

**Bradley Beach Zoning Board of Adjustment  
Special Meeting Minutes – Meeting Held Via Zoom  
Thursday, April 30, 2020 at 6:30 PM**

Meeting is called to order 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, Raymond Wade, Dennis Mayer, Deidre Phillips, Teresa Rosenberg, David Critelli (arrived 7:00 PM), and Harvey Rosenberg

Absent: Robert Quinlan, Dominic Carrea, Deborah Bruynell

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

**Approval and Adoption of Meeting Minutes:**

A motion to approve the meeting minutes from the Regular Meeting of February 20, 2020 is made by Dennis Mayer and seconded by Michael Affuso. All eligible members present in favor.

**Resolutions Memorialized:** None.

**Applications Under Consideration:**

**ZB19/20 – Bruce Garry – Block 75, Lot 13 – 204 Evergreen Avenue** – The Applicant is seeking Bulk Variance relief for the construction of an open screened entrance leading to the first floor and an open uncovered deck leading to the second floor directly above the open screened porch. Bulk variances are required for front yard setback, both side yard setbacks, building coverage, and impervious coverage.

Mr. Garry indicates they would like to put a front porch and a second level on to the front of the house like the neighbors to be able to enjoy the views.

Thomas Lavin, AIA and Bruce Garry are sworn in with the Board Professionals.

There is a proposed footprint change extends 10 feet off the front of the house so therefore requires variances for the first and second level porch. No information pertaining to sight line or average front yard setbacks/buffer has been provided. Therefore they need the variance for front yard setback.

Jerry Freda indicates there are other properties that vary in distance from their front property line back to their front porches, but he asks the Applicant if he is looking for a 10-foot wide front

porch would he consider narrowing that down to 8 feet? Mr. Garry indicates they thought about that and he knows another neighbor 2 houses down has a 10 foot porch, but there is also a fire place that sticks out the front of the house 3 feet so to cut back down to 8 feet would be less room around that fire place. Jerry indicates he can see that but if he were to bring it back even a foot to 9 feet it would make a lot of these variances more tolerable. Christine Bell indicates as it stands now, you need a front yard setback variance for 2.1 feet, so if you were able to bring the porch from 10 feet to 8 feet it would reduce the need for a variance to .1 feet which is a lot smaller than 2 feet. Mr. Garry acknowledges that only having 5 feet from the back of the fire place to the railing it gives less room. The fire place is about 4-5 feet wide and the front of the house is about 37 feet wide. Chair Rosenberg indicates they would still have about 32 feet. Mr. Garry indicates if this were on one end of the porch he wouldn't have an issue with it, but it is actually dead center of the porch. Mr. Lavin indicates it will create 2 separate sitting areas, not one continuous sitting area.

Christine Bell indicates it is important to note that right now, the structure as it exists meets the maximum building coverage, 35% is permitted in the zone and they are at 34.3% with the additions as proposed it bumps it up to 39.3% requiring another variance. Currently he is over already on the impervious coverage. The impervious coverage permitted is 60% he is at 63.4%, but this would increase this variance to 67.6%. Chair Rosenberg indicates if we cut the porch back to 9 feet it cuts it by? Jerry indicates it is going to be negligible, but at least it is showing some good faith, 9 feet is a pretty good width for a porch and he does understand the hardship with the fire place right in the middle of the house. Christine indicates 2 feet would almost get rid of the front yard setback variance. Would still need the side yard setback variances which are due to exacerbating the existing non-conformity. They will still need impervious coverage variance, not sure how that would impact the building coverage if they needed one it would be smaller than what they are asking for currently. She thinks since there are a number of variances associated we do need to hear some planning testimony as to why they need these variances. She does not believe it is a hardship variance, these are probably c(2) variances and we will need to hear some reasons why.

#### Open to the Board and the Public:

Mr. Wade wants to know why the average sight line was not provided. Jerry indicates it is not required unless they are trying to prove they do not need a front yard setback variance.

Thomas Lavin, AIA indicates the house is right at the permitted coverage and the impervious coverage is already over and Mr. Garry purchased the home in the past 2 years so that was already existing. He would like to add the porch to the front as they face the lake on the 200 block of Evergreen. Feels it is in keeping with the houses around it and in line with surrounding properties. They had looked at pulling the porch in and it does not look right with the fireplace sticking out it would create 2 separate seating areas. A 9 foot porch is doable; however it is up to Mr. Garry, but thinks it could work. Eight foot you have less than 5 feet so if you put a chair there you have to try to squeeze past the chimney, 9 feet is probably tight but doable.

Jerry Freda wants to confirm what the Architect testified to, that if they didn't go to the end of the house and brought the side in although it may alleviate a waiver or variance it would not look proper; however, he feels the 9 foot porch would serve the purpose, allow plenty of room, and not be as offensive as the 10 foot. Many porches in the community are only 6 foot deep and that is pretty tight. Mr. Lavin indicates the fireplace sticks out about 3 feet and is about 6 feet wide. Jerry understands this is an obstacle if they went 8 feet it would be somewhat of a hardship, but 9 feet could work well.

Bruce Garry indicates if he has to go down to 9 feet to get it passed he would do that but neighbor got 10 foot which is why they went for that same size. Jerry explains how each application is based upon its own merit. The property you are referring to may not have the issues that your property has, you have quite a few issues. Jerry indicates the reasons why they want the front porch and feels it will look much better; however, he still feels 9 foot would be sufficient. Mr. Garry indicates he understands what Jerry has said and agreed and he agrees to go down to a 9 foot porch. Jerry indicates it does not change the variance numbers, but the percentages are a little less and are more tolerable.

Deidre Phillips – questions if there will be a canopy on the top? It is answered that no, there will be no canopy on the top porch.

Mr. Garry appreciates everyone's time and questions and understands everything said, they are willing to bring the porch back to 9 feet as suggested/requested.

**Based upon the application submitted and the testimony provided, Harvey Rosenberg makes a motion to approve this application with the condition that the porch be constructed with a 9 foot depth and the percentages for the additional variances needed will be adjusted in accordance with the new depth, seconded by Michael Affuso.**

**Those in favor:** Teresa Rosenberg, Michael Affuso, Deidre Phillips w/comment, Raymond Wade w/comment, Dennis Mayer w/comment, Harvey Rosenberg w/comment.

**Those opposed:** None.

**Those abstained:** None.

**Those absent:** David Critelli (recused), Deborah Bruynell, Dominic Carrea, and Robert Quinlan

**ZB19/16 – Paul & Kim Charette – Block 79, Lot 15 – 400 Monmouth Avenue** – The Applicant is seeking Use and Bulk Variance relief for construction of a proposed garage apartment with a second-floor porch/balcony on this corner lot. Garage apartments are not permitted uses on corner lots and bulk variance relief is required for the second-floor porch/balcony, existing side yard setback, and existing rear yard setbacks.

Paul & Kim Charette – sworn in with Board Professionals

Mark Kitrick, Esq. reminds the Charette's this application contains a Use Variance and they will need 5 affirmative votes of the 7. The Charette's acknowledge they are aware.

Paul Charette indicates they have lived in town for 26 years and have done numerous improvements to this home which they believe helps beautify the town. They would like this apartment for a family member who has a medical condition that they would like to stay close but at the same time have some independence.

Christine Bell indicates garage apartments are not permitted on corner lots in the R-1 Zone and you will need to prove specific criteria in order for the Board to grant this Use Variance. You need to prove that this site is particularly suited to the use. There are some special reasons that would allow a departure from certain zoning regulations in this case. Ms. Bell explains the positive and negative criteria required and associated with a Use Variance.

Paul Charette indicates when it comes to the use and the reasons to depart from the ordinance, the lot is 12,634 square feet on this corner property it is not a 50 x 100 lot so it does have more room and is larger than the surrounding lots.

Christine Bell indicates part of the reason for not supporting garage apartments on corner lots was so it did not create this image of 2 lots. Your garage faces a different street than your house so it could appear as 2 separate lots.

Ms. Charette indicates lots of their size were subdivided over the years and what they are proposing is less dense than if the lot were subdivided. A second story on an existing footprint of an existing garage is less on a property of this size.

Jerry Freda indicates he recognizes the existing garage, the only footprint expansion they are proposing is the 2<sup>nd</sup> floor deck on the proposed apartment over the garage, the second floor deck would not be able to happen at all, but the apartment portion can be entertained. He asks if they would consider eliminating the 2<sup>nd</sup> floor deck to move forward and simplify things? They indicate yes. Jerry indicates it makes it much easier now, because you are looking at a more traditional setup in town although corner lots don't allow them; however, the garage is already there.

Christine Bell indicates there are a few more issues with the lot itself. The garage is already there, but it is very close to the rear and side yard lot lines. In the pictures that the Applicant provided earlier, the garage is 1.36 feet off the side property line and the principal structure of their neighboring property looks to be a 1 story home pretty close to that property line also. Mr. Charette indicates it is actually 7.25 feet from the garage to the actual corner of the house. So when you put a second story on the garage it creates more structure within 7.25 feet of the existing principal structure on that lot. It is 1.46 feet off the rear yard where 5 feet is required. Even though the lot is oversized you still require setback variances.

Jerry indicates the only way to eliminate the existing condition is by knocking down the existing garage.

Dennis Mayer – questions the proximity to the pool? It is answered it is 15 feet from the pool. So even if you knocked it down and rebuilt with the proper setbacks you would be encroaching on the pool area. Yes, which is why it was renovated and not knocked down in the first place.

Dennis Mayer – Christine in your experience with corner lots here in town, has there been any new garage apartments approved on corner lots? Christine Bell indicates in her experience she has not really seen this Board look favorably on granting a use variance for a garage apartment on a corner lot. Ms. Charette feels it is kind of discriminatory as a corner property owner in comparing density in other areas of town that just because it is on a corner a garage apartment could not be constructed there. Mr. Charette indicates there is a large duplex being built on a corner lot currently. It is indicated it is located in a different zone and each application is based upon its own merit. Mark Kitrick, Esq. indicates as far as being discriminatory the ordinance was passed in 2011 and deemed to be consistent with the Master Plan. You are here today to show the Board why they should grant an exception to that.

Kim Charette – indicates this lot is large in comparison to the primary lot sizes in town and they are working off the existing footprint and there is adequate off-street parking to accommodate a garage apartment.

Christine Bell – You are supposed to provide some of the purposes this proposal furthers? Negative Criteria – you need to prove that the variance can be granted without a substantial detriment to the public good. This means you need to prove that the impact of your proposed use on the surrounding properties will not cause damage to the character of the neighborhood and it does not provide a substantial impact on public good. Also what you are proposing does not impact the intent and purpose of the Master Plan or the Zone Plan where the Zoning Ordinance specifically prohibits.

Paul Charette indicates as far as the impact to the public good – since we are not going any bigger such as wider or past the property line or whatever it is, we are not adding any impact on the street because the parking is already there they are not adding a person, they are moving a person from in the current house into the apartment. The area around it? Is it going to be taller than that house that is 7 feet away? Yes it was built after the garage was there so why they built it so close to the property line he is not sure. The other neighbor with the garage apartment there is 15 feet between, there is no window proposed on that side of the apartment which faces the neighbors tenant. There is adequate screening and privacy provided. As far as the zoning plan, again we are not adding any parking spaces, we are not telling people they have to park in the street in the summer, there are no more people coming, it is the same amount. As far as aesthetics go it will look like a cottage of our house and will not have a whole different look or view. It is going to look like it belongs to that front house, not a separate building.

Christine Bell – while you are indicating you are not adding people, once the variance is granted there is the potential in the future for it to be rented out and used by anyone. So it really is not just a continuation of your principal structure. The Charette's indicate they understand the point.

Michael Affuso wants to go down this list methodically, first is that the site is particularly suited for the use. What makes this site particularly suited? Mr. Charette believes because how far it is set back from the road and the size of the property itself it can accommodate that look without looking like it is encroaching on the road or the property. Requests special reasons why we should depart from the ordinance and allow this structure in this particular case?

Chair Rosenberg asks Mr. Charette if he had a chance to research how many corner lots in town have garage apartments? Mr. Charette indicates he cannot tell him exactly, but knows of at least 3 corner lots with garage apartments. There is one straight up the street and the apartment is 15 feet from the road. That was allowed way before 2011 I am sure. Ms. Charette indicates it is interesting to choose a corner lot to prohibit garage apartments when every corner lot in town varies and they are all different and not your standard 50 x 100 rectangular lot. It is indicated their lot if subdivided could have been used for 2 separate dwellings, not just a garage apartment.

Michael Affuso suggests due to the heightened review level for the Use Variance, perhaps the applicant might wish to return to us after doing the research to establish both the positive and negative criteria. In order for us to grant the use variance it is a high hill, that is why we have this higher level of scrutiny.

Mark Kitrick, Esq. – indicates typically a Planner testimony is required for this type of application, you are not required, but if you are looking for professional guidance that is the direction to go.

Teresa Rosenberg – indicates if this is due to a family member having a medical issue maybe you can turn the existing garage into a cottage and then you are not creating a second floor garage apartment.

Dennis Mayer – indicates this type of application requires professional help and feels the applicant is asking for an awful lot.

Mark Kitrick, Esq. indicates if they are willing to carry to our next meeting, is this something you are willing to entertain? Mr. Charette indicates sure. Mark Kitrick indicates it would be carried without further notice being required; however, we should hear from the public first to see if they have any questions.

Open to Public for Questions:

Thomas J. Coan – asks if the lot is 12,634 s.f.? It is indicated, yes. How big are the conforming lots in the R-1 Zone? I thought it was 50 x 100? Mr. Coan indicates yes, that would be 5,000 s.f., correct? Mr. Charette indicates yes. You have more than double of the square footage of

any lot in the zone. Do you feel it is a positive criteria? Yes, we have continually stated that. Is your lot a standard rectangular shape? It is indicated no it is not. Mr. Coan indicates it is an unusual shape is it not? Yes it is. Mr. Coan asks if they have ever thought about subdividing the property and then you would have 1 lot that was a corner lot and could not have a garage apartment but then you should have another lot that was not a corner lot and could have a garage apartment so instead of this application you could have 3 units? Yes. So this is a better design standard for the town is it not? Yes. It is a better density standard for the town is it not? Yes.

Helene Wolson – indicates she had been approached by Paul about the garage apartment for Cassidy and she built her garage apartment in 2005; however, when Paul had asked me if I would have any issues with it I said no, but I also said as long as we were following all of the rules. My question is about the setbacks. I just want to make sure, I don't have a problem with the garage apartment as long as they are following all of the rules and setbacks. It is indicated at this point it does not meet the setbacks. So if they were meeting the setback requirements they would not have to come back? It is indicated no, because they are a corner lot and it requires a use variance, they cannot have a garage apartment.

The Applicant requests to carry to the May 21<sup>st</sup> and requests that if people have comments they are able to hear them tonight. Mark Kitrick, Esq. indicates this matter will be carried with no decision rendered tonight but will accept comments as requested as it may be of assistance to the applicants for when they come back.

Harvey Rosenberg makes a motion to carry to May 21<sup>st</sup> without further notice, seconded by Deidre Phillips, all members present in favor.

### Comments

Helene Wolson – 404 Monmouth Ave – sworn in – comments she would rather they meet the setback requirements as all 3 properties meet in the back corner, so when you come back with the positive and negative support, I have no issue with the corner lot, but as far as the rest of it I think it is too tight back there and you would be building on top of me and Pat and Anthony don't care, I just think because you have this large lot there is plenty of room to come forward when I built the same thing 15 years ago and I have a much smaller lot.

Pat Miliano-Paolo – 27 Madison Avenue – sworn in - This home is directly next door and we have always been close to their garage, for us it is not a problem, they are just going straight up so there is no issue.

Sal Pace – 32 Madison Avenue – Lives across the street and faces their driveway and garage where this apartment will be built – because of the size and unique shape of the lot and the garage is setback behind, the 2<sup>nd</sup> story apartment will not be a concern for most people it is on the existing lot lines already – it is going straight up not going over – will add to the aesthetics of the street and has no concerns with the proposal and supports their use of the property.

Thomas J. Coan – 612 Third Avenue – sworn in – Wants to elaborate on Ms. Bell’s comments about corner lots – historically he believes this was done because people were subdividing the garage apartments away from the main house – feels the plan is reasonable based on the size of the lot, it is such an unusual size and what I am petrified of I believe this zoning standard is much better because we could get 2 houses and a garage apartment as opposed to having this nice house and a garage apartment so I think density wise and in our planning this is a far superior example. One thing I would like for the porch to be removed that is definitely a positive thing but if Mr. Charette could possibly skirt hip roof on 3 sides pushing in a bit and comply with setbacks. Overall a good concept with those changes.

Sam Battaglia – 315 Evergreen Ave – sworn in – lives on a corner lot and his lot was subdivided many years ago – provides history of neighboring properties with garage apartments – feels this improvement is a better location than others that have tried to put a back house and is all for the project.

Steve Perrette – 5 Madison Ave – sworn in – lives across from Kim and Paul and agrees with the last 3 citizens and that this will be an aesthetically pleasing project.

Kate Sweeney – 28 Madison Ave – sworn in – corner lot – has been here for 5 years and would like to state Paul and Kim keep their property meticulous and she is looking forward to the apartment.

Paul and Kim Charette thank the Board for allowing the public comments, it is greatly appreciated.

**ZB20/02 – Ralph & Fiorella Giacobbe – Block 53, Lot 12 – 202 Fourth Avenue –** The Applicants wish to appeal the Zoning Officer’s determination and if not found favorably would like to alternatively seek Bulk Variance relief to remove the existing dwelling and construct a new 2 ½ story dwelling with a garage apartment in the rear. Bulk variance relief is required for the proposed roofed porch in the rear of the new dwelling as well as for the pre-existing, non-conforming condition of lot width.

Jeffrey P. Beekman, Esq. for the Applicants.

Mary Hearn, AIA as well as Ralph & Fiorella Giacobbe – sworn in with the Board Professionals.

Mr. Beekman explains he doesn’t usually appear before the Board to seek an Appeal of the Zoning Officer’s Decision but in the alternative would like to seek the variance relief. The reason for Appeal and the Ordinance Sections recited. This is a roof over a rear first floor stoop and does not encroach into the rear yard or side yard setback. This lot has existed since the 1920’s as a 45’ x 150’ lot and conforms in all respects except 45 feet wide vs. 50 feet wide – if it is an existing lot it can remain and be continued.



Mark Kitrick, Esq. explains the process and the Appeal in conjunction with the Bulk Variance request.

Mr. Giacobbe – bought this lot with a dilapidated house which was not up to code and was not livable at that point. The goal was to knock it down and put up a new house and did not want variances when they went to their architect. The existing dwelling does not conform to the setback requirements and the new proposal conforms.

Jerry Freda – this proposal will not require any variances; it is the interpretation of the rear stoop. They want a roof on top of a rear stoop. If they didn't propose the roof they wouldn't need relief at all.

Jeffrey Beekman – asks if Jerry is in agreement with the 45 ft width? Jerry indicates yes it does because it is a non-conforming lot.

Rosemary Venter – questions if there is a variance for the garage apartment that is going to be built. It is indicated no the garage apartment is fully conforming. Are they are aware of the fire that took place in 2015 and the surrounding properties caught on fire and how dangerous that can be and the density in the area? That is not the subject of this application as there is no relief being sought for the garage apartment.

Michael Affuso – Why do you feel the Zoning Officer is in error?

Jeffrey Beekman – 1<sup>st</sup> he interprets you can't have any roof on the rear. There is nothing in the ordinance that speaks to that, it speaks to encroachment into a side or rear yard setback – 7' x 4' entry porch is not encroaching into any setback area.

Jerry Freda – my opinion is that this is negligible at best, a roof and a second story porch are not the same thing and I don't think this is something we could not approve.

Mark Kitrick, Esq. – indicates the Zoning Officer is not here tonight, so I think if we want to cover all of the bases of why the Zoning Officer made that decision and counter that with any arguments from the Applicant; however, we don't need the Zoning Officer to rule on the variance.

Deidre Phillips – ground level? Mary Hearn indicates yes.

Teri Rosenberg – questions the denial of the application – there is a deck leading to the second floor directly above the open and unscreened porch. Jeffrey Beekman indicates that is in the front and it is permitted, technically it is a balcony in the front.

Mary Hearn – this entry is 2 feet off the ground, has 2 risers and is 7 foot wide by 4 feet deep and there are 2 columns that eat up 1 foot on either side so there is 5 feet between the columns and 4 feet deep

Alan Harris – 405 Beach Avenue – Do you mean that we have nothing to say about the garage apartment? Mark Kitrick indicates you can speak about it but right now it is questions. Mr. Harris indicates so no matter who it is they can build a garage apartment no matter who it injures or inconveniences? Mark Kitrick indicates it complies with the Zoning Requirements.

Mary Hearn – Architect – accepted by the Board. Ms. Hearn indicates demolition and reconstruction is the best plan given the current state of the existing home. We intend to meet all of the required setbacks and the proposed home has to meet the current codes and fire codes. The garage apartment has no variances associated with it.

Jeff Beekman asks is there no land available to purchase to make this a conforming lot?

Mary Hearn – indicates no the area is fully developed, this is a deep lot 150 deep by 45 feet wide, 5,000 s.f. is required and this lot is oversized.

Jeff Beekman – Why did you take the rear roof into account? Mary indicates she likes to have every exterior entry covered when possible. The Applicants will be entering more from rear and wanted shelter from the elements.

Mary Hearn – I have been an architect for 30 years and have the responsibility of reviewing the entire ordinance before designing a project. There is nothing in the ordinance that prohibits a rear covered porch such as this.

Rosemary Venter – 405 Beach Avenue – sworn in – indicates she welcomes new neighbors – originally concerned because she thought there was going to be a rear deck and misunderstood, she is concerned with the garage apartment because the area is so dense and the stress it will put on infrastructure and concerned with the previous fire that took place in 2015. Because it was so close her house was practically destroyed.

Alan Harris – 405 Beach Avenue – sworn in – Disappointed. Can't believe the public has no say on whether or not a garage apartment can be constructed. Views will be restricted and doesn't think fair only there for rentals and this is going to be another Belmar. He indicates he is outraged.

Eileen Shissias – 112 Fourth Avenue - sworn in – compliments to this couple wanting to invest in our community – reached out to highest quality architect should encourage more residents like this. The fire was frightening; however, that house was neglected for how many years and these people have no intent to have such a substandard building on this lot.

Alan Harris – no objection to a nice new house just the garage apartment

Mary Hearn – We are allowed the detached garage apartment to be 5 feet off of each property line. We pushed it as far to the west as possible, we could have mirrored this and put it 5 feet

off the easterly line and we did not do that we are 13 feet from the easterly property line where we could have been 5 feet.

Jeffrey Beekman – There are some strict requirements for garage apartments. This is a fully conforming garage apartment and they appreciate the comments from the public. This is a small entryway with a roof that we are requesting relief for and asks that the Board grant the variances and vote favorably on this application and we will withdraw the appeal portion of the application.

**Based upon the application submitted and the testimony provided, Harvey Rosenberg makes a motion to approve this application for a roof extending over the rear 7' x 4' rear entry platform no higher than 3 steps as presented, seconded by Deidre Phillips.**

**Those in favor:** Teresa Rosenberg, David Critelli w/comment, Michael Affuso w/comment, Deidre Phillips w/comment, Raymond Wade w/comment, Dennis Mayer w/comment, Harvey Rosenberg w/comment.

**Those opposed:** None.

**Those abstained:** None.

**Those absent:** Deborah Bruynell, Dominic Carrea, and Robert Quinlan

**WITH NO FURTHER BUSINESS BEFORE THE BOARD A MOTION TO ADJOURN WAS OFFERED BY HARVEY ROSENBERG AND SECONDED BY RAYMOND WADE, ALL IN FAVOR. MEETING CLOSED AT 8:25 PM.**

**NEXT SCHEDULED MEETING WILL BE OUR REGULAR MEETING ON THURSDAY, MAY 21, 2020 AT 6:30 PM VIA ZOOM.**

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