The Board of Adjustment of the Township of Denville held a regular meeting on Wednesday, August 07, 2019. The meeting was held in the Municipal Building, 1 St. Mary's Place and commenced at 7:00P.M.

Secretary Unrath read NOTICE OF PUBLIC MEETING.

ROLL CALL:

Present: Krista Kussoff, Ed Moroney, Christine Hong, Dan Napolitano, Tim Wagner, Harry Fahrer, Adam Caravaglia, Chris Titze

Absent: Ed Moroney

Prof. Present: Larry Wiener, Esq., Jason Kasler, PP, Samantha Anello, PE

MINUTES:

Motion to adopt the minutes from June 26, 2019 was made by Mbr. Wagner, seconded by Mbr. Kussoff and unanimously approved by members able to vote.

PURCHASING:

Motion to pay vouchers submitted by Kasler Associates subject to the availability of funds, was made by Mbr. Fahrer, seconded by Mbr. Hong and unanimously approved by members able to vote.

Motion to pay vouchers submitted by Larry Wiener subject to the availability of funds, was made by Mbr. Fahrer, seconded by Mbr. Hong and unanimously approved by members able to vote.

Motion to pay vouchers submitted by Mott MacDonald subject to the availability of funds, was made by Mbr. Fahrer, seconded by Mbr. Hong and unanimously approved by members able to vote.

RESOLUTIONS

BA 17-11 Gerald Simmons
30 Lenape Trail
Block 40909, Lot 24

A motion to approve the resolution of approval was made by Mbr. Hong, seconded by Mbr. Kussoff and by all board members able to vote.

AYES-Hong, Kussoff, Caravaglia, Fahrer, Wagner, Napolitano

BA 19-08 Scott & Maria Perry
67 Lake Rd
Block 60601, Lot 113

A motion to approve the resolution of approval was made by Mbr. Fahrer, seconded by Mbr. Hong and by all board members able to vote.

AYES- Fahrer, Hong, Titze, Napolitano

BA 19-11 Lynx Asset Services, LLC
12 Overlook Drive
Block 60902, Lot 11

A motion to approve the resolution of approval was made by Mbr. Fahrer, seconded by Mbr. Hong and by all board members able to vote.

AYES- Fahrer, Hong, Titze, Napolitano
A motion to approve the resolution of approval was made by Mbr. Fahrer, seconded by Mbr. Hong and by all board members able to vote.

**AYES-** Fahrer, Hong, Titze, Napolitano

A motion to approve the revised resolution of approval was made by Mbr. Kussoff, seconded by Mbr. Fahrer and by all board members able to vote.

**AYES-** Kussoff, Fahrer, Fisher, Caravaglia, Wagner, Hong,

**PUBLIC HEARINGS**

**BA 19-22**  
**Eva Crotty**  
**41 Kitchell Rd**  
**Block 61802, Lot 16**

**Jason Rittie, Esq-** Representing the applicant. The application is to replace an existing chain link fence with a solid 5ft fence. The application requires variance relief for a solid fence of more than 10% solid. Also, to allow a 5ft fence around a swimming pool. The variance is also required because the fence is located within the front yard, and the property is located on a corner lot.

**Eva Crotty-** (41 Kitchell Rd)- The owner of the property. The existing chain link fence is falling apart and needs to be replaced. The original application was for a 6ft fence but the application has been modified to allow for a 5ft fence. Mr. Rittie referenced the photos submitted with the application to show the existing fence and the type of fence being proposed.

Open to Board Professionals

**Jason Kasler, PP-** Clarified that this application is only for the fence and no other addition.

Open to Board Members

**Mbr. Caravaglia-** Expressed safety concerns for having a solid 5ft fence.

**Jason Rittie, Esq-** Explained that the rear and side yard comply with the ordinance but since it’s a corner lot the front yard needs the variance.

**No public questions/ comments**

A motion to approve this application with the amended 5ft solid fence was made by Mbr. Fisher, seconded by Mbr. Hong and approved by certain members of the board.

**AYES-** Fisher, Kussoff, Fahrer, Wagner, Hong, Napolitano  
**NAYES-** Caravaglia

**BA 19-23**  
**Thomas Bailey**  
**10 Robin Dr**  
**Block 21604, Lot 1**
**Minutes**

**August 07, 2019**

**Thomas Bailey**- (10 Robin Dr)- Applicant is seeking to replace 2 steps coming from the back of the house. The current steps are deteriorating and are unsafe. The proposed steps would be the length of the sliding glass door. The variance being requested is for a rear yard setback.

Open to Board Professionals

**Jason Kasler, PP**- Clarified that the applicant is located on a corner lot and the rear of his property is the shortest side. Anything the applicant is proposing to build would need a variance.

Open to Board Members

**Mbr. Caravaglia**- Clarified that handrails would also be added to the proposed steps.

**Chr. Napolitano**- Clarified the steps should comply with the UCC codes.

It was stated that the proposed steps would not be larger than the existing steps.

A motion to approve the steps as submitted was made by Mbr. Fahrer, seconded by Mbr. Hong and approved by all board members able to vote.

**AYES**- Fahrer, Hong, Fisher, Kussoff, Caravaglia, Wagner, Napolitano

**BA/SS 19-07 Truebilt Homes, LLC**

19-21 Rockaway Ave

Block 60207, Lot 320,322,324

Christine Hong excused herself from this application.

**Remo Caputo, Esq**- Representing the applicant.

**Roger Thomas, Esq**- Representing Cedar Lake Property Owners.

**Remo Caputo, Esq**- The application is seeking to construct a single-family dwelling requiring variance relief for front and rear yard setbacks. Along with steep slopes, tree removal and relocation of soil.

It was discussed that Paul Anderson; PE did not go to school for planning but still is a licensed professional planner.

**Stanley Zon**- (6 Birchstreet Dr)- Is part owner of Truebilt Homes LLC with Timothy Mahoney who also resides on Rockaway Ave. Mr. Zon has built other single-family homes in Denville with his company Truebilt Homes LLC. On the current property is an 800ft bungalow that is deteriorating, unsafe and has been vacant for many years. It was stricken from the record to hear testimony from the public if the public is not there to speak. Mr. Zon stated that they are proposing to construct a 2-story single family dwelling. The proposed house would be consistent with the surrounding houses in that area.

Open to Board Professionals

**Samantha Anello, PE**- It was questioned if the shed on the property would remain, Mr. Zon stated that it would remain and it has been cleaned up.

Open to Board Members

**Mbr. Caravaglia**- Questioned if the current bungalow is a one story. Mr. Zon stated that is a 1 story with a crawl space and a walk out basement.
Mbr. Fahrer- Questioned Mr. Zon in his builder’s opinion that himself and Mr. Mahoney could build within in the steep slope stipulations. Mr. Zon stated that Mr. Mahoney has built houses with steep slopes and has complied with all steep slope codes.

Open to public for questions

Roger Thomas, Esq- It was stated the size of the house would be 3200 sq ft and the walkout basement would be 1400 sq. ft. However, Truebilt LLC would not be finishing the basement. It was questioned and answered the footprint of the proposed house would be 28 x 72 ft.

It was further discussed that the basement does have a proposed full bathroom with a shower. Also, the height of the basement is 8ft which Mr. Kasler stated that this is a livable space.

Carmella Carmagnola (37 Cedar Lake East) Questioned about water runoff, and it was stated the engineer would discuss that topic.

Paul Anderson (40 Miller Dr)- Sworn in a professional planner and engineer. Referenced SP1 which is a rendering of the site plan submitted with the application. The property is substandard in size area, width and depth.

Mr. Reference referenced Exhibit A1 which are a variety of 7 photos of the property and surrounding houses. The first photo shows the existing 800ft bungalow. The second photo shows another photo of the property and steep slopes. The other 5 photos are houses around the surrounding area. The grading plan shows there are wetlands around the property but it does not directly affect the existing property. The applicant applied for all DEP permits to construct in a riparian zone. Mr. Anderson stated the proposed house is being constructed in the middle of where steep slopes have previously been disturbed in a previous construction project. The elevation would be the same as the existing house. Referenced plan SP 5 to show the steep slope maps. The water run off would be controlled by a super silk fence and natural vegetation around the site. The variances being requested are for a front and rear yard setback. In the steep slope category between 20-24% 307sq ft is being disturbed. In the 25-29% category there’s 226.7 sq ft being disturbed. In the 30 + of disturbance 1128ft is being disturbed. However, Mr. Anderson stated that some of the steep slopes disturbances have already been approved by a previous application. Mr. Anderson stated that he would not be in favor of pushing the house further back to limit the front yard setback because of the environmental constraints. The proposed house is unable to move the house closer to the rear because that property is owned by the Cedar Lake Association. The applicant tried to buy the land but the association was not willing to sell it. Mr. Caputo showed exhibit A2 which is a copy of that letter discussing the potential property. All ordinances required to cover steep slopes and water runoff have been addressed on these plans. This applicant follows the C2 criteria and Denvilles Master Plan. The proposed house is similar to the surrounding houses. It prompts general welfare to eliminate a dilapidating house. A super silk fence is proposed around the house to collect any water runoff and filter all sediment. The town engineer would also come to look around the property to make sure everything is in place prior to construction. Mr. Anderson stated that comments made in Mott MacDonald’s report have been addressed on the plans. The only pending requirements are DEP and Morris Country Soil and Sediment control permits. Mr. Wiener stated a consolidation deed must be in place before there can be a final sign off.

Open to Board Professionals

Samantha Anello, PE- It was discussed that there would be a total of 24 trees removed from the property. It was clarified that it should be mentioned in the deed that all homeowners are responsible for the maintenance of the drywell.

Jason Kasler, PP- It was questioned and answered that not all of the attic is 8ft in height and it would not be a livable space. The driveway did not have a curve. Mr. Kasler questioned if the applicant would eliminate the deck to reduce the variances. It was discussed that there would be no outdoor space and
the deck would allow them to use that space. Mr. Kasler questioned if the applicant would reduce the master bedroom size, and Mr. Anderson stated that it would not eliminate any of the variances.

Open to Board Members

**Mbr. Fahrer**- Expressed concern for the steep slopes being requested. It was questioned and answered that the setbacks for the other houses on Rockaway Ave were not 19ft.

Mbr. Fisher- Questioned Ms. Anello if any other precautions could be made to protect water runoff. Ms. Anello stated that the applicant has proposed all the necessary requirements.

It was stated that there would be a net decrease in water runoff with this proposed construction.

**Mbr. Caravaglia**- There was further discussion about the surrounding houses in the area if they required variances. It was discussed to bring in an architect to revise the plans to see if variances could be eliminated while still making it a functional living space.

Break 9:07- 9:15

**Mbr. Wagner**- Questioned if the deck could be reduced and Mr. Anderson stated that it could be smaller.

Mr. Kasler stated the deck should be modified because currently right now it ends at a window.

**Chr. Napolitano**- It was discussed to have the proposed landing smaller.

Open to the public for questions

**Roger Thomas, Esq**- It was discussed that steep slope ordinances is to protect any water runoff. It was questioned and answered that the proposed width of the dwelling is double the other residences in the area. It was stated that 24 trees would be removed from the property and would minimize any additional water runoff. It was unknown what the heating source of the proposed dwelling would be and there is an existing sewer connection. If the sewer needs to be replaced the applicant would seek a road opening permit. Mr. Thomas questioned Ms. Anello that steep slopes is main concern for this application. Ms. Anello stated that for every application the applicant should take necessary precautions for steep slopes. There was discussed about a super silk fence and another fence to protect against steep slopes and water runoff.

The application was carried to Oct 16th without further notice.

**NEW BUSINESS**

Samantha Anello, PE- Salerno Duane Infiniti requested a final inspection and Ms. Anello stated the trash exposure was not done to what was requested by the board. The final site plan showed the existing trash exposure to be removed, build a masonry wall and a chain link fence. Ms. Anello stated Salerno instead built a wooden fence and left the existing trash exposure. The attorney for Salerno Duane requested that this would be a “field change” and receive the final inspection.

The board took a vote and this would not be a “field change”. If Salerno would like to leave the trash expose as is then they would have to come back to the board to get approval for a revised site plan. The other option is to go back to the original approved site plan.

A motion was made by Mbr. Hong, seconded by Mbr. Fisher and approved by all members able to vote.

**AYES**- Hong, Fisher, Kussoff, Caravaglia, Fahrer, Wagner, Napolitano

CLOSED SESSION
DTZB Vs. Outfront Media LLC

A motion to go into a closed session was made by Mbr. Hong, seconded by Mbr. Caravaglia

Minutes to be released after litigation is over.

A motion to come out of closed session was made by Mbr. Hong, seconded by Mbr. Fahrer.

OLD BUSINESS- NONE

Meeting adjourned at 10:05 PM

Minutes Approved: September 4, 2019  Melissa Unrath, Board Secretary.