

Tuesday, June 13th, 2023

BRIELLE PLANNING BOARD
TUESDAY, JUNE 13th, 2023

The Regular Meeting of the Brielle Planning Board was held on Tuesday, June 13th, 2023 at 7:00 p.m., in the Brielle Borough Hall, 601 Union Lane. Ms. Trainor read the OPMA compliance statement. After a moment of silent prayer and a Salute to the Flag, roll call was taken:

Present – Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Jay Jones

Absent – Stephanie Frith, Charlie Tice, Amber Fernicola

Also present were Mr. David Clark, Board Attorney, Mr. Alan Hilla, Board Engineer and Ms. Denise Murphy, Recording Secretary. There were 3 people in the audience.

CORRESPONDENCE: Receipt of the March/April issue of the NJ Planner.

A motion was made to approve the Minutes of May 9th, 2023, this done by Councilman Frank Garruzzo, seconded by Chris Siano, all ayes, no nays.

OLD BUSINESS: Resolution of approval for Block 33.01, Lot 22, 518 Fisk Avenue, owned by Carly Burrus, Christopher Curry-Edwards & Cheri Curry, to allow an addition/alteration.

RESOLUTION OF APPROVAL OF THE BRIELLE BOROUGH PLANNING BOARD, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY WITH RESPECT TO THE APPLICATION OF CARLY BURRUS, CHRISTOPHER CURRY-EDWARDS, AND CHERI CURRY SEEKING VARIANCE RELIEF FOR THE CONSTRUCTION OF CERTAIN IMPROVEMENTS ON THE PROPERTY LOCATED AT 518 FISK AVENUE AND IDENTIFIED ON THE TAX MAP OF THE BOROUGH OF BRIELLE AS BLOCK 33.01, LOT 22

WHEREAS, Carly Burrus, Christopher Curry-Edwards, and Cheri Curry (collectively, the “Applicants”) filed an application with the Planning Board of the Borough of Brielle (the “Board”) seeking variance relief for certain improvements on the property owned by the Applicants located at 518 Fisk Avenue and identified on the tax map of the Borough of Brielle as Block 33.01, Lot 22 (the “Property”); and

WHEREAS, the Property is located within the Borough’s R-3 Residential Zone (the “R-3 Zone”); and

WHEREAS, the Property is currently developed with a one-story frame dwelling, a frame shed, and various other accessories; and

WHEREAS, the Applicants are seeking variance relief to (i) add a one-story addition to the rear of the existing dwelling, (ii) convert the front covered porches to living spaces, and (iii) add a front new entrance (as described more fully within the application, the “Project”); and

WHEREAS, the existing and proposed uses are conforming to the zone, but the existing lot, the existing structures, and the proposed improvements are not conforming to the zone; and

WHEREAS, the Property has the following pre-existing non-conformities:

- (a) Lot Size—11,250 square feet minimum required; 7,500 square feet existing;
- (b) Lot Width—75 feet minimum required; 50 feet existing;
- (c) Side Yard Setback (accessory shed)—5 feet minimum required; 3.3 feet existing;
- (d) Side Yard Setback (accessory mechanical equipment)—5 feet minimum required; 0 feet existing; and

WHEREAS, the Applicants are seeking the following variance relief through this application (the variances sought are highlighted in bold type below):

- (a) Side Yard Setback (principal structure)—10 feet minimum required; 3.1 feet existing; **3.1 feet proposed**;
- (b) Lot Coverage—20% maximum allowable; **22.7% proposed**; and

WHEREAS, the Applicants submitted the following documents in support of this application:

- (a) Survey of the Property prepared by Charles Surmonte, P.E., P.L.S. dated revised March 29, 2018;
- (b) Grading Plan prepared by Charles Surmonte, P.E., P.L.S. dated February 10, 2023;

(c) architectural drawings (3 sheets) prepared by Patrick M. Lesbriel, R.A. dated August 20, 2022;

(d) an application package submitted by the Applicants; and

(e) a Zoning Permit denial letter from the Zoning Officer dated October 10, 2022; and

WHEREAS, the Board was also provided with a letter dated April 3, 2023 prepared by the Board's Engineer and Planner Alan Hilla, P.E., P.P., C.M.E., of H2M Associates, Inc. providing a technical review of the application; and

WHEREAS, the Planning Board held a hearing on this application on May 9, 2023 and considered the following documents presented as exhibits at the hearing:

(a) Exhibit A-1 sheet A00.00-Coversheet prepared by Architect Enkela Malellari;

(b) Exhibit A-2 sheet A01.00-Floor Plans prepared by Architect Enkela Malellari;

(c) Exhibit A-3 sheet A02.00-Proposed Elevations prepared by Architect Enkela Malellari;

(d) Exhibit A-4 document A-Streetscapes prepared by Architect Enkela Malellari;

(e) Exhibit A-5 document B-Streetscapes prepared by Architect Enkela Malellari;

(f) Exhibit A-6 aerial exhibit of the Property also showing properties within 200 feet prepared by Planner Maeve Desmond;

(g) Exhibit A-7 overhead rendering prepared by Planner Maeve Desmond;

and

WHEREAS, the Board considered the following testimony presented at the hearing in connection with this application:

Attorney Mark Aikins of Mark R. Aikins LLC, Wall Township, stated he was representing the applicants. Mr. Aikins began by describing the home as an existing one-story bungalow style home that dates back to the mid 1930's. Mr. Aikins said that because the house is about 80 years old it has a limited and obsolete floor plan. Mr. Aikins asserted that the applicants were proposing

an addition to the rear of the structure to create a new kitchen, enclosing the existing right and left front porch area as part of a bedroom and a living room.

Architect Enkela Malellari was sworn in by Mr. Clark. Ms. Malellari stated she was a licensed architect in New Jersey and has testified before other Planning Boards. Ms. Malellari was accepted as an expert witness by the Board.

Ms. Malellari displayed document A00.00-Coversheet. This document was marked as Exhibit A-1. Ms. Malellari began by describing the existing plot plan, the current conditions of the property and the proposed changes. Ms. Malellari presented a document she called A01.00-Floor Plans which was marked as Exhibit A-2. Ms. Malellari referenced the exhibit and gave the Board a detailed explanation of how the inside of the house would look with the proposed changes. Ms. Malellari presented a document she called A02.00-Proposed Elevations which was marked as Exhibit A-3. Ms. Malellari stated the house would remain one-story and said that the height would not change. Ms. Malellari displayed document A-Streetscapes which was marked as Exhibit A-4. Ms. Malellari stated this Exhibit showed the front of the property and the two adjacent properties. Ms. Malellari displayed document B-Streetscapes which was marked as Exhibit A-5. Ms. Malellari stated that this Exhibit showed the scale of the property in relation to the adjacent properties. Mr. Aikins stated he had no further questions for Ms. Malellari.

Ms. Trainor announced it was time to hear questions from the Board for Ms. Malellari. Mr. Siano asked how the proposed vestibule would line up with the adjacent homes. Ms. Malellari replied that the new vestibule would be within the setback. Mr. Siano asked if there was any consideration to take the new addition and make the wall conforming so the applicants would not have to ask for as much relief with the 3-foot setback on the side yard. Ms. Malellari answered that they did try but it would have created more challenges. Ms. Brisben asked if a second floor was considered. Ms. Malellari responded that a second floor was not considered. Mayor Nicol, Councilman Garruzzo, Ms. Trainor, Ms. Frith, Mr. Tice and Ms. Fernicola did not have any questions. There were no questions from the public.

Planner Maeve Desmond was sworn in by Mr. Clark. Ms. Desmond stated she was a licensed Professional Planner in New Jersey, is employed at Insite Engineering and has testified before other Planning Boards. Ms. Desmond was accepted as an expert witness by the Board.

Ms. Desmond presented a document she described as an aerial exhibit of the property and also showed properties within 200 feet. This document was marked as Exhibit A-6. Ms. Desmond presented a second document she called an overhead rendering which was marked as Exhibit A-7.

Ms. Desmond referred to Exhibit A-6 and said they discovered a mix of older and newer homes and that many of those homes had multi-stories. Ms. Desmond stated that the proposed project was within scale and is compatible with the neighborhood. Ms. Desmond then described the variances being sought. Ms. Desmond indicated that the proposed variances did meet the C-1 and C-2 hardship criteria and then detailed the reasons to the Board. Ms. Desmond then referenced the Borough's 2016 Master Plan and the recommendations of impervious coverage limits and said that the project would have 35% impervious coverage, well below the recommendation in the Master Plan. Ms. Desmond stated that after balancing both negative and positive criteria, it was

her opinion that the benefits of the application substantially outweigh the detriments and because of this the variances should be approved.

Mr. Aikins referenced number 1 in Mr. Hilla's letter and asked Ms. Desmond if she would explain to the Board where the mechanical equipment would be placed. Ms. Desmond referred to Exhibit A-7 and showed the Board where the mechanicals would be located and added that the mechanicals would be relocated to a compliant location. Mr. Aikins referred to number 2 and said the property owner stated the accessory structure mentioned is an existing wooden platform and would be removed as a condition of approval if the Board were to require that. Mr. Aikins referenced number 3 and said that the applicant would agree to have the curb, sidewalk, and driveway apron repaired if necessary. Ms. Trainor asked Mr. Hilla if he had any questions or comments. Mr. Hilla replied that he did not and said that all of his concerns were addressed.

Ms. Trainor announced it was time to hear questions for Ms. Desmond from the Board. Ms. Brisben asked Mr. Hilla if moving the mechanical equipment to the rear of the property would require revised plans. Mr. Hilla stated that ultimately the Zoning Officer would receive plans with the equipment in a conforming location and also said this Board was not granting relief for that. Mr. Clark then stated it would be written in the Resolution that the applicant is moving the equipment to a compliant location and the Zoning Officer would see that. Ms. Brisben asked if the vegetation on the side would remain. The applicants responded that it was on the adjacent property. Mr. Aikins stated that the applicants would stipulate that if the vegetation were on the applicants' property it would not be removed. Mayor Nicol, Councilman Garruzzo, Ms. Trainor, Mr. Siano, Ms. Frith, Mr. Tice and Ms. Fernicola did not have any questions. There were no questions from the public.

Ms. Trainor announced it was time to hear comments from the Board in regard to the application. Mayor Nicol said he felt the applicants would enjoy a new kitchen and said it would be an improvement. Councilman Garruzzo stated he thought it would be an asset to the community and said he had no issues with the application. Mr. Siano stated that typically he prefers to see the pre-existing, non-conforming condition be corrected when doing an addition to meet the side yard requirement but said he understood there is a hardship and finished by saying he did not see any issues with the application. Ms. Frith stated she felt the application looked great. Ms. Brisben stated that she felt the galley kitchen definitely needs to be enlarged, had no issues with the application and said the main addition was going out the back which would not affect any of the neighbors. Mr. Tice stated he was in favor of the application and said he thought the design looked great. Ms. Fernicola said she was glad the applicants were keeping the house a ranch style and said she had no issues with the application. Ms. Trainor stated she thought the professionals' testimony was very thorough. Ms. Trainor also said she accepted Ms. Desmond's testimony with respect to meeting the C-1 and C-2 variances and as a result of the hardships she thought that the plans made good sense.

Ms. Trainor asked Mr. Clark if he could review the stipulations made regarding the application. Mr. Clark then listed for the Board the stipulations that the applicant had agreed to with respect to Mr. Hilla's letter.

Ms. Trainor asked for a motion to approve the application with the stipulations Mr. Clark

had listed.

WHEREAS, the Board after carefully considering the evidence presented by the Applicants at the hearing and of the adjoining property owners and general public, if any, makes the following factual findings and conclusions of law:

- a. The correct fees were paid, taxes are paid to date and the property owners within two hundred (200') feet, as well as the newspaper, were properly notified.
- b. The Applicants are the record owners of the Property.
- c. The Property is located within the Borough's R-3 residential zone.
- d. The Property is currently developed with a one-story frame dwelling, a frame shed, and various other accessories.
- e. The Applicants are seeking variance relief to (i) add a one-story addition to the rear of the existing dwelling, (ii) convert the front covered porches to living spaces, and (iii) add a front new entrance (as described more fully within the application, the "Project").
- f. The existing and proposed uses are conforming to the zone, but the existing lot, the existing structures, and the proposed improvements are not conforming to the zone.
- g. The Property has the following pre-existing non-conformities: (i) Lot Size—11,250 square feet minimum required; 7,500 square feet existing; (ii) Lot Width—75 feet minimum required; 50 feet existing; (iii) Side Yard Setback (accessory shed)—5 feet minimum required; 3.3 feet existing; and (iv) Side Yard Setback (accessory mechanical equipment)—5 feet minimum required; 0 feet existing.
- h. The Applicants are seeking the following variance relief through this application (the variances sought are highlighted in bold type below): (i) Side Yard Setback (principal structure)—10 feet minimum required; 3.1 feet existing; **3.1 feet proposed**; and (ii) Lot Coverage—20% maximum allowable; **22.7% proposed**.

- i. The Board recognizes that the Property is undersized and irregularly shaped because it is only 50 feet wide in a zone which has a 75-foot minimum lot width requirement and because it is only 7,500 square feet in size in a zone which has a 11,250 square feet minimum lot size requirement. These conditions present a hardship to the Applicants in the use and development of their Property.
- j. The Project proposed by the Applicants will reduce some of the existing non-conformities in the Property because the Applicants have agreed to relocate the accessory mechanical equipment from its current non-conforming location to a compliant location and have also agreed to remove the accessory structure identified within paragraph 2 of the technical review letter issued by H2M Associates (which the Applicants identified as being an existing wooden platform) in order to eliminate this non-conforming structure.
- k. The Board also recognizes that the Applicants have stipulated that they will repair and/or replace the curb, sidewalk, and driveway apron of the Property in a manner satisfactory to the Board Engineer, thereby improving the current fair to poor condition of these improvements.
- l. The Board also recognizes that one of the two variances requested by the Applicants through this application—the side yard setback variance—is for a pre-existing condition in that the house on the Property is already located 3.1 feet from the side boundary, and the variance being requested is because the house is being extended.
- m. The Board finds that by reason of the size, shape, and topography of the Property, it would be a hardship to the Applicants to comply with the requirements of the Borough Code, and that the Project proposed by the Applicants is consistent with other development in the neighborhood. Additionally, the Board finds that the benefits of the variance sought outweigh any detriments and that the deviations from the requirements of the Borough Code proposed through this Project do not cause any substantial detriment to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. For these reasons, the Applicants meet the conditions for variance relief under N.J.S.A. 40:55D-70(c)(1).
- n. Additionally, N.J.S.A. 40:55D-70(c)(2) allows a planning board to grant variance relief without a showing of undue hardship where the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and the benefits of such deviation would substantially outweigh any detriment and the variance will not substantially impair the intent of the zone plan and zoning ordinance;
- o. The Applicants herein have presented testimony demonstrating to the satisfaction of the Board that the purposes of the Municipal Land Use Law would be advanced by granting the variance relief requested by the Applicants

and that the deviations from the requirements of the Borough Code are consistent with other development in the neighborhood and do not cause any substantial detriment to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

- p. For these reasons, the Board also finds that the requirements for a N.J.S.A. 40:55D-70(c)(2) variance have also been satisfied by the Applicants as the purposes of the Borough Code and the Municipal Land Use Law would be advanced by this proposed development and the benefits of the variances sought outweigh any detriments.

WHEREAS, Chris Siano moved to approve the application; this motion was seconded by Stephanie Frith. At that time the application was approved by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Corinne Trainor, Chris Siano, Karen Brisben, Stephanie Frith, Charlie Tice, Amber Fernicola

Noes: None

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Brielle, that the application is hereby approved and granted subject to the following conditions:

- a. The Applicants shall remove the mechanical equipment from its current non-conforming location and install all necessary mechanical equipment in a conforming location on the Property. The Applicants must demonstrate completion of this work prior to obtaining a Certificate of Occupancy for the Project.
- b. The Applicants shall remove the accessory structure identified within paragraph 2 of the technical review letter issued by H2M Associates (which the Applicants identified as being an existing wooden platform) from its current non-conforming location. The Applicants must demonstrate completion of this work prior to obtaining a Certificate of Occupancy for the Project.
- c. The Applicants shall repair and/or replace the curb, sidewalk, and driveway apron of the Property in a manner satisfactory to the Board Engineer. All work performed by the Applicants shall be subject to inspection and approval by the Board Engineer, and the Applicants shall make any revisions to this work as directed by the Board Engineer. The Applicants must demonstrate completion of this work prior to obtaining a Certificate of Occupancy for the Project.
- d. The Applicants shall preserve the arborvitae along the boundary of the Property to the extent that it is within their Property.

- e. The Applicants shall pay all taxes and other applicable assessments, costs and fees to date, as applicable.
- f. The Applicants shall comply with all requirements and outside approvals as may be required from the Borough of Brielle or any other governmental authority not otherwise disposed of by this application.
- g. All representations made under oath by the Applicants or their agents shall be deemed conditions of this approval, and misrepresentations or actions by the Applicants contrary to the representations made before the Board shall be deemed a violation of this approval.

A motion to approve the above Resolution was made by Chris Siano, seconded by Karen Brisben and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, Corinne Trainor, Chris Siano, Karen Brisben

Noes: None

Absent: Stephanie Frith, Charlie Tice, Amber Fernicola

Not eligible to vote: James Stenson, Jay Jones

OTHER OLD BUSINESS: Corrective Resolution for the Centrella property minor Subdivision, 22 Crescent Drive.

Mr. Clark recapped that this Resolution was approved by the Board in January, 2023. Mr. Clark then explained to the Board that it had been revealed that the Lot numbers assigned in the original Resolution were not accurate and that the corrected Resolution reflect the right Lot numbers. Mr. Clark pointed out that only the members that voted on the original Resolution should vote on the corrected Resolution. Mr. Clark stated that all the rest of the terms and conditions would remain the same.

A motion to approve the above Resolution was made by Chris Siano, seconded by Karen Brisben and then by the following roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Jay Jones

Noes: None

Absent: Stephanie Frith, Charlie Tice, Amber Fernicola

Tuesday, June 13th, 2023

NEW BUSINESS: Application for variance relief for Block 62.02, Lot 10, 807 Schoolhouse Road, owned by Michael & Dawn Kurc, to allow construction of a front porch. Front Yard Setback – 40 feet minimum required, 37.1 feet existing, 31.9 feet proposed.

Mr. Michael Kurc and Ms. Dawn Kurc, 807 Schoolhouse Road, were sworn in by Mr. Clark. Mr. Kurc stated that he had come before the Board seeking approval to build a covered front porch. Mr. Kurc presented a one page document that showed the dimensions of his dwelling. Mr. Clark marked this document as Exhibit A-1, dated June 13th, 2023. This exhibit was prepared by Mr. Kurc who stated that he was a builder by trade. After a question was raised as to Mr. Kurc's preparation of the document, Mr. Clark confirmed that it is permissible for a homeowner to prepare documents that would provide information to the Board. Mr. Kurc described the details of the covered front porch and said that the proposed width was 19 feet, 2 inches and the depth was 8 feet. Mr. Kurc stated that he felt that the home has been in disarray for many years and the porch would look nice. Mr. Kurc stated that he had no other testimony to present to the Board.

Mr. Clark referenced Mr. Hilla's review letter and asked Mr. Kurc if he had any evidence to present to support front yard setback variance relief. Ms. Kurc answered that the grading in the back of the property was very steep and said the property tips back. Mr. Clark asked Mr. Kurc to address the wire fence at the rear of the property that Mr. Hilla referred to in his review letter. Mr. Kurc responded that the fence had been removed. Mr. Hilla stated he had no questions for the applicant.

Ms. Trainor announced it was time to hear questions for Mr. Kurc from the Board. Ms. Brisben referenced Exhibit A-1 and asked Mr. Kurc what was behind the "squiggly" lines and if he had considered lessening the front yard setback. Mr. Kurc replied that there are trees behind the lines on the Exhibit and explained that at the widest point the porch would be 8 feet but would narrow to 7 feet. There were no other questions from the Board members.

Ms. Trainor asked if there were any questions from the public for Mr. Kurc. Hearing none, Ms. Trainor announced it was time to hear comments from the Board. Mayor Nicol said he felt that the applicant should be allowed to build the porch. Councilman Garruzzo stated he did not have any issues with the application. Mr. Stenson said he felt the front porch would be an improvement and said he had no issues with the application. Mr. Jones stated he agreed with Mr. Stenson. Ms. Brisben asked Mr. Clark if it could be written in the Resolution that the porch must remain open. Mr. Clark answered that it could be added. Ms. Trainor stated that she appreciated the description of the steep pitch in the backyard and the uniqueness of the parcel and also appreciated the applicant's commitment to Brielle and the property.

Ms. Trainor asked if there were any comments from the public. Hearing none, Mr. Clark listed the stipulations that had been agreed to. Ms. Trainor then asked for a motion to approve the application with the stipulations Mr. Clark had listed. James Stenson made a motion, seconded by Chris Siano, and followed by the roll call vote:

Ayes: Mayor Thomas Nicol, Councilman Frank Garruzzo, James Stenson, Corinne Trainor, Chris Siano, Karen Brisben, Jay Jones

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Noes: None

Absent: Stephanie Frith, Charlie Tice, Amber Fernicola

OTHER BUSINESS: Report from Board Attorney on Environmental Committee Appointee.

Mr. Clark stated that his report might be more appropriately addressed in a closed session because it involves attorney-client research and advice to the Board. Mr. Clark said that also during the closed session, there would be an attorney hired by the Borough speaking about Affordable Housing.

Ms. Trainor asked if any Board members had an objection to going into closed session. Hearing no objections, Ms. Trainor announced that the Board would be going into a closed executive session. The reason the Board went into an executive session was to discuss issues requiring attorney-client advice and litigation. A motion to enter into Executive Session was made by Councilman Frank Garruzzo, followed by a roll call, all aye at 7:22 pm. Mr. Clark announced that the Board was out of closed session at 8:45 pm.

As there was no other business to come before the Board, a motion to adjourn was made by Councilman Frank Garruzzo, and seconded with unanimous vote, all aye. The meeting was adjourned at 8:48 p.m.

Denise Murphy, Recording Secretary

Approved: July 11th, 2023