

**ZONING BOARD OF ADJUSTMENT
MEETING MAY 16, 2012**

The caucus meeting began at 7:00 P.M. and the regular meeting began at 7:30 P.M.

Members present were:

Edwin Bergamo
Elaine Greenberg
John Cheli
George LoBiondo
Alan Angelo
Leroy Goldblatt
Jeffrey Francesconi
Robert Ortega

Member absent was: Edward Avena

Others Present were: Solicitor Frank DiDomenico, Secretary Yasmin Ricketts, Senior Planner Steven Hawk, Principal Engineer David Maillet, and Zoning Official Patrick Finley.

Mr. DiDomenico went over the revisions to the agenda for the night. The application for Danielle Gnatz is postponed at the request of the applicant for June 20, 2012 with new notice. The application for Spring Oak Assisted Living at Vineland, LLC, is also postponed to June 20, 2012 at the request of the applicant with new notice.

The Chairman entertained a motion to approve the minutes from the April 18, 2012 meeting.

Roll call:

Mr. LoBiondo: Yes
Mr. Francesconi: Yes
Ms. Greenberg: Yes
Mr. Cheli: Yes
Mr. Goldblatt: Yes
Mr. Angelo: Yes
Mr. Bergamo: Yes

The Chairman entertained a motion to approve the resolutions from the April 18, 2012 meeting.

Roll call:

Mr. LoBiondo: Yes
Mr. Francesconi: Yes
Ms. Greenberg: Yes

Mr. Cheli: Yes
Mr. Goldblatt: Yes
Mr. Angelo: Yes
Mr. Bergamo: Yes

Applicant- **Ruth Solano**, 2506 N. East Avenue, Block 909, Lot 16, Zone A-5. The applicant testified on her own behalf. She is requesting 30' side yard setback vs. 40' required for an attached garage. The garage will be for personal use only.

Chairman entertained a motion to close the public hearing.

Roll call:

Mr. LoBiondo: Yes
Mr. Francesconi: Yes
Ms. Greenberg: Yes
Mr. Cheli: Yes
Mr. Goldblatt: Yes
Mr. Angelo: Yes
Mr. Bergamo: Yes

Mr. Cheli made a motion to approve the application for 30' side yard setback.

Roll call:

Mr. LoBiondo: Yes
Mr. Francesconi: Yes
Ms. Greenberg: Yes
Mr. Cheli: Yes
Mr. Goldblatt: Yes
Mr. Angelo: Yes
Mr. Bergamo: Yes

Application was **granted**.

Applicant- **RER Reality, LLC**, 502 N. Delsea Drive, Block 2104, Lot 98, Zones B-3/R-2. Mr. Ortega sat in place for Mr. LoBiondo because of a conflict. The applicant was represented by A. Steven Fabietti, Esq., and they were seeking a "D" variance with preliminary and final major site plan approval to allow construction of an addition to a building of 4,053 square feet. It is a single story structure that will serve as a drop off facility, service write up, customer waiting, and restroom facilities. Additionally there are some sidewalks and lighting that will be added to the site as well. The property is on a split zone B-3 and R-2, so it triggers the variance. All of the construction is entirely located in the B-3 zone. Mr. Fabietti went over the Planner's report from May 9, 2012 that was provided. Item #2 describing the use of the addition, there will be service and customer waiting services as well. Item #4, the temporary sales trailer will be used during construction and will be removed at the completion of construction. Item #6, existing stone drive, they will be seeking a waiver for that and allow to continue. Item #7, they are seeking a waiver for parking space width and depth. Item #8 existing

impervious lot coverage 65% vs. 50% maximum allowed, they are seeking a variance for that. Item #9, they want to amend the application to increase the number of display spaces from 125 to 144. Item #10, there are no new fences proposed. Their building sign will be updated and some directional signs added. Item #11, they will address the storm water drainage.

Mr. Hawk explained that the applicant submitted the truck turning template after the initial submission. It has to be part of the perfected plan, and it can be made subject to the review of the Engineering Division.

Mr. Andrew Hogg, Professional Engineer, testified on behalf of the applicant. He explained that the expansion of the building is adjacent to the existing structure. It is not changing the existing truck pattern that is there today. The only improvement is well away from the main driveway. The proposed building of the site will have a drop off area indoors. There will be no grading change on the site.

Mr. Bergamo wanted to know if parking spaces had to be created elsewhere or if there was a surplus prior.

Mr. Fabietti explained that they are taking the number shown on the plan as submitted and designating more display purposes. There are some excess stalls that are for general employees. Nothing will impact the storm water drainage. Item #14, this property is serviced by public sewer and will show that on the perfected plan.

Mr. Hawk explained that the wetlands protection of the ordinance states that if you store or have certain materials on a site that you then have to have an environmental impact statement. They would be attesting that they do not meet those thresholds. Mr. Hogg explained that this addition also adds an improved measure of preventing possible hazardous materials by having it covered. He also wanted item #6 clarified. The plan should be changed to reflect existing stone landscaping area.

Mr. Fabietti explained that the Engineering Report dated May 7, 2012, there has been discussion regarding storm water management issues that exist in the vicinity of this property. The construction is not creating any new impervious coverage and nothing is going to impact the drainage. The notation on the plan indicated that there is a possible easement that the NJDOT has an underground pipe that leads out to an unimproved and in its natural state drain. The Engineering Department has asked the applicant to clarify the existence of that easement. In 1992, the NJDOT instituted condemnation proceedings documented in Cumberland County Superior Court, and they took this particular easement for drainage purposes off of Delsea Drive. They have portions of that paperwork that defines the easement area but no documents in the County Clerk's office that show up in a title report. They have gone back to the law firm that was involved in those proceedings to seek the information that is needed, and request an OPRA through the NJDOT. That also speaks to comment #5.

Mr. Hogg explained that customers will drive into the site through Delsea Drive, pass the first entrance, and turn into the second entrance drop off area. There are also providing

handicapped customer parking in front of new façade and show room. There will be no improvements to the access of Delsea Drive access proposed. In addition, six parking stalls are adjacent to the parking area. They decided to designate for new vehicle delivery for customers. That addresses comments 6, 7, and 8. Comments 10, there is no graving change.

Chairman entertained a motion to close the public hearing.

Roll call:

Mr. Ortega: Yes

Mr. Francesconi: Yes

Ms. Greenberg: Yes

Mr. Cheli: Yes

Mr. Goldblatt: Yes

Mr. Angelo: Yes

Mr. Bergamo: Yes

Mr. Angelo made a motion to approve the application.

Roll call:

Mr. Ortega: Yes

Mr. Francesconi: Yes

Ms. Greenberg: Yes

Mr. Cheli: Yes

Mr. Goldblatt: Yes

Mr. Angelo: Yes

Mr. Bergamo: Yes

Application was **granted**.

Applicant- **Fernanda Kaspar**, 2135 E. Landis Avenue, Block 4401, Lot 5, Zone R-4. The applicant testified on her own behalf. Her request was to maintain the main house, the four units attached to the annex, and they will be removing the bungalow.

Mr. DiDomenico wanted to know how many uses where in the main house.

Ms. Kaspar explained that there was one use, and four in the annex.

Ms. Kaspar explained that they were removing the bungalow. Three of the units are occupied, and the main house is unoccupied.

Mr. Bergamo wanted to know if the bungalow is occupied.

Ms. Kaspar stated that she was waiting on an eviction for the bungalow.

Nicholas Marino, Engineer, testified on behalf of the applicant. He explained that he went into the main house and the units. The four units will be in the annex and the main house. According to Mr. Finley's letter, the legal amount of pre-existing non – conforming configuration of the property is at five units. Currently there are seven units, so the intent is to reduce the number down to five. It is unclear why a variance is needed. They will be combining two units into one in the annex.

Mr. DiDomenico wanted to know if there was sufficient parking.

Mr. Marino stated that he has not analyzed it yet.

Mr. Bergamo wanted to know if there was an affirmation permitting five units.

Mr. Finley explained that code enforcement does yearly inspections on all of the rental units in the city. He made the determination of the number of units by the amount of registered and the main house. It was pieced together by previous applications and plans submitted that have been accepted by the city in the past. Zoning permits have been issued and Ms. Kaspar has been before the board in the past. Total units are the main house, three in the annex, and the bungalow.

Mr. Finley explained that the physical plan still has seven possible units. It has to be cleared up now, so that there are not any issues in the futures. It is not currently complaint. The annex could be five apartments right now, the main house, and the bungalow. Walls should be moved and units should be combined in the annex. They will be reduced by eliminating one in the annex, and one in the bungalow.

Mr. Bergamo wanted to know what would be compliant to not require an appearance before the board.

Mr. Finley explained that if Ms. Kaspar would have complied changing the annex to three units, and the main house. He also wants the board to clarify the number of legal units on the property. Ms. Kaspar explained in the past that the bungalow was in very bad shape.

Mr. Bergamo wanted to know what Ms. Kaspar's justification to allow the units that are proposed. The main house is a given. She has to give the board the amount of units that she wants. She cannot bargain on the amount of units.

Mr. Ortega explained that the application is before them with the possibility of seven units, and they have to decide what would make the property compliant.

Ms. Kaspar explained that she wanted to back before the board with legal representation.

Mr. DiDomenico explained that there are neighbors that have waited to be heard.

Ms. Kaspar wanted to know if she could submit letters from her neighbors.

Mr. DiDomenico explained that they could not accept letters because it was considered hearsay and they could not be questioned.

Mr. Francesconi wanted to know exactly how many units were being proposed.

Ms. Kaspar explained that she was proposing five units because she is demolishing the bungalow.

Mr. Frances Ruess, 2046 E. Landis Avenue, testified in opposition of the application. The application is unique and it was not pro development. The prior application was for a subdivision and use variance. The applicant then received a violation from the city. The applicant then filed an application before the board seeking a use variance, or a determination of a pre-existing non-conforming use as well as a subdivision. The application was continued for several months, and then it was dismissed. The city then followed up on enforcement and the applicant was given time to apply again before the board. Ms. Kaspar has not been able to prove her case to the board with proof.

Mr. Robert Odorizzi, 2076 E. Landis Avenue, testified in opposition of the application. He agrees with Mr. Ruess, and he too has pre-existing use on his property. He would not be able to do whatever he wanted. The original house was built in the 1940's with servant's quarters, maid's quarters, and nanny's quarters. There was also a doctor's office on the lower portion, and a suite above that that for Ms. Kaspar to live. To his knowledge, anything else that has been done was done illegally. He does not have any objections to family members living on the property. He does have a problem with the units being rented out. It is a deterrent to the neighborhood because of cops and noise.

Mr. John Kee testified on behalf of the applicant. He currently resided in the bungalow. The property has been the same since the 1960's. There are never any people in the front yard. There is over an acre of land, and everything is done in the rear.

Mr. Stephen Raun, 2117 E. Landis Avenue, testified on behalf of the applicant. He does not have any problems with the property, and it has always been quiet.

Fernanda Kee, resides on the property, testified on behalf of the applicant. She is Ms. Kaspar's daughter. The house was built in 1939, and the bungalow was there before the main house was built. The property is all connected with the exception of the bungalow. It is the main house, a terrace that has an office, and connected to a garage. The upper level was specifically built for her parents, and she was born in that apartment in 1957. In the lower level units, the front was there when it was originally built. A unit on the side of that was also used as a rental. There was a unit built in the garage. The apartment upstairs was two apartments. The units in the upper level can easily be combined, and made into one unit. She has lived in the upper level since 1979.

Mr. Bergamo explained that they are trying ascertain what is being requested. Ms. Kaspar is under the assumption that she can move the units around, and it does not work that way. The board needs clarification.

Ms. Kee explained that her mother is confused because she has been billed for four sewage units including the main house.

Mr. Bergamo explained that the board does not determine who resides on the property.

Joseph Kaspar, testified on behalf of the applicant. He explained that there are four sewer connections and a separate connection for the bungalow. They are requesting for the use of the main house, three in the annex, and to repair and keep the bungalow.

Mr. Finley explained that the number of bedrooms would also be determined.

Mr. Bergamo wanted to know if Ms. Kaspar still wanted a continuance to obtain legal counsel.

Ms. Kaspar explained that she wanted to finish the hearing.

Chairman entertained a motion to close the public hearing.

Roll call:

Mr. LoBiondo: Yes

Mr. Francesconi: Yes

Mr. Ortega: Yes

Mr. Cheli: Yes

Mr. Goldblatt: Yes

Mr. Angelo: Yes

Mr. Bergamo: Yes

Mr. LoBiondo made a motion to deny the application.

Roll call:

Mr. LoBiondo: Yes

Mr. Francesconi: No

Mr. Ortega: Yes

Mr. Cheli: Yes

Mr. Goldblatt: Yes

Mr. Angelo: No

Mr. Bergamo: No

Mr. Angelo made a motion to approve the application.

Roll call:

Mr. LoBiondo: No

Mr. Francesconi: Yes

Mr. Ortega: Yes

Mr. Cheli: Yes

Mr. Goldblatt: Yes

Mr. Angelo: Yes

Mr. Bergamo: Yes

Chair made a motion to adjourn.

Roll call:

Mr. LoBiondo: Yes

Mr. Francesconi: Yes

Mr. Ortega: Yes

Mr. Cheli: Yes

Mr. Ortega: Yes

Mr. Angelo: Yes

Mr. Bergamo: Yes

Meeting adjourned at 9:39 PM

Yasmin Ricketts, Secretary

Zoning Board of Adjustment