

April 22, 2015

A regular meeting of the Allendale Board of Adjustment was held in the Municipal Building on April 22, 2015. The meeting was called to order at 8:15PM by Ms. Tenghi who announced that the requirements of the Open Public Meetings Act were met by the required posting and notice to publications.

The following Board members answered to roll call: Mr. Jones, Mr. Redling, Ms. Hart, Ms. Chamberlain, Ms. Tenghi, Mr. Manning, and Ms. Weidner.

On a motion from Ms. Tenghi, seconded by Mr. Jones, the minutes from March 25, 2015 were approved. Mr. Redling abstained from voting as he was not present at that meeting.

There was some discussion on the Sim Resolution as Mr. Jones voted against approval and was mistakenly put down as voting yes. On a motion from Ms. Tenghi, seconded by Ms. Weidner, the Resolution of Memorialization for the Sim variance application was approved as amended. Mr. Jones voted against the Resolution. Mr. Redling abstained from voting.

On a motion from Mr. Jones, seconded by Ms. Chamberlain, the Resolution of Memorialization for the Allendale Veterinary Hospital sign variance was approved. Ms. Hart voted against the Resolution and Mr. Redling abstained from voting.

The first application on the agenda was for Ed Saxton. His use variance application was for the proposed Doggy Daycare located at 260 West Crescent Avenue, Block 1005, Lot 1. This application was carried from the March 25, 2015 meeting. Mr. Saxton was not present at that time so Ms. Tenghi said she would continue to the next item on the agenda and hear the Saxton application later in the meeting.

The second variance application on the agenda was for Frost located at 15 Hillside Avenue, Block 1604, Lot 18. Carlton Frost who is the homeowner and Kathy Benson who is the architect were sworn in to testify. Ms. Benson's address is 1156 East Ridgewood Avenue in Ridgewood. She received a Bachelor in Fine Arts in Architecture from the Rhode Island School of Design in 1980 and has New York State and New Jersey Licenses from around 1984. She is a member of the American Institute of Architects and does residential work in Bergen and Passaic counties. She also has done some work in New York. She has testified in front of Boards before in Bergen County including Ridgewood, Wyckoff, Waldwick, and others. This is her first time in front of this Board.

Mr. Frost said they bought the house two years ago and really like the house, neighbors, and Allendale. They are originally from Ridgewood where they lived for over thirty years and downsized when they moved to Allendale. The house is an old farm house and this winter whatever the weather was outside it felt the same inside. They have a three season porch on back of the house but they have found that it is very cold in the winter and very hot in the

summer. So they would like to enclose it and create a modern room that is properly insulated that would be more comfortable and energy efficient which lead to the designs that were in front of the Board.

Mr. Nestor marked the sheets dated 2-3-15 A-1 through A-3 as A-1 April 22, 2015. Ms. Benson suggested looking at sheet A-2 which had the first floor plan. They are making the room with the dotted lines bigger so they have room for more seating, a fireplace, and a television. They are also adding a mudroom as everyone enters through the back of the house. There will be a door separating the mudroom from the family room to keep the cold air out. Ms. Benson stated they are adding less than 200 square feet and the porch. They are in front of the Board due to the existing side yard setback. She changed the rear elevation as they moved the slider window when they moved the chimney. Ms. Benson said that they are using cultured stone for the chimney and they would like it to stick out so it looks like a real chimney. It will be a self-imposed wood burning fireplace. So they are asking for ten inches on that side which will be about six inches of wall. Ms. Benson said that it might be less than ten inches. The ten inches will come out on the deck and it is four foot ten on that side. That would be the maximum as they have not chosen the fireplace yet. Mr. Nestor wanted to know if the fireplace was sitting on the deck and Ms. Benson said that the deck will go around the fireplace. It will line up with the house. She said that the existing room is narrow and it has a lot of circulation going through it. Right now the room is more a hallway then a room and they are trying to make it more of a room. They are not coming out except for the fireplace.

Ms. Tengi said the area is heavily wooded and landscaped as she had been to the property. Ms. Benson said she thought it was reasonable what they were asking for as they are getting closer because of the mudroom on that side but they are not going any closer than where the house is currently located. Ms. Tengi stated that the applicant was before the Board because of the pre-existing nonconformity and Ms. Benson agreed. Mr. Manning said that he sees on the tax map ten feet on one side and fourteen feet on the other and what they are proposing is not going to infringe anymore on those side yard setbacks. Ms. Benson replied that except for the chimney they are not going any further. Mr. Nestor summarized by saying that they are going to bring the three season room out to run along the side of the structure with the exception of the chimney. The side yard was actually 10.2 feet on the right side where you need fifteen and on the other side they have fourteen where you need fifteen. Mr. Redling stated that is said 11.1 feet in the plans and Ms. Benson said it could go up to 11.1 feet as she added plus or minus one depending on what is decided. She said it would be 11.9 to 11.1 feet. Ms. Hart said the other side she had 13.7 and Ms. Benson agreed saying the contractors would have to keep it that way. Ms. Hart wanted to know if they were including the deck and she said that the steps would be considered going into the side yard.

Ms. Tengi opened the meeting to the public, but since no one approached, she closed the meeting to the public and brought it back to the Board. Ms. Tengi said the property is narrow and the pre-existing nonconformity is heavily surrounded with vegetation and growth. She felt it was a

minor variance request, would enhance the community, and that the addition would comply with the Zoning Ordinance. Ms. Benson said that the distance from the front porch to the side yard she could make the steps the same distance which would be about eleven feet and that the 13.7 feet would be to the deck itself. The distance from the side yard to the existing porch steps is about ten feet plus or minus. Mr. Jones asked if she had thought about placing the steps to the rear of the property as it is the narrowest part of the property. Ms. Benson said they are coming from the driveway which is why they placed the steps there. Mr. Jones asked if she could recess the steps in a bit and Ms. Benson said from the driveway to the bottom step she could give two feet to push the steps back from the existing driveway. So it would be plus or minus 12 feet or 11.6 feet to the steps. Ms. Hart said the new side yard setback would be 11.6 not 13.7. Mr. Nestor said that the deck on A-1 would be no less than two feet off the driveway back towards the deck. Ms. Benson said she didn't know the grade or where exactly the deck would be. Ms. Hart asked about the deck being 13.7 and Ms. Benson agreed and added that the steps will be two feet off the driveway.

Mr. Nestor asked about the height and Ms. Benson said that it would be plus or minus 15.6 because of the grade. It will be one story as it has to miss the second floor window. Mr. Nestor marked the two pages of the existing and proposed tax map as A-2 April 22, 2015 and the pictures that were dated 3-30-15 as A-3 April 22, 2015. Mr. Jones said that the narrowness and shape of the property is just less than fifty-five feet wide but 197 foot in depth. The property is located in the A Zone. The applicant has met the burden of proof to allow for the deviation of the Land Use Laws and the Allendale Town Ordinance. There are three pre-existing nonconforming variances asked for including front yard setback and minimum lot area and width. Mr. Jones said he appreciated that the applicant tried to stay within the side yard setbacks.

On a motion from Mr. Jones, seconded by Ms. Weidner, the Frost variance application was approved.

The next variance application was for Krause located at 42 Homewood Avenue, Block 2004, Lot 27. Tara and Joseph Krause were sworn in to testify. Mr. Krause said that two years ago they were before the Board to put on an addition after their house fire and tonight they are before the Board for an outdoor patio and exterior kitchen which is phase two of their project. They are looking forward to getting this started so they can not only entertain inside their home but outside too. Mr. Nestor asked if they had a copy of the prior Resolution and Mr. Krause provided him with a copy. Mr. Krause asked if the Code Official takes into consideration the Resolution from the past as they seemed to have failed on many of the things that they passed on the last time. Ms. Tengi responded that many of the things they failed on were pre-existing nonconforming and no matter what they do they would have to come back to the Board. Ms. Tengi opened the meeting to the public, but since no one approached, she closed the meeting to the public and brought the meeting back to the Board.

Mr. Redling asked if they were requiring a variance for anything that was part of the patio or was it all based on the property. Mr. Redling said that from what he was reading they were before the Board because of the minimum side yard setback, minimum lot area, and minimum rear yard setback. He asked if they were impacting the rear yard setback and it was decided that was an issue that the Board had to resolve. Mr. Redling also said that maximum floor area ratio would not be affected nor would the lot width. The impervious coverage is changing but is not in violation. Ms. Tengi said she was looking at the Resolution from May 22, 2013 and they were .3% over the floor area ratio. Mr. Manning asked if there would be a structure on the patio and Mrs. Krause said that they would have a built in grill. Mr. Nestor asked if the grill would be attached to the house and Mrs. Krause said no. Mrs. Krause said they are putting in pavers for the patio and their house backs Rohsler's Nursery.

The Board discussed why the application was in front of them since the denials were due to pre-existing nonconformities. They are not adding on to the home at all. Ms. Chamberlain said to her recollection patios were not considered a permanent structure and therefore would not need a variance. Mr. Nestor said a patio doesn't impact a rear yard setback and in this case the rear yard setback would be as it is right now. The Krause family is at existing thirty-four feet and they need fifty and that is not changing. Mr. Redling said the grill will be a permanent structure unlike wheeling a grill out and Mr. & Mrs. Krause agreed. Mr. Nestor said that it is not attached to the structure so it is not extending the structure. Mr. Manning said the pre-existing variances are more about the house than what was being proposed. Mr. Nestor added that having a grill doesn't impact the rear yard setback and that it is all about the pre-existing nonconforming setbacks. Ms. Chamberlain said that happened with her house in that she would need to go to the Board of Adjustment for a deck but not for a patio. Mr. Nestor said that he thought the Code Official sent them this application because it is not just the patio but a kitchen with a permanent structure. Mr. Nestor said he didn't think this would impact the rear yard setback at all. Mr. Jones suggested that the Board hear the application as the kitchen will have a foundation, gas, electric, and plumbing all going to the structure. He stated that this would be no different than a shed, or a utility building, or any other standing structure. Mr. Manning asked for clarification on what was being built. Mr. Krause replied that the kitchen will be built with three by three feet concrete block units so that it would not have a foundation. In essence it could be moved. Mrs. Krause added that they could put a façade around the structure and there would be a sink in the kitchen too. Mr. Jones argued that it was still a structure even though it could be moved as it is not like your typical grill that you could roll from one place to another.

Mr. Nestor marked the papers showing the diagrams and elevation as A-1 April 22, 2015; the photographs as A-2 and A-3 April 22, 2015; the new photographs as A-4 April 22, 2015; and the survey as A-5 April 22, 2015. Mr. Nestor asked if they were going out nine feet and Mr. Krause agreed. Mr. Nestor questioned how far the kitchen was going to be from the house and Mrs. Krause couldn't give an exact number as they are still trying to figure out the layout including where to place the table. Mr. Krause added the closest the new kitchen would be to the house

would be three feet. Ms. Hart said the setback to the porch in the back is thirty-four feet and it looks from the survey that the kitchen would not go further than the porch. So it would be thirty-four feet at least for the minimum which gives them a few more feet to use if needed. Mr. Redling asked if there would be electric, gas, water, and sewer out to the kitchen and Mr. Krause responded yes.

Mr. Nestor asked where the things would be placed according to the photos and Mrs. Krause said that the orange line is where the patio is going to be located and the white line is where the kitchen will be placed. Mr. Nestor clarified that according to the survey and the photo on A-2 the kitchen assembly will be no further out than the railed porch on back of the house and Mrs. Krause agreed.

Mr. Jones stated that he was looking at the Zoning Ordinance 270-32 section eight which identifies filters for a swimming pool. Mr. Jones felt it applied to the applicant and read from the code that the filter should be located below ground or in a shelter not to exceed eight feet in height and no closer than four feet from the property line. Therefore the applicant could place it anywhere according to the Code. Ms. Teng and Ms. Chamberlain disagreed because they believed a pool filter was different from an outdoor kitchen. Mr. Jones argued that it is a structure that has gas and electric in it. Ms. Teng said she appreciated his interesting analogy. Mr. Jones continued with the fact that if the applicant could meet the burden of proof they could put the cook top anywhere. Mr. Nestor challenged that idea as according to that philosophy the applicant could go all the way to the back of their property and Mr. Jones added until they reach the impervious limit. Mr. Redling commented that a filter is noisier than a barbecue area. Mr. Nestor said he understood the point but he felt a pool filter versus a kitchen stove four feet off the property line was a big difference. Mr. Jones stated the heat that comes out of a pool filter is the same as the heat coming out of a barbecue and that the Code shows something already that has gas and electric. Mr. Nestor declared that you don't have twenty people around a pool filter. Mr. Redling wanted to know how close a patio can get to a side yard setback and Mr. Jones said as long as you don't go over the impervious coverage they could go as far back as they wanted. Ms. Teng said she liked his creative thinking but she thought that many members of the Board did not feel it was a big deal for this application. Ms. Hart said she just felt the Board was having a discussion about the subject and suggested looking into the matter more as a Board and as a Town as outdoor cooking areas are becoming more popular.

Mr. Jones suggested placing the grill further away from the house so no smoke entered the home. He didn't feel the Board should say it should be three feet from the house as it could be against the fire code to be so close. Mr. Manning asked if they proposed to have the stove so close to the back of the house and Ms. Krause pointed to the diagram and said that it is three or four feet away from the corner and at the end of the structure. Mr. Nestor said the Resolution will say that it has to meet all fire codes and that it can't be placed any further than the outline of the patio area or twenty feet from the side line. Ms. Hart and Ms. Chamberlain didn't feel the applicant needed a variance but Mr. Manning mentioned that the Code Official denied the application and

in order not to waste everyone's time the Board might as well make a decision on it. Mr. Nestor did not think it was clear enough to say that the applicant didn't need a variance. If it was just a patio it would be one thing but it has a structure close to the home. Mr. Nestor agreed with Mr. Manning that if the Board didn't make a decision about the application that evening it would be sent back to the Code Official and back to the Board which would delay everything for the applicant.

Mr. Jones stated that based on the applicant's application, photographs, documents, and testimony, the Code Official denied their application for an outdoor cooking area and patio twenty feet from the property lines in the rear yard. There are variances currently for minimum side yard setback, minimum lot area, minimum rear yard setback at thirty-four feet, minimum lot width, and maximum floor area ratio. He moved to approve the outdoor kitchen and patio area with stipulations about the twenty feet from the sides. He also suggested that the Town define rear cooking areas more clearly for the future. He suggested that they could use 270-32 for the pool filter as a reference for twenty feet on either side. Ms. Hart added that they are currently at 14.9 feet because of the enhanced side yard setback and they should be at 17.93 for the cooking area and twenty feet off the back as long as they don't go over the impervious area. Ms. Tengi was in favor of the application but not under the theory that an outdoor kitchen area and pool filter should be compared.

On a motion from Mr. Jones, seconded by Ms. Hart, the Krause variance application was approved.

Ms. Tengi called Ed Saxton from the proposed Doggy Daycare to present his application but no one approached. She will carry the application to the May 27, 2015 meeting. If he does not show for that meeting, he will have to resubmit his application.

On a motion from Ms. Weidner, seconded by Ms. Tengi, the meeting was adjourned at 9:25PM.

Respectfully submitted,

Diane Knispel