

BOROUGH OF WATCHUNG

BOARD OF ADJUSTMENT

DANIEL CRONHEIM, CHAIRMAN



BOROUGH OF WATCHUNG BOARD OF ADJUSTMENT

Regular Meeting

April 12, 2018

OFFICIAL MINUTES Adopted May 10, 2018

Chairman Cronheim called the Regular Meeting to order at 7:46 p.m. Board members present were Ms. Fechtner, Mr. Brown, Mr. Kita, Mr. Panzarella, Mr. Lauerman. Also present were Steven Warner, Esq., Board Attorney, David Stires, P.E., Board Engineer, and Theresa Snyder, Board Clerk. There were 27 members from the public present.

Mr. Hunsinger arrived at 8:35 p.m.

Chairman Cronheim read the statement indicating the meeting was being conducted according to the Sunshine Law, the Municipal Land Use Law requirements, and the recording of the Minutes as required by law. He then led the flag salute to the American flag, and the Board members identified themselves for the record.

Applications

Case No. BA18-02; DUGH
35 Price Drive/525 Valley Road
Block: 70.01 Lots: 2 & 6

EXHIBIT A-1 04-12-18 PROPERTY FACT SHEET
EXHIBIT A-2 04-12-18 SITE PLAN 1981

Mrs. Sondra Fechtner recused herself from this portion of the hearing because she is within the 200 foot property line of the applicant.

Mr. Warner, Esq. swore in Mr. David Stires, P.E., Mr. Ed Bennett, Zoning Official, Mrs. Maura Dughi, applicant, Mr. Leland Titus, P.E. and Mr. Erwin Schnitzer, Esq.

The property located at 35 Price/525 Valley Road contains a single-family house with improvements including a guest cottage, green house, in-ground pool, and tennis court. The property is in the R-R Single Family Residential Zone and contains 3.94 acres.

Mr. Schnitzer, Esq. stated for the record that the applicant was seeking a bulk variance to continue use of the pool house as an accessory structure. This was a pre-existing structure on the property prior to the Dughi's purchasing of said property in 1995.

Mr. Bennett recognized the application for the guest cottage to be a permitted use of an accessory structure because it does not contain the elements of a dwelling unit such as the inclusion of a kitchen.

Mr. Warner, Esq. agreed that the guest cottage would be considered a permitted accessory structure because of the absence of a kitchen. It does not contain the elements needed to make it a dwelling unit.

Mr. Schnitzer, Esq. brought up Mrs. Dughi to testify. He asked her if she purchased the house with the guest cottage and how she used the guest cottage over the years. Mr. Schnitzer, Esq. presented the Board with EXHIBIT A-1 04-12-18-PROPERTY FACT SHEET.

Mrs. Dughi testified that they purchased the property in 1995, with the understanding that the property included a guest house. Over the years, they used the guest house as an extra space for sleepovers, and it also went unused for long periods of time.

On question of Mr. Brown, Mrs. Dughi testified that they did not have a separate electrical meter on the guest cottage. They receive only one electric bill each month for the entire property.

On question of Mr. Lauerman, Mr. Schnitzer, Esq. agreed that there would be a condition to not use this as a rental property.

Chairman Cronheim asked Mr. Titus to testify to the size and set back of the property.

Mr. Titus presented EXHIBIT A-2 04-12-18 SITE PLAN 1981 to the Board. He explained that the 452 square foot guest cottage is 25 ½ ft. off the right of way. The owner received permission to turn the cottage into what it is today.

Chairman Cronheim informed the Board that this guest cottage has been used as an accessory structure for 37 years, and that Mr. Bennett did not think a use variance necessary.

Mr. Titus stated that this was part of the original house, but the variance gets created because of the sub-division.

Chairman Cronheim explained that the property faces three streets, and they are requesting variance for set-back. He said there needed to be a determination that the structure was not a dwelling and is a permitted accessory structure.

Mr. Warner, Esq. asked if the applicant would comply with a condition that no kitchen would be included in the accessory structures of the green house and guest cottage.

Mr. Schnitzer, Esq. agreed to the condition of no kitchen.

Chairman Cronheim opened this portion of the meeting to the public for comment only in reference to the interpretation of a D or C Variance.

With there being no comments from the public, Chairman Cronheim closed the public portion of the meeting.

After review, the Board agreed with Mr. Bennett that this is a permitted use of a pre-existing accessory structure; therefore, a D-1 Use Variance is not required.

Mr. Titus gave testimony in reference to the variances being sought. Lot 6.01 on Valley Road/Price Drive consisting of 60,332 sq. ft. is a totally conforming lot. Lot 6.02 which includes the tennis court, pool and guest cottage is 109,139 sq. ft. This lot would require variances. The variances are based on the existing house. The property needs a rear yard variance of 22' off the rear yard where 25' is required. The front yard variance is 49 ½' where 50' is required. There is an existing berm. The accessory structures have pre-existing conditions. There is a post and wire fence that will be relocated to eliminate the encroachment on the joining property.

On acceptance of the Chair, Mr. Titus as a professional planner, stated that there are pre-existing conditions to the property, and when they sub-divide there will be no detriment to the Master Plan.

Chairman Cronheim opened this portion of the meeting to the public.

After being sworn in, Mr. Wayne Osborne, testified that the sub-division did not concern him; however, he was concerned that the fence be replaced and moved to the property line.

With there being no other comments from the public, Chairman Cronheim closed the public portion of the meeting.

Mr. Warner, Esq. presented to the Board that they were voting on a sub-division of two lots into two lots with conditions.

On motion by Mr. Brown, seconded by Chairman Cronheim, the Board voted to grant the application with conditions based on the following roll call vote:

Roll Call:	Ayes:	Mr. Brown, Mr. Kita, Mr. Panzarella, Mr. Lauerman, Chairman Cronheim
	Nays:	
	Not Eligible:	
	Abstain:	Ms. Fechtner
	Absent:	Mr. Hunsinger, Mr. Dallas, Mr. Bell

Case No. BA18-01; Wilderness Trails (RETS Partners, LLC)
833 Mountain Blvd.
Block 201 Lot 17 RR Zone

Mrs. Fechtner rejoined the Board.

Chairman Cronheim asked the applicant if they wished to go forward with the application as there were only six members present at that time to vote.

Mr. Whitelaw, Esq. agreed to be heard, stating that he was not seeking a vote that night.

Mr. Lawrence Cohen, Esq. represented five homeowners on Wildwood Terrace:

Mr. & Mrs. Spiro Leunes, 34 Wildwood Terrace, Watchung 07069
Mr. Jacob Kuriakose & Dr. Mary Kuriakose, 18 Wildwood Terrace, Watchung 07069
Mr. & Mrs. Vikas Jhaveri, 26 Wildwood Terrace, Watchung 07069
Mr. & Mrs. Iskren Milanov, 42 Wildwood Terrace, Watchung 07069
Dr. & Mrs. Samir Fahmy, 58 Wildwood Terrace, Watchung, 07069

Mr. Cohen, Esq. stated that there were several legal issues on which he wished to be heard.

Mr. Warner, Esq. asked if the legal issues had anything to do with the standing of the applicant as the owner of the property or objection to the notice given.

Mr. Cohen, Esq. did not object to the standing of the applicant, and stipulated the adequate notice to the Board.

Mr. D.J. Hunsinger arrived at 8:35 p.m.

On questions of Mr. Warner, Esq., Mr. Whitelaw, Esq. had no objection to accepting Mr. Hunsinger as being present for the entire testimony presented by the applicant.

Mr. Warner, Esq. sworn in the witnesses for the applicant which included the applicant, the planner, traffic engineer and civil engineer along with Borough Engineer David Stires, P.E. and Ed Bennett, Zoning Official.

Mr. Robert Berlant testified that there is a structure presently on the purchased property and the other portion is a law firm. There is also a business office for a mason contractor. There is access directly out to Mountain Blvd. It also has access to Hauser Lane. On the other side of Hauser Lane, Mr. Berlant built the medical building. He explained there is a large berm that shields the homes in the residential zone from the commercial. He believes it is a perfect use between commercial and residential.

Mr. Berlant testified that he is in contact with banks as possible tenants for the office space that would be located in Warren. Mr. Berlant would be fully conforming to Warren Township's

conditions on the property. He would need variance from Watchung for the parking area. If he does not get a bank to rent the office space, there will be no need for a drive-through.

Mr. Berlant described the office use to be Monday through Friday with possible business hours on Saturday. There will be a buffer area between the parking of the commercial building and the first residential building. There will be four affordable housing units with a parking area for these units. The market rate units will include a garage at ground level, and they are all two bedroom units.

On question of Mr. Warner, Esq., Mr. Berlant said there was an LOI.

Mr. Berlant explained to the Board that the standard for affordable housing requirements on rental units is 15%. By including four units on the property, they are at 44%. His market rate units would be upscale with granite and high end finishes.

Mr. Berlant sent out letters to three of the neighbors behind the property. He is willing to do what is necessary to create a good buffer. He is also willing to do a nice buffer for Mrs. Moorhead in Greenbrook on Hauser Lane to screen her retention basin.

Mr. Berlant presented EXHIBIT A-1 CONCEPT PLANS to explain Hauser Lane. They would improve the road.

On question of Chairman Cronheim, Mr. Berlant testified that Hauser Lane was a 20 foot right of way and went about 120 feet beyond the property.

On question of Mr. Hunsinger, Mr. Berlant said he would take responsibility for plowing snow on Hauser Lane.

Mr. Warner, Esq. said Hauser Lane is a file street. Greenbrook will not take responsibility for it.

Mr. Berlant testified that part of his project would include an expansion of the road, widening it to a 40 foot right of way, paving 20 ft. of it.

Mr. Hunsinger expressed concern that there is a potential of 20 Watchung residents that might not have access to Hauser Lane.

Mr. Berlant assured the Board that he maintains the medical office across the street and would maintain this property. He said he would be willing to widen the road to 24 ft. and include a sidewalk.

On question of Mr. Warner, Esq., Mr. Berlant testified that he would comply to all points on Mr. Stires report.

Chairman Cronheim opened the discussion to the Board.

Mr. Hunsinger asked why Mr. Berlant is intending a mixed use of the property.

Mr. Berlant responded that he never does things to the minimum. He believes that this is a beneficial use of this property to the Borough.

Mr. Warner, Esq. reminded the Board that Mr. Berlant's testimony was as a fact witness not an expert.

Upon question of Mr. Cohen, Esq., Mr. Berlant testified that he never put in a request to construct a single family house on the property. He then questioned as to Mr. Berlant's reasoning for including 9 units on a property in the R-R Zone with 40,642 sq. ft. for a single family dwelling.

Mr. Berlant testified that he would not build a single family house on that parcel because it overlooked a parking lot. He wants to re-develop the site.

Mr. Cohen, Esq. told Mr. Berlant he needed many bulk variances and a variance for 9x the coverage.

On question of Mr. Cohen, Esq., Mr. Berlant stated that he never intended to tear down the house and build a single family house.

On question of Mr. Cohen, Esq., Mr. Berlant said that the improved lot would be a benefit to the homes on Wildwood Terrace, and said there would be no change to the current values of these homes.

Mr. Robert Moorhead representing 1 Hauser Lane in Greenbrook, was sworn in to give testimony that he believes this application will turn this property into a flag lot. He said that Greenbrook Township considers Hauser Lane a personal lane. His mother owns 1 Hauser Lane.

Mr. Berlant does not believe it is a flag lot. It fronts on Mountain Blvd.

Mr. Warner, Esq. said it was a split zone lot. There are municipal boundary and different zone.

Mr. Cohen, Esq., objected to Mr. Berlant's EXHIBIT A-2 DUHAM PROFESSIONAL; Jan. 22, 1962 sub-division filed 1963. Chairman Cronheim agreed that there were additional issues and needed to be marked. Mr. Berlant stated that he has the title to the property.

After a brief recess resuming at 10:17 pm., the Board voted to carry the application without further notice to the May 10, 2018 Regular Meeting.

