

**CINNAMINSON TOWNSHIP
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
November 4, 2020**

TAKE NOTICE, that in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., as amended by A-3850, and in consideration of Executive Orders No. 103 and 107, issued by Governor Murphy on March 9 and 21, 2020 respectively, declaring a State of Emergency and a Public Health Emergency in the State of New Jersey, the TOWNSHIP OF CINNAMINSON does hereby notify the public that to protect the health, safety and welfare of our citizens while ensuring the continued functioning of government, the Cinnaminson Township Zoning Board of Adjustment meeting is scheduled for November 4, 2020 at 6:30 p.m. at 1621 Riverton Road, Cinnaminson, New Jersey will be held electronically using Zoom audio and visual technology. Formal action may be taken. Any interested party will be able to appear and fully participate at the hearing, in accordance with the rules of the Zoning Board of Adjustment, including providing comment and offering exhibits. For members of the public who wish to attend using Zoom video and audio features on the internet, visit <https://zoom.us>, click "Join A Meeting", enter the following Meeting ID: 923 868 6246, and enter the following Password: 203375. For members of the public who wish to attend using a telephone, call one of the following numbers: +1 929 205 6099 US, +1 312 626 6799 US, +1 253 215 8782 US, +1 301 715 8592 US, +1 346 248 7799 US, +1 669 900 6833 US, and enter the above listed Meeting ID and Password. It is recommended that any interested party desiring to offer exhibits, or view exhibits that have been submitted on behalf of the applicants, contact the Zoning Board secretary, Patricia Rucci, at 856-829-6000 ext. 2313, in advance for guidance.

PLEASE NOTE: Agenda is subject to change

Zoom Meeting ID: 923 868 6246

Password: 203375

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The Regular Zoom Meeting of the Zoning Board being held November 4, 2020 is scheduled for 6:30 p.m.

Adequate notice of this meeting has been provided in accordance with the Open Public Meetings Act by advertising this Regular Meeting in the Burlington County Times on January 19, 2020 and by advertising this Regular Meeting in the Courier Post on January 18, 2020 and by advertising this Regular Meeting in the Burlington County Times on October 25, 2020 and in the Courier Post on October 27, 2020.

This meeting is a judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the Board may legally consider in reaching a decision, and decorum appropriate to a judicial hearing must be maintained at all times.

ROLL CALL: Members Present – Chairman Bednarek, Mr. Conway, Mrs. Galosi, Mr. Hare, Mrs. McStravick, Mr. Trampe, Mr. Sell and Mr. Devlin.

Also Present: Mr. Strobel, Board Attorney and Patricia Rucci, Secretary.

MR. BEDNAREK: The Board’s policy is not to commence hearing a matter after 10:00 p.m., but instead to adjourn the matter to the next regularly scheduled meeting. Any matters still being heard at 10:00 p.m. may be completed that evening or may be adjourned to the next regularly scheduled meeting at the Board’s discretion.

MR. BEDNAREK: Case #20-11-2 – MJ Real Estate Investments II, LLC – Use Variance, 316 O’Donnell’s Lane, Block 3504, Lot 6.01.

MR. NIALL O’BRIEN: Attorney for MJ Real Estate Investments II, LLC. This is a Use Variance for the conversion of an existing small commercial building that is located on a .75 acre lot, to a two family residence. The property is owned by the applicant. The property is located at 316 O’Donnell Lane, Block 3504, Lot 6.01. The property is located in the R-3 Residential Zoning District. Use Variance approval is needed because a two family residence is not permitted in the R-3 Zoning District. The applicant also owns some additional property that surrounds this lot. The total is about 5.14 acres in size. Single Family homes are permitted in this Zone. The Applicant received Preliminary and Final Major Subdivision approval from the Planning Board for the overall parcel not just Lot 6.01. In 2014, received Final Major Subdivision Approval which permitted the subdivision of the property into Twelve lots. Eleven building lots all meeting the minimum lot size required in the zone and one storm water management basin lot close to O’Donnell Lane. The Final Major Subdivision approval granted by the Board expired on November 11, 2016. We appeared before the Planning Board at that time and were granted three one year extensions. It lasted until November of last year. The Applicant has been working with family members for an alternative use for this portion of the property for a two family dwelling.

MR. STROBEL: He swears in Mr. Merkle (Applicant) and Mr. Mancini (Planner).

MR. MERKLE:

Exhibit A-1 - The Aerial Photo – The parcel in question is outlined in red on the Aerial Map. Mr. Merkle described the Exhibit. The site is accessed by a 25-foot-wide easement directly tied into O’Donnell Lane. It can also be accessed through a 50-foot easement that exists from the back of the property to Fernwood Avenue. He controls those easements. A majority of the access is used through O’Donnell Lane, but Fernwood is used occasionally. The Building is 36 feet wide x 115 feet long. He purchased the property out of an Estate.

The following Exhibits were presented and described.

Exhibit A-2 - First Floor Plan

Exhibit A-3 - Second Floor Plan

Exhibit A-4 - Tax Map

Exhibit A-5 - Existing Photo of the Building

MR. MERKLE: He described the Exhibits. He stated that the front part would be occupied by his nephew, his wife and children and the back half would be occupied by his nephew's parents.

MR. O'BRIEN: An in-law suite.

MR. MERKLE: Yes. He described their plans for inside the home. They want to cut it into two separate living units.

MR. MANCINI: Planner for the Applicant. Also, he is an Engineer. The character of this neighborhood is generally residential. It is zoned R-3. The conversion to residential use is consistent in keeping with the residential zoning and with the character of the neighborhood. The re-use is a benefit to the community. Although two family residences are not permitted in R-3, the circumstances of this building and this site, are well suited for that use. 310 O'Donnell has up to four apartment uses within the confines of three buildings. So it is not inconsistent with other multi-family uses on O'Donnell Lane. Although it is a two family use, the size of the property can easily accommodate the slightly more intense use. It proposes Redevelopment of an under used property. We are redeveloping this property in a much more aesthetic pleasing way.

MR. O'BRIEN: And a useful use.

MR. MANCINI: Absolutely.

MR. O'BRIEN: In your opinion, the positive criteria are met because this property is particularly suited for this use.

MR. MANCINI: That is correct.

MR. O'BRIEN: He asked about the negative criteria.

MR. MANCINI: I found that the Board could grant the requested relief without any substantial detriment to the public good and without any substantial impairment of the intent and purpose of the Planning and Zoning Ordinance. The property could easily accommodate the proposed use. This use is more consistent with the other neighboring residential uses. It will be more consistent in appearance and character with the surrounding neighborhood once it is developed. The site will generate little, if any traffic or other impacts in excess of what persisted there under the commercial use. It can be implemented in complete compliance with the bulk and area standards for Single Family homes in the R-3 Zone. I believe we met the negative criteria as well and I am satisfied with the use variance to be granted.

MR. BEDNAREK: We are looking at a lot that meets all accommodations and all requirements for the property. It does not encroach on anything that is currently there. It is not out of the current footprint of the building except perhaps for a patio and not any raised structures. It is basically going to be a two family unit.

MR. O'BRIEN: That is correct.

MR. BEDNAREK: He asked about utility usage.

MR. MERKLE: It is going to be serviced like a single family house. The intention is to have one water service, same with the gas, same with the electric and run internally between the two units. I don't know if it will be one or two septic systems.

MR. BEDNAREK: This is a less intense use of this property, from what the original plan that was approved by the Planning Board.

MR. MERKLE: Yes.

MR. BEDNAREK: When this is a finished house, the cinder block will not be visible. It will look like a residential house not a commercial building or warehouse.

MR. MERKLE: Yes. He spoke about where him and his wife would build a home.

Mr. Hare and Mr. Merkle discussed the Aerial photo, setbacks and possible future plans for development.

MR. HARE: If they were to build in the lot in the front where there be sufficient setback from the existing building to the redline? Are we depending on that empty lot in front of the building to satisfy any type of front yard setback?

MR. MERKLE: The Ordinance requirement for the front yard setback is 30 feet. The shortest we have is 33 feet.

MR. MARSHALL: There is more than enough room there to cut (inaudible) along O'Donnell Lane. The Ordinance requires 11,250 square feet. Mr. Merkle, are you still going to eliminate the small Lot 7 and (inaudible) the house?

MR. MERKLE: There is a fair amount of expense to get from where we sit today to what we think will ultimately end up there. He spoke about his possible plans. If everything came together successfully, we would end up with three new houses fronting on O'Donnell Lane and then the Redevelopment of this building behind those houses. The only thing that would go out to O'Donnell Lane is the driveway.

MR. MARSHALL: The subdivision you received from the Planning Board would go away completely. There would not be any prospect of ever doing that again with this land be taken up in this fashion.

MR. MERKLE: No.

MR. O'BRIEN: In connection with this application and keeping this building and repurposing it, that 11 Lot Subdivision would no longer be possible because you could not simply achieve the previously proposed lot configuration.

MR. STROBEL: He swears in Barbara Jones.

MS. JONES: In the past, prior to Mr. Merkle purchasing the property, she had a severe flooding issue. She advised that the area behind her has been unkept up until four weeks ago. It was overgrown with brush and tree branches. She said the area is a disgrace. She asked about access to the two units. She is concerned about the change in topography. Her house has been dry.

MR. BRIEN: The existing driveway would be their access through the 25-foot easement. There is no change proposed to the topography on the site. No impact on drainage. He stated that having an occupant in the building is certainly likely to improve the condition of the site.

MR. MERKLE: The access is going to be through the 25-foot easement. The property is an eyesore. He pays someone to cut the grass.

MS. JONES: She spoke about the high water table. She is concerned about water.

Ms. Jones and the Applicant continued to discuss the proposed two-unit home.

MS. JONES: She asked about privacy fencing. Mr. Merkle didn't know about the fencing.

MS. JONES: She asked about the tall Pine Trees. Will the Pine Trees remain?

MR. MERKLE: We hope to clear out the vines and trim the trees.

MS. COLEMAN: She asked about the open water trench. She was concerned about the open water trench.

MR. O'BRIEN: He referred to the previous hearing where there was discussion related to a storm water basin. This is not proposed in connection with this application. It would be required for a subdivision in order to adequately handle the storm water runoff from the street and from the additional impervious coverage associated with dwellings. It is not proposed here.

MR. STROBEL: He swears in Marie Sprindis.

MS. SPRINDIS: She objects to the building being changed as a multi-family dwelling. She stated that this should be presented as a whole plan.

MR. BEDNAREK: Tonight we are considering Lot 6.01.

MS. SPRINDIS: She asked if the approvals from Twelve years ago were expired.

MR. O'BRIEN: Yes, they expired. The only thing that is proposed is what we are talking about tonight.

MS. SPRINDIS: If this plan for Lot 6.01 go through, does it make the other plan go mute?

MR. O'BRIEN: This makes it mute. Makes it impossible to proceed with the former plan.

Ms. Sprindis and Mr. O'Brien continued to talk about the zoning of the building.

MR. MERKLE: He advised Ms. Sprindis that the reason for two separate living units and two separate kitchens is for each family to get down time for themselves.

MS. SPRINDIS: She spoke about lot lines. She didn't know how the usage of the building could be changed without knowing where driveways, septic, water runoff is going to be.

MR. BEDNAREK: This is a use variance. When the Site Plans are prepared, as was testified to by the Applicant's Attorney, then those plans have to be reviewed to make sure they conform with the building codes. That is a separate issue.

MS. SPRINDIS: We are a single family community and want to remain that way. She spoke about the driveway.

MS. JONES: She asked if a Fire Wall would be between the houses?

MR. MERKLE: There would have to be fire rated walls and or ceilings that separate the two units.

MR. MARSHALL: The Building Code will require that with the garage. The answer is yes.

MS. JONES: She was concerned about water.

MR. HARE: He advised that the Applicant needs to come back to the Board for a Site Plan if it is not conforming.

MR. BEDNAREK: He closed the public portion of the meeting.

A MOTION IS MADE BY MR. HARE seconded by Mr. Trampe to approve the existing structure on Lot 6.01 for a two family duplex to fit in the existing confines of the existing structure. If there are any other issues with the footprint or driveways issues that do not meet the existing building codes and setbacks, they would come back here for additional approvals. Approval for a use variance for a duplex on the existing building on Lot 6.01 with standard conditions. Both units will operate under the same utilities, the same electric line, same water line and there will be no separate utilities. Residential materials to measure with homes rather than commercial structures, no bare cinder block walls. Two separate septic systems. The County has jurisdiction over the septic systems. ROLL CALL VOTE: AYE, Mr. Conway, Mr. Hare, Mr. Trampe, Mr. Sell and Mr. Bednarek, Nay, Mrs. Galosi and Mrs. McStravick, motion passes.

MR. BEDNAREK: Case #20-11-3 – Martin and Susan Rosica – Bulk Variance – 606 Overlook Road, Block 1203, Lot 1.

MR. STROBEL: He swears in Mr. Rosica.

MR. ROSICA: They are located at 606 Overlook Road.

MR. SELL: He recused himself from this Application.

MR. TRAMPE: He advised that he knows Mr. Rosica. He can make a decision fairly.

MR. ROSICA: Their existing structure is a masonry garage, a one car garage with an addition that is a smaller garage. They want to demolish this garage and put up a 2 ½ car garage in its place. We are looking to remove an existing structure and construct a new one.

MR. BEDNAREK: He referred to the Application. You have a 5-foot setback from Apple Lane where 75 feet is required. The size of the proposed building is 22' x 36' which does not exceed any size requirements for Cinnaminson Township. The Township has a 17-foot high height requirement and you have a 22-foot height.

MR. ROSICA: The 2 ½ car garage – He wants to put possibly a third car in there to work on it. He is looking for a larger first floor clearance inside the garage. He wants to put a golf simulator in. The other part is going to be a future fitness area. The loft is going to be storage.

Exhibit A-1 - Existing Structure

Exhibit A-2 - Rear of the existing Structure – to the right is Apple Lane.

Exhibit A-3 - Existing Structure - Photo taken from Apple Lane and looking northwest.

Exhibit A-4 - Survey Plan

Exhibit A-5 - Plot plan prepared by the Applicant's Architect showing new proposed structure.

MR. STROBEL: The footage from Overlook Drive to proposed garage is 25 feet.

MR. MARSHALL: Yes

MR. STROBEL: What is there now is 25 feet?

MR. ROSICA: That is correct.

MR. STROBEL: The setback from Apple Lane from the existing garage verses the proposed garage. What would be the change there?

MR. ROSICA: We are moving it 3 feet away from Apple Lane.

MR. STROBEL: You are proposing something that is more conforming than what is there currently.

MR. ROSICA: That is correct.

MR. MARSHALL: One back corner of the garage is 1.7 feet from Apple Lane and the other back corner is 2.09. This is proposed to be a 5-foot setback from the Apple Lane property line where it is currently 1.7 and 2.09.

MR. STROBEL: Corner to corner represents the existing setback from Apple Lane. The applicant's proposal would be 5 feet the entire length.

MR. MARSHALL: Correct.

Exhibit A-6 - Floor Plans – First Floor and Loft Plan.

MR. STROBEL: Is it an open Loft?

MR. ROSICA: Yes.

MR. MARSHALL: It appears that the Loft area is only over the actual garage bays.

MR. ROSICA: Correct.

Mr. STROBEL: He asked for testimony regarding the first floor powder room.

MR. ROSICA: I thought it would be convenient to have a powder room there.

MR. STROBEL: Is there anything that would make you want to do more with it in the future than what you are currently proposing?

MR. ROSICA: No.

MR. STROBEL: If Board wanted to add a condition to restrict usage or prevent any type of separate dwelling unit, would that be something that you would find satisfactory?

MR. ROSICA: Yes, I would.

Exhibit A-7 – Elevation Sketches.

MR. ROSICA: He described the addition. The materials will be concrete siding. No vinyl and no aluminum. The color will be gray with black trim. Something similar to their home.

MR. BEDNAREK: In the garage bays, there is no ceiling over the top of the garage where the loft is and where the windows are.

MR. ROSICA: Correct.

MR. BEDNAREK: He opened the public portion of the meeting. No one came forward.

MR. BEDNAREK: He closed the public portion of the meeting.

A MOTION IS MADE BY MRS. MCSTRAVICK seconded by Mrs. Galosi to remove the existing garage and install a 2 ½ car garage. Five feet from Apple Lane. The building materials to be consistent with the existing property. The bathroom will be a sink and toilet. 25 feet setback off of Overlook Road. The addition can never be living quarters. The addition is not to be used for living. All standard conditions. ROLL CALL VOTE: Mr. Conway, Mrs. Galosi, Mr. Hare, Mrs. McStravick, Mr. Trampe and Mr. Bednarek, no opposed.

MR. BEDNAREK: Case#20-11-4 – Thomas G. Sheker – Bulk Variance – 2302 Derby Drive, Block 3402.01, Lot 10.

MR. BEDNAREK: You are here to get a setback adjustment for a front porch you would like to build on your house.

MR. SHEKER: Correct.

MR. STROBEL: He swears in Mr. Sheker.

MR. SHEKER: He explains the Exhibits.

Exhibit A-1 – Survey Plan – Showing the proposed Front Porch.

Exhibit A-2 – Photograph of the Applicant’s Neighbor’s House.

Exhibit A-3 – Photograph of the Applicant’s Neighbor’s House.

MR. SHEKER: He advised that he wants to install a 36’ x 6’ porch in front of his house.

Exhibit A-4 – Photograph of The Applicant’s Property

MR. SHEKER: The porch will be 36 feet across. The porch will be a concrete slab, Azek columns and shingle roof. He was not going to install a railing.

MR. BEDNAREK: If you go up higher in grade, a railing is required.

MR. MARSHALL: Between 17 and 21 inches. Depending on the application. The Construction Officer will need to give you the answer.

MR. BEDNAREK: If railings are required, you are willing to have railings and meet the requirements.

MR. SHEKER: He would prefer the look without the railing. He would try to stay under the height restriction, but if we have to have it, we have to have it.

MR. BEDNAREK: We might make that a requirement. If railings are needed, they will be incorporated into the building.

Exhibit A-5 – Addition of Front Porch across the front of the house. Concrete slab, about 6 columns, most likely Azek, shingled roof.

MR. BEDNAREK: The roof is new with the plan.

MR. SHEKER: That is correct.

MR. BEDNAREK: He opened the public portion of the meeting. No one came forward.

MR. BEDNAREK: He closed the public portion of the meeting.

A MOTION IS MADE BY MRS. MCSTRAVICK seconded by Mrs. Galosi to approve the installation of a front porch. If railings are required, railings will be installed, a front yard setback of 37.5 feet where 40 feet is required. The porch will conform with the existing dwelling. ROLL CALL VOTE: Mr. Conway, Mrs. Galosi, Mr. Hare, Mrs. McStravick, Mr. Trampe, Mr. Sell and Mr. Bednarek, no opposed.

A MOTION IS MADE BY MRS. MCSTRAVICK seconded by Mrs. Galosi to approve the Resolution for Case #20-10-1 – David Kell – Bulk Variance – 602 Parry Blvd, Block 3003, Lot 2. Conditionally granting bulk variance to construct accessory building leaving three (3) foot side yard setback where fifteen (15) feet is minimum required. VOICE VOTE: ALL AYE, no opposed, motion passes.

A MOTION IS MADE BY MRS. MCSTRAVICK seconded by Mrs. Galosi to approve the Resolution for Case #20-10-2 – Israel Rodriguez and Gladys Ceballos Rodriguez – 824 Pear Avenue, Block 605, Lot 7.03. Conditionally granting bulk variance to install fence leaving a zero (0) foot front yard setback where fifteen (15) feet is the minimum required. VOICE VOTE: ALL AYE, no opposed, motion passes.

A MOTION IS MADE BY MRS. MCSTRAVICK seconded by Mrs. Galosi to approve the Resolution for Case 20-10-3 – Chris and Shannon Green – Bulk Variance – 2208 Conrow Road, Block 2808, Lot 19. Conditionally granting bulk variance to construct fence leaving ten (10) foot front yard setback where twenty (20) feet is minimum required. VOICE VOTE: ALL AYE, no opposed, motion passes.

A MOTION IS MADE BY MRS. MCSTRAVICK seconded by Mrs. Galosi to approve the vouchers for Richard Strobel noted on the Agenda. VOICE VOTE: ALL AYE, no opposed, motion passes.

A MOTION IS MADE BY MRS. MCSTRAVICK seconded by Mrs. Galosi to approve the Regular Meeting Minutes of September 2, 2020. VOICE VOTE: ALL AYE, no opposed, Abstain, Mr. Hare, motion passes.

A MOTION IS MADE BY MRS. MCSTRAVICK seconded by Mrs. Galosi to approve the Regular Meeting Minutes of October 7, 2020. VOICE VOTE: ALL AYE, no opposed, motion passes.

MR. BEDNAREK: He opened the public portion of the meeting. No one came forward.

MR. BEDNAREK: He closed the public portion of the meeting.

A MOTION IS MADE BY MRS. GALOSI seconded by Mrs. McStravick to adjourn the meeting. The meeting is adjourned. VOICE VOTE: ALL AYE, no opposed, motion passes.

Duly passed and adopted

Respectfully submitted,

Patricia Rucci