

**Bradley Beach Zoning Board of Adjustment  
Regular Meeting Minutes  
Thursday, June 20, 2019 at 6:30 PM**

Meeting is called to order by Chair Rosenberg at 6:30 PM. The Board and the public recite the Pledge of Allegiance.

Open public meeting announcement is made by the Board Secretary.

**Roll Call:**

Present: Michael Affuso, Robert Quinlan, Dominica Carrea, Raymond Wade, Dennis Mayer, Alexis Bouhoutsos, and Harvey Rosenberg

Absent: Lauren Egbert and Deidre Phillips

Also Present: Mark G. Kitrick, Esq. - Attorney to the Board and Gerald Freda, PE, PP, CME – Board Engineer and Christine Bell, PP, AICP – Board Planner

**Approved Meeting Minutes:**

**May 16, 2019 Regular Meeting Minutes** - Motion to accept offered by Harvey Rosenberg, seconded by Dennis Mayer, all present in favor.

Before memorialization of the resolution Mr. Mayer brings to the attention of the Board that there was testimony provided by the applicant, Golden Holdings, that the site was going to be cleaned up right afterwards with regard to landscaping, etc. but nothing has happened it has actually gotten worse.

Jerry Freda reminds the Board that there are conditions in the resolution which have to be complied with and that takes time, but that is not an excuse. Maybe there is a phone number or something that we can call to follow-up?

Harvey Rosenberg suggests we table the resolution.

Mark Kitrick, Esq. indicates he believes this is an enforcement issue that is really not part of this application and that is his position.

Harvey requests if we can write a letter from the Board? Jerry indicates the Board can notify Code Enforcement to follow-up with property maintenance. Harvey requests Erica to notify Code Enforcement on behalf of the Board with regard to clean-up of the site which was supposed to happen immediately and nothing has happened yet.

**Resolution Memorialized:**

**Resolution #2019-10 – Approval of Bulk Variances for Additions** – Golden Holdings, LLC – Block 69, Lot 9 – 406 Second Avenue. Harvey Rosenberg makes a motion to memorialize, second by Robert Quinlan. All those eligible in favor.

Chair Rosenberg makes announcement as to how the meeting will proceed.

Mark Kitrick, Esq. indicates that there is a new Board Member present, David Critelli who has been sworn in and is now eligible to participate and vote.

**Applications:**

**ZB19/04 – (Bulk Variance for 2<sup>nd</sup> Story Rear Deck)** – George DeNardo – Block 71, Lot 22 – 610 Evergreen Avenue - Applicant is proposing to construct a 2<sup>nd</sup> story deck on the rear of the home requiring variances for side yard setback, height of proposed deck, and building coverage.

Robert Burdick – Engineer and Planner – trying to help the applicant as best as he can.

Michael DeNardo – Son of Applicant

Robert Giovine – Zarilli Homes

All sworn in along with Board Professionals.

Robert Burdick – Professional Engineer and Planner

Michael DeNardo – 3<sup>rd</sup> Generation from Bradley Beach

Robert Giovine – Zarilli Homes – Brick, NJ

Michael DeNardo provides some background with regard to the demolition of the existing home and the placement of the new home with reverse living and they now wish to add a deck to the rear of the home.

Mr. Burdick indicates the DeNardo's had received approval through the Construction Department to build the existing conforming home with all ordinance requirements which is almost complete at this time. They are here for the proposed rear deck at this time. The first floor of this home contains family room in the back, bedrooms, garage, and access to the 2<sup>nd</sup> floor. The 2<sup>nd</sup> floor contains the kitchen and the living room so open floor concept in the back with a couple additional bathrooms. The main living area of this structure is on the 2<sup>nd</sup> floor of the structure. The Applicant did want to do this partially to make sure he doesn't have any problems with future storms. It is not in a flood zone with FEMA, but this is essentially why they chose this layout. Seeking a second floor deck along the entire rear of the property 12 feet in width and across the entire rear of the home. The Borough Ordinance does not allow decks above 3 feet in height and requires that they meet the side yard setback of 5 feet and the rear yard setback requirements. This house on the west side is 3.7 feet from the property line. They would like this deck to continue to the end of the house which is why we are requesting side yard setback of 3.7 feet vs. 5 feet required. We are also requesting the height of the deck be

13.5 feet which they realize is significantly greater than the permitted 3 feet. This would give the opportunity for a nice seating area of the 2<sup>nd</sup> floor living area. There is a pre-existing non-conformity where the lot is only 35 feet wide where 50 feet is required; however, all of the properties to east and west are fully developed single family residential structures; therefore, the applicant cannot comply with the ordinance. The other variance being requested is for building coverage. The 2<sup>nd</sup> floor deck would be considered building instead of just impervious coverage. The home as is being construction now is 35% which is the amount allowable; therefore, requesting 37.8% with deck.

Mr. Burdick reviews the general comments of Gerald Freda's review letter indicating curb has been constructed and grass between the curb and sidewalk. Will provide proof of taxes paid and will obtain any permits necessary for this proposed structure should this application be approved.

Mr. Burdick reviews the positive and negative criteria associated with the granting of the variances and he does not feel that the granting of these variances would not significantly impact the zoning ordinance, master plan, or the public good.

Mr. Burdick discusses decks in the surrounding area and their similarity to this application.

Mr. Burdick indicates this deck is to be constructed over an existing paver patio which will allow water to flow through and essentially recharge. While they are asking for a variance for building coverage they are not exceeding lot coverage as 55% is being proposed and 60% is permitted.

Mr. Burdick believes the proposed deck would be more aesthetically pleasing than a row of steps which the home is currently approved for.

Mr. Burdick also believes this will promote the goal of the Master Plan by increasing active and passive outdoor recreation activity.

Mr. Burdick summarizes that the benefits outweigh any detriments and that the variances can be granted without substantial detriment to the Master Plan, Zoning Ordinance, or public good.

While DW Smith prepared this plan, Mr. Burdick indicates they had conflicts this evening and have asked him to represent them and he can answer any questions of the Board.

Robert Quinlan – Questions the landing height of 36.5 feet and where it is measured from? It is indicated it is pure elevation; however it would be approximately 13.5 feet from ground level.

Harvey Rosenberg – Questions how they arrived at setback of 3.7 feet? Jerry indicates that because of the way the ordinance is written and this lot is undersized it is a percentage of the R-1 requirement.

Dominic Carrea asks how far long they are with construction. It is indicated the home is pretty much built. There was some final landscaping this afternoon. So when did the owner decide to put a deck on the back of the house. Mr. DeNardo indicates they had idea when first looking at it, but didn't decide until they saw the 2<sup>nd</sup> floor living area being built. It was always an idea, but when they found out they needed a variance it was placed in the back of their minds until they actually saw the 2<sup>nd</sup> floor built and then decided to move forward with the variance.

Harvey Rosenberg – Questions recreation room downstairs which leads out to paver patio behind it? Yes. Mr. Rosenberg feels a 13.5 high deck is not necessary.

Dennis Mayer indicates he would not be comfortable with a deck this high.

A discussion takes place amongst the Board Members.

OPEN TO THE PUBLIC FOR QUESTIONS ONLY:

George Januzzi – 608 Evergreen – Questions deck currently on the upper level of the house which he did not see referenced in the request for variance or the notice. Is that conforming or is that part of the variance. It is indicated that it was included with the approval for the construction of the house. When and by whom was that approved? It was approved when they applied for permits for the existing structure. Jerry indicates initially they were granted permits for the construction of the home which did not require them to come before the Board. Mr. Januzzi wants to know why it was not required? Jerry indicates the Zoning Officer makes the determination and it would not have been permitted if not allowed. It is indicated it is an access to a 2<sup>nd</sup> floor sliding glass door. You are allowed to have access but not a deck and not part of this application.

Robert Quinlan – requests if there are any pictures of the current structure as it exists?

**\*\*BOARD TAKES A 5 MINUTE RECESS, BOARD RECONVENES\*\***

Applicant requests the Board be provided with the photos of the 2<sup>nd</sup> floor “decks” that they took along 324 Newark Avenue and 117 Cliff and one is at 109 Park Avenue.

Exhibit A-1 & Exhibit A-2 – Photos marked into evidence. Shows some of the rear yard decks that exist in the town and that are similar to this structure.

Resident??? – Third Avenue – those existing decks on the 2<sup>nd</sup> floor that you keep referring to as the reason why you would like to have this approved, are those houses known to be built with variances legally or before the ordinance was created. It is indicated it is unknown. It is asked if you did not have an “upside down” house that you would be able to build a deck on the back of the house? It is indicated, yes.

It is indicated they are completed with testimony.

Dominic Carrea wants to know what is in the back the house now? Fenced in yard with 6 ft. vinyl fence. There is a landing with stairs currently there no more than 4 feet.

Michael Affuso – What are widths of adjoining lots? It is indicated he believes they are similar. Struggling with deck being so close to neighboring lot and towering over neighbor’s yard.

OPEN FOR PUBLIC COMMENTS:

James Carella – 611 Second Avenue – Sworn in – Reads written statement into record which is Marked Exhibit - C01. Applicant should be provided a copy of this statement and has right to object to it.

Mr. Burdick indicates by scaling off the architectural he has the existing deck is approximately 4'x6'.

Mr. DeNardo questions the positioning of the Carella's windows with relationship to his. It is indicated it is not a clear line of sight. Mr. DeNardo questions how if they cannot see directly into his home how is he going to see into theirs. Mr. Carella asks how far he is coming out with this deck? It is indicated 12 feet. Mr. Carella indicates 12 feet would put you in clear line of sight into his bedroom.

Kim Januzzi – 608 Evergreen – Sworn in – Reads written statement into record which is marked Exhibit - J09 and provides various photos/views of 610 & 608 Evergreen Marked Exhibits – J01-J08

Steven Nichols – 612 Evergreen – Sworn in – Reads written statement into record which is marked Exhibit N01

Mr. Burdick reiterates that the applicant has secured all permits for what has been constructed thus far. No further comments.

**Based upon the application submitted and the testimony provided, Dennis Mayer makes a motion to deny the application as presented with supporting reasons, moved and seconded by Dominic Carrea.**

**Those who voted to YES to DENY:** Michael Affuso, Raymond Wade, Dominic Carrea w/comment, Alexis Bouhoutsos w/comment, Robert Quinlan w/comment, Dennis Mayer w/comment, and Harvey Rosenberg

**Those who voted NO: None.**

**Those who ABSTAINED: None.**

**Those ABSENT:** Lauren Egbert and Deidre Phillips

**\*\*BOARD TAKES A 5 MINUTE BREAK AND RETURNS\*\***

**ZB19/06 (Use Variance for Expansion of Non-Conforming Use) – CeeBee, LLC d/b/a Bradley Brew Project – Block 33, Lot 28 – 710-714 Main Street – Applicant is proposing a rear outdoor patio and sitting area for the existing microbrewery.**

Michael J. Wenning, Esq. on behalf of CeeBee (Bradley Brew Project) recaps the prior application for Use Variance which was approved by the Board.

Here tonight to seek use of the outdoor area in the rear of the property. We have the architect, Mr. Walker and Michael Z. We are here to seek expansion of the Non-Conforming Use by expanding the occupancy.

Witnesses are sworn in with the Board Professionals.

Mr. Walker – accepted – represented applicant in prior application. Existing conditions of the property/building are discussed. These plans were prepared and summed up on one sheet (A-01) nothing is changing on the zone table from the previous application with the exception of occupancy. Originally proposed 75 occupants which were approved and now proposing an

outdoor patio in the rear with an additional 36 occupants. This proposal is not changing the structure or interior of the existing building in any fashion. Proposing 3 foot pre-fabricated moveable fencing which does not interfere with loading area. Parking is not impacted in the rear of the property which is dedicated to employees.

Dennis Mayer questions if they have accounted any additional drainage for cleaning the area, etc. Mr. Walker indicates there is an existing trench drain.

Robert Quinlan questions if there is any slope in this area. It is indicated it is relatively flat.

Michael Z. explains the operations, ABC requirements for this proposal, and reasons why a 3 foot fence.

Operations and deliveries are discussed.

Dominic Carrea questions the gate shown in the rear. It is indicated it is for emergency exit only.

Applicant indicates they will comply with occupancy requirements.

Harvey Rosenberg questions if they considered doing this in the front with a café license, it is indicated it is not permitted per ABC because it is public property in the front.

Lighting is discussed and existing lighting is to be used.

This area will be used seasonally and will not be accessible all year. Hours of operation will match existing brewery hours.

#### OPEN TO PUBLIC FOR QUESTIONS:

William Psiuk – 110 Fifth Avenue – questions 4 store fronts and how many parking spaces are in the rear? They are for all 4 units. Is one of the spaces being eliminated? It is indicated there is an undersized stall being removed. Mr. Psiuk indicates on page 3 #5 there were 5 parking stalls to be provided. There is a discrepancy between resolution and approved plans. There were 4 stalls approved on the plan. Requesting a variance for parking? Your business is doing very well. Some sort of parking should be taken into consideration. When we first proposed the beer garden it was larger and we have cut it back to conserve and we don't believe this is going to negatively impact parking.

Alexis Bouhoutsos inquires if there is any music proposed out there? It is indicated no there is a small speaker there now it is designed for people to sit there to relax outdoors. Is CO2 tank going to remain? It is serviced monthly and it is to remain and it is planned to be screened. No safety issue with this tank being there. Suggested to build a box or something around it. It is indicated it is possible.

Jerry Freda questions the parking and if it is striped. It is indicated yes it is striped. Proposal suggested to put an angle from gate over, get rid of one of those potted plants and pick up the 5<sup>th</sup> parking spot. No objections whatsoever, but does not own the building; will have to be approved by property owner. Maybe make a condition if approved by property owner, will provide the extra space. Agreed to by the applicant.

Dennis Mayer – questions if any cars in the parking area will be moving while patio is operational? It is indicated this lot is for employees only and not public traffic. It is requested if bollards or some sort of safety measures can be installed to protect patrons. A discussion takes place with regard to this matter. A resolution is suggested to reserve the two closest spots be utilized by brewery employees so there is better control over vehicle movements.

William Psiuk – 110 Fifth Avenue – question of attorneys regarding outdoor café licenses which are to be renewed every year. It is indicated that is only for the front café licenses, and the Borough does not control the rear.

Will it be leased or rented for parties? It is indicated no cannot have waitresses out there.

OPEN TO THE PUBLIC:

Timothy Sexsmith – 500 LaReine Avenue – sworn in – wanted to speak in favor of the applicant, constantly supporting fundraising efforts, clean family friendly establishment. Wanted to comment on the parking issue. Since they are not serving food, most of the patrons stop in for a beer or two and move on to some of the area restaurants. So he does not believe the impact on parking will be significant at all.

**Based upon the application submitted and the testimony provided, Harvey Rosenberg makes a motion to approve the application as presented with the conditions stipulated through testimony, moved and seconded by Dennis Mayer.**

**Those who voted to YES:** Michael Affuso w/comment, Raymond Wade w/comment, Dominic Carrea w/comment, Alexis Bouhoutsos w/comment, Robert Quinlan w/comment, Dennis Mayer w/comment, and Harvey Rosenberg w/comment

**Those who voted NO: None.**

**Those who ABSTAINED: None.**

**Those ABSENT:** Lauren Egbert and Deidre Phillips

**\*\*BOARD TAKES A 5 MINUTE BREAK AND RETURNS\*\***

**ZB19/07 (Use Variance for Expansion of Non-Conforming Use) – Robert & Nancy Costa – Block 57, Lot 2 – 619 Fifth Avenue – Applicant is proposing a one-story addition to the rear of this existing single family dwelling which is a pre-existing, non-conforming use located in the GB General Business Zone.**

Michael J. Wenning, Esq. on behalf of the Applicant. We are here for a Use Variance and we have the Architect, Mr. Passman as well as the Applicants Mr. & Mrs. Costa.

Witnesses are sworn in with the Board Professionals.

There are no setback requirements in the zone. There is an existing variance for the shed at the rear of the property, otherwise there are no other variances being requested.

Mr. Passman – qualified and accepted - hired by the Costas to design a larger master bedroom and expand the kitchen.

Mr. Passman reviews the existing and proposed conditions of the home. It is indicated this is a very small home which appears to have had additions prior.

From the street the house will look exactly the same. There is another home to the west of this property and to the east there is another house. Homes face Fifth Avenue not Main Street.

Pre-Existing conditions of the site and setbacks are discussed as well as lot size.

Existing side yard setbacks is being followed not being reduced. Shed is proposed to stay as well.

**EXHIBITS:**

EXHIBIT A-1 – Architectural Plans

EXHIBIT A-2 – A-5 Photos Representing Frontscape and Rearscape of 619 Fifth Avenue

**OPEN TO THE PUBLIC:**

Rich - 600 Third Avenue – Have the surrounding neighbors been notified about this. It is indicated of course. Has there been any communication with those people? Any objections. It is indicated there have been no objections.

Robert Costa – We have spoken to the immediate neighbors and they are in support of the application. We have owned the house for 6 years and it was purchased as a summer home and now here fulltime. The existing configuration of the house right now is difficult with the size of the rooms; we are planning for 20 years ahead. Mr. Costa reviews the photos that were presented to the Board and Exhibit A-2 is discussed. No changes are proposed to this view. Exhibit A-3 is discussed and changes proposed to this elevation are discussed. Exhibit A-4 is discussed no change there. Exhibit A-5 is discussed and it contains a second floor deck.

It is indicated this proposal will preserve the character of the neighborhood in a positive fashion and will increase the overall aesthetics of the site.

Mr. Wenning reviews the positive and negative criteria pertaining to this application.

**Based upon the application submitted and the testimony provided, Harvey Rosenberg makes a motion to approve the application as presented, moved and seconded by Raymond Wade.**

**Those who voted YES:** Alexis Bouhoutsos w/comment, Michael Affuso w/comment, Raymond Wade w/comment, Dominic Carrea w/comment, Robert Quinlan w/comment, Dennis Mayer w/comment, Harvey Rosenberg w/comment

**Those who voted NO: None.**

**Those who ABSTAINED: None.**

**Those ABSENT:** Lauren Egbert and Deidre Phillips

**WITH NO FURTHER BUSINESS BEFORE THE BOARD A MOTION TO ADJOURN WAS OFFERED BY CHAIR ROSENBERG AND SECONDED BY DENNIS MAYER, ALL IN FAVOR. MEETING CLOSED AT 8:06 PM.**

**NEXT SCHEDULED MEETING WILL BE OUR REGULAR MEETING ON THURSDAY, JULY 18, 2019 AT 6:30 PM HERE IN THE MUNICIPAL COMPLEX MEETING ROOM.**

**Minutes submitted by Kristie Dickert, Board Secretary**