report identifies that an approved lot grading plan is on file with the Township. He also stated that he does not foresee any additional conditions being required.

Mr. Vivona stated that the proposed changes to the property will make it safer for children to play in the backyard.

Mr. Silva moved to approve the application. Mr. McHugh seconded the motion.

Roll Call: Mr. Vivona, Aye; Mr. Weston, Aye; Mr. Borsinger, Absent; Mr. Fitt, Absent; Mr. McHugh, Aye; Mr. Silva, Aye; Mrs. Chang Absent.

Mr. Vivona advised the applicant to comply with any of Mr. Ruschke's conditions.

RESOLUTION

Calendar No. ZBA -21-008

RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY REGARDING THE APPLICATION OF MIKHAIL IOFFE AND JUDINA JEKATERINA, 15 ROCKLEDGE TRAIL, CHATHAM TOWNSHIP

WHEREAS, Mikhail Ioffe and Judina Jekaterina (hereinafter the "Applicant") is the owners of certain premises located at 15 Rockledge Trail, Chatham Township, New Jersey and

designated as Block 62.02, Lot 1 on the Tax Map of the Township of Chatham, (hereinafter referred to as the “Subject Property”), and have applied to the Zoning Board of Adjustment of the Township of Chatham pursuant to the provisions of N.J.S.A. 40:55D-70(c) of the Municipal Land Use Law (MLUL) and Section 30-47.3 of the Land Development Regulations of the Township of Chatham (LDR) for the approval of variances from the requirements of Sections 30-96.15.d.1(a) of the LDR, and the revised General Ordinances of the Township of Chatham to permit the demolition of the existing residential home and construction of a new residential home; and

WHEREAS, the Applicants represented themselves at the hearings; and

WHEREAS, the Applicants have served the required Notice of Public Hearing, have filed proof of service in accordance with the pertinent statutes, have given public notice of the application by publication in the official newspaper of the Township of Chatham, and also have provided proof that no real property taxes and sewer charges are due and delinquent, and the matter having been heard by the Board of Adjustment at its regularly scheduled public meetings on September 22, 2021 and October 21, 2021.

WHEREAS, the Board of Adjustment examined, considered and placed on file with its records all the exhibits submitted by the Applicants and by the Board of Adjustment, has further considered all of the testimony and said exhibits received in evidence at the public hearings for the subject application, and the Members of the Board of Adjustment visited the subject property on October 2, 2021, and their observations made at such site visit have been set forth in the Site Visit Memorandum prepared and made a part of the record as Exhibit “A”; and

WHEREAS, the Board of Adjustment does hereby make the following findings of fact and conclusions:

1. The application is properly before the Board of Adjustment, which has the appropriate and exclusive jurisdiction to conduct hearings on the application for variance relief and to render a decision regarding a variance request in accordance with the MLUL and the LDR.
2. The subject property is a 23,610s.f. corner lot with frontage on the northeast corner of Rockledge Trail and Van Houten Avenue in the R-3 Residential Zone. The subject property contains a 2,888s.f. dwelling, associated walkways and driveways, and an elevated rear deck. The property currently has lot grading approval for improvements shown on the plan, with the condition that the proposed boulder landscape retaining wall on the property line shared by 56 Van Houten Avenue be located at least two times the height of the wall from the property line for conformance to Township Code Section 30-96.15.d.1(a). The subject application has been submitted to request variance relief to allow construction of this wall along the property line.
3. The Applicants request the following variances for the proposed improvements:
 - a.) Location of Landscape retaining Wall: Retaining wall shall be located no closer to a property line than twice the height of the wall (proposed wall height 40” per application); 6.67 feet from property line required; 0 feet proposed – Section 30-96.15.d.1(a).
4. The Applicant relied on their own testimony which provided that Applicant requests a variance that would permit the construction of a retaining wall to the adjacent property line and existing stone wall to close an existing 5-foot gap between the subject property and adjacent property at 56 Van Houten Avenue. They testified that the lot is a sloping lot with a significant drop off at the edge of the property. Applicants want to regrade the property for safety reasons as well as to limit erosion.

5. The Applicant further relied upon his own testimony regarding his plans for the Subject Property. He testified that

NOW, THEREFORE, BE IT RESOLVED, on this 21st day of September, 2021 that the Zoning Board of Adjustment of the Township of Chatham, under the authority of N.J.S.A. 40:55D-70(c) of the MLUL and Section 30-47.3 of the LDR does hereby grant approval of the requested variances.

BE IT FURTHER RESOLVED that variance relief is subject to the following conditions:

1. The Applicants shall pay any escrow deposits in addition to initial escrow deposit, if required, to offset any Township costs or professional services rendered by the Board's consulting engineer and the Board's legal counsel in connection with this application, including but not limited to services rendered in reviewing the plans and exhibits, inspections, and preparing this resolution of approval.
2. The Applicants shall comply with all Federal, State, Local and County laws and regulations as they may apply and shall construct the improvements in accordance with this application.
3. Any variance granted herein shall expire unless construction, alteration or uses permitted by the variance shall have commenced within one year from the date of approval, subject to reasonable requests for an extension.
4. Applicant shall comply with the recommendations proposed by the Board professionals in their reports.

BE IT FURTHER RESOLVED that the granting of the variance relief described herein shall not be construed to obviate compliance with any other requirements of the Land Development Regulations, insofar as such requirements relate to any construction, or to any other requirements established elsewhere than in such ordinance.

This Resolution memorializes the action taken by the Zoning Board of Adjustment approving the variance relief at its October 21, 2021 public meeting.

Mr. Weston moved to approve the resolution. Mr. McHugh seconded the motion.

Roll Call: Mr. Vivona, Aye; Mr. Weston, Aye; Mr. Borsinger, Absent; Mr. Fitt, Absent; Mr. McHugh, Aye; Mr. Silva, Aye; Mrs. Chang Absent.

Mr. Vivona stated that permit applications can be submitted once the resolution is signed.

Mr. McHugh moved to adjourn at 9:02 PM. Mr. Vivona seconded the motion, and the motion carried unanimously.

Gregory J. LaConte
Recording Secretary