

**ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
April 18, 2022**

**CALL TO
ORDER**

The Regular meeting shall be called to order at 7:03 p.m.
1 City Hall Plaza
Rahway, NJ 07065

FLAG SALUTE

The Board will then salute the flag.

ROLL CALL

On a call of the roll, the following Board Members and Officials should be present:

BOARD

Ms. Joann Gemenden, Commissioner
Mr. Brandon Givens, Commissioner
Ms. Jelsie Basso, Commissioner
Mr. Adrian Zapotocky, Commissioner
Mr. James Heim, Commissioner
Ms. Robert Parson, 1st Alternate Commissioner
Mr. Richard Zdan, 2nd Alternate Commissioner
Mr. William Tomkiewicz, 3rd Alternate Commissioner
Mr. Roy, L. Smith, 4th Alternate Commissioner
Mr. James E. Pellettiere, Commissioner Vice Chairman
Mr. William Hering, Commissioner Chairman
Mr. Malcolm Thorpe, Esq, Board Attorney
Ms. Jacqueline Dirmann, Board Engineer
Mr. Kevin O'Brien, Board Planner
Mr. Steven Decker, Acting Board Secretary

Absent from this meeting were Commissioners Givens, Basso, Tomkiewicz, Pellettiere

SWEARING IN:

- Mr. Richard Zdan
- Mr. Robert A. Parson

REGULAR MEETING:

The board professionals, Engineer Jacqueline Dirmann and Planner Kevin O'Brien were sworn in.

Chairman Hering opened the meeting at 7:03 pm with the regulations and reading of the agenda into the record. The following action took place.

Applicants to be heard:

Manhattan Elite Property Group
Iva Street (Vacant Lot)
Application #14/21
Block 284 Lot 19
Applicant is requesting a Bulk "C" Variance

1204 New Brunswick Trust
1204 New Brunswick Ave.
Application #6/22
Block 309 Lot 21
Applicant is requesting a Minor Subdivision with Use "D" Variance and Bulk "C" Variance

1204 New Brunswick Trust, application #6/22 was carried at the request of the applicant until the May 16th meeting. No further notice will be required.

No members of the public were present to start the meeting.

Mr. Christopher Kozlowski, the attorney for the applicant #14/21 Iva Street began by giving a summary of the application.

This property was formerly 197 Iva Street. It has been vacant since 1975. The lot is undersized like much of the neighborhood. The applicant is proposing a single family modular home. Attorney Kozlowski believes it is most efficient use of the property.

Mr. Wayne Ingram was sworn in as a board expert. Mr. Ingram resides at 140 West Main Street Highbridge, NJ. He is a Licensed engineer, planner, and surveyor. Mr. Ingram has appeared before 75 boards and Rahway in the past. He is accepted as an expert.

The home will be 3 stories with a 2 car garage underneath on the first floor. The home is functional in width. There is a drywell in the back to mitigate stormwater management. The applicant tried to design something that fit as close as possible to the setbacks. However they are seeking 4 variances.

Lot width- 25 ft where the required minimum is 50 ft.

Lot size- 2500 square ft where 5000 square ft allowed

Side yard setback is 10.1 ft where 12 ft is needed

The house will be 3 stories, and 2.5 is permitted

The applicant believes a C1 hardship applies. They could not obtain any other land in the area to increase the lot size. The lot would still be too narrow.

The 3 story design was not done for more living space, but because the garage is underneath. There was no other spot for a garage. The applicant is trying to create a uniformed frontage. They are also trying to create parking in order to avoid adding street parking in the area. There are no exterior sheds or patios being proposed. All storage will be in the inside garage area.

Mr. Ingram believes a C2 argument could also be used. There are many non-conformities in the area. Many of the lots are undersized and are placed in the set backs.

The structure will not exceed impervious coverage or the building structure envelope.

Mr. Ingram believes putting a use to the property and maintaining this vacant lot will benefit the neighborhood and street. With the garage they will not need to use street parking. There won't be any impact to parking.

Mr. Ingram addressed the review letters by the professionals. He and the applicant agree with all comments and will comply with all of them.

The meeting was opened up to questions from the commissioners.

Commissioner Parson asked if the parking underneath is for 2 cars. Mr. Ingram responded that the garage will fit one car, and the driveway will fit one car. The backside of the garage is basically basement space, it is above grade and just to be used for storage space.

Commissioner Parson would like to know what type of floors they will use and the depth of the garage.

Commissioner Zapatocky commented that he noticed there are very few windows especially on the sides.

Mr. Ingram explained that they need the walls as part of the rooms for space. They have stairs, cabinets, and a bathroom on the side.

Commissioner Gemenden asked what the size of the previous home at this location was?

The experts and applicants do not know the dimensions of the previous house.

Mr. Ingram commented that all the backyards from neighbors are very close to the side. The neighbor's garage and tree are on the property line, but not on the property.

Commissioner Gemenden is concerned about the height. Mr. Ingram responded that the height ordinance is 35 ft and 2.5 stories, but the proposed home will be 3 stories and under 35 ft. It won't be higher than the height limit. Mr. Ingram does not believe that it will be out of character height wise in the neighborhood.

Board Engineer Dirmann noted from the engineering letter, item number 3 regarding the maintenance of the lawn on the side area. She wants to know where the homeowner store lawn equipment. Mr. Ingram stated the owners will keep any lawn equipment in the home. The garage has an area for storage.

Commissioner Gemenden asked if there is a door in the back. Mr. Ingram responded there is a door, and a small egress deck in the back of the house.

Item #5 from the letter was addressed next, asking if there are any fences or patios proposed. The applicants stated not at current time, only that they may get a fence eventually. There is a partial fence in the back, but it is currently shared with the neighbor.

The proposed house will use the roof leaders and are not proposing a trench any longer like the original plans. They will put overflows at the house, so any backups would flow out the front of the driveway and to the street.

Board Engineer Dirmann said it looks like an 8 ft depth on the drywell. She asked if they will hit ground water to 10 feet.

Mr. Ingram responded that if this is the case they will remove a wrung if they hit ground water. It was then questioned if they considered about putting the dry well in the front? Mr. Ingram said the only possible space in the front for a drywell is underneath the driveway. There will not be enough space for it in the front.

Ms. Dirmann agreed.

Board Planner Kevin O'Brien wanted to know if the hardships discussed are actually being created by the applicant.

Mr. Ingram believes that a hardship exists because of the size of the lot. Anyone at this lot would have a hardship since they can't acquire more space.

Mr. Ingram stated that the C2 variances are because they think it is a better planning alternative.

The justifications for a C2 from the MLUL were discussed. Ensuring the new development of vacant or unused lot is keeping with the character in the neighborhood. Mr. Ingram believe that this house fits with the neighborhood and is cohesive. They are maintaining the 4 ft side yards and the variance is only for stories not the height.

Mr. O'Brien asked to describe the character of the neighborhood. And what are the heights.

Mr. Ingram responded that there is a lot of variety. The street has ranches, two stories, 1 family, and 2 family houses. There is no set height or look of the houses in the area. Every aspect they are looking matches some of

the houses in the area. They would be happy to consider other architectural characteristics if the board would like.

Mr. O'Brien, asked if other homes in the neighborhood are 35 ft. Mr. Ingram believes there are a few that are close to 35ft tall.

Mr. O'Brien then questioned that if there are other 25 ft lots in the area, how many are there?

Mr. Ingram looked at the tax map, and stated he sees 5 other lots that are 25 feet in width. He believes the other houses in the 25 ft lots are 28-30 ft high. However, they are not three stories high.

Mr. O'Brien, asked if any architectural measures have been taken from nearby homes to help match or fit the other homes in the area. The plans show the house to be 33 ft. high.

Mr. Ingram presented sheet 3-A from the architectural to illustrate the issue with windows on the side. There is a bathroom and staircases on the side. The bedroom has a window in the rear. It didn't lend itself to having a window on the wall.

Mr. O'Brien asked what prevents the window on the staircase. Mr. Ingram said you could put one, but it would need to be small.

If there were windows put on the side of the home, they will be very close to neighbor's windows and house. There are windows about 11 ft away from one neighbor's house. And on the other side the window would be 30 ft from the back of the home. The applicants said they will comply with adding a window if asked.

The applicant was asked what their intentions are with the trees near the property line. There are six large trees on the property. They are proposing to remove all the trees. One of the trees is on the neighbor's property, but they would attempt to remove that tree as well with the neighbors permission.

Will they be adding trees? The only location feasible for a new tree is the northwest corner in the rear. The other spaces have utilities and dry well.

The proposed house will also have a motion light over the garage. This light will face downward to avoid shining on neighbor's house.

Mr. O'Brien sees no delineation in the garage area. He said it appears you could park 3 vehicles underneath. Mr. Ingram stated they will still have 5 feet on the sides as storage.

Commissioner Zdan commented there are not a lot of properties on the street that do not have driveways. He would like to know how they are parking their cars. Mr. Ingram showed the houses on Thorn Street have garages in the back. He stated on Iva Street they do not have driveways or garages. To satisfy the parking, the neighbors are parking on the street. A 25ft lot only has space for parking 1 car in front of their own house. They are adding the garage to avoid having to go for a parking variance and taking away more spots on the street.

Commissioner Zdan referred to the drawing on page 5 of signature buildings plan that shows the front of proposed structure. He asked how the front is going to look with garage door and stairs 9 ft, and the first floor floating 9 ft.

Mr. Ingram agreed that no other houses have this feature in the neighborhood. He reminded the board that if the garage was 2 more ft lower it would not be considered a basement and not a floor.

Commissioner Parson asked if drywell can be moved to the front, or if it was already started in the back.

Mr. Ingram stated that the only space available not within the setbacks wouldn't be large enough for the well.

Commissioner Parson asked how deep the drywell will be. Mr. Ingram said it will be 6-8 ft deep.

Commissioner Parson asked about the neighbor's tree. Would the applicant ask the neighbor to remove it.

Mr. Ingram said it would be removed at the applicant's expense.

Commissioner Zdan asked that if a dividing wall were to be installed in the back of the garage, could this area be made into an apartment. It would have its own entrance, and access to plumbing. Is there a way to avoid having an apartment made in that space in the future?

Mr. Ingram says that it is an enforcement issue. The city could put a deed restriction on it to help prevent it.

Commissioner Parson asked about the possibility of a wall be put in place to block it from becoming a living space.

The applicant said they are not opposed to putting a wall up to divide the space and not make it as large of an area where someone could live. Mr. Ingram stated that there would still need to be access to the door in the rear.

Board Engineer Dirmann asked if the first floor could be a livable space with a bathroom.

Mr. Ingram stated the mechanicals will be in the space. If there is another wall, there will be limited space to make it into a living area.

The applicant's attorney Mr. Kozlowski called Mr. Anjum Malik as the applicant who is a representative of Manhattan Elite Property Group. He was sworn in. Mr. Malik's address is 51 Clifton Place Port Jefferson Station, NY 11776.

Mr. Kozlowski asked what his affiliation to Manhattan Elite Property Group is. Mr. Malik is the president. The group does acquisitions and developments. This is only the 2nd property developed.

He has developed other properties on his own.

The applicant is using Signature homes for the modular. They are local have offices in New Jersey.

Mr. Malik was asked why they are using the modular? He stated has experience with modular companies and it made the most sense for the property.

The applicant used to do bank inspections on modular homes for the bank, so he is familiar. He believes it is more efficient building.

The applicant is not sure if they will rent or sell the property. Possibly will sell it to a family member.

Commissioner Zapotocky asked what prompted him to chose this piece of land.

Mr. Malik said he looks for land and property below market value. He had done this with his prior work.

Commissioner Zapotocky asked if he would sell or rent. The applicant is not sure yet.

Commissioner Heim asked what the cost per sq ft- \$250,000 with land and building \$95 per square foot.

Commissioner Parson asked if Mr. Malik was affiliated with a different company prior to this one. The answer was yes, Tristate Mechanical Systems Inc. who performed mechanical engineering and contracting. How many prior sales or developments has Mr. Malik done. He stated he had purchased land in Long Island and New Jersey. Roughly 5 to 8 pieces of land, and 8 or 9 homes.

The modular company is New York based, but has office in NJ.

Commissioner Parson asked where the house will be constructed. It will be built in Pennsylvania and take 3-6 months.

Mr. Malik has never used Signature Homes, but them, but has worked with them during his inspections. They have constructed many homes in New Jersey.

Commissioner Parson asked if they can use smaller windows instead of larger ones to fit in stairwells and possibly bathroom. The applicant will ask if it's possible without compromising the structure or privacy.

Commissioner Gemenden asked if they would they be willing to install a fence. Mr. Malik answered absolutely they will install a fence.

Commissioner Parson wants to know if there is a way to make the garage door look like the other levels. Is it possible to make it fit aesthetically.

Mr. Malik thinks you can put boarders or siding on the door to make it look more like the rest of the house. They can also put windows in the garage door to break it up.

It would be nice to fit more in the neighborhood.

The floor was opened to the public:

There was no comment from the public

Mr. Kozlowski addressed the board with closing remarks. They believe they have met C1 hardship requirements. There is a hardship due to narrowness and shape of the property. They believe they have also met the negative criteria. There are other substandard lots on the street, that are closer to the setbacks. The applicant's design is actually trying to help with the parking issues.

Commissioner O'Brien stated that he would like to see the applicant add a tree to the rear of the house and the applicant agreed.

Commissioner Zdan does not see issue with the development of the property, but is concerned about the 3 stories, and is not satisfied with it being addressed.

Commissioner Gemenden did want to note that there is nothing uniform on the block.

Commissioner Gemenden motioned to grant the bulk "C" variance for Iva Street with the assurance that there are downward facing lighting, a fence on the back property line, a tree in the Northwest back area, and some aesthetics added to the front garage door.

Attorney Thorpe asked for aesthetics of the garage door. He said there is a need for a little more detail. The applicant will work with city planner and engineer to design it.

The board would like to see the door prior to approval.

Commissioner Zapatocky addressed the applicant, that he is concerned about the aesthetic appeal of the front of the house. He believes it looks like a skinny box.

Board Engineer Dirmann suggested submitting a colored architectural that shows what the front of the building will look like.

Commissioner Gemenden suggested having the Board Engineer and Planner have final approval on the look and aesthetics.

Chairman Hering stated that Board Engineer Dirmann and Board Planner Kevin O'Brien would have to approve it.

Mr. Kozlowski would not like to have to re appear before the boards with the plans if possible.

Chairman Hering is going to have a vote and leave it up to the professionals to approve.

Motion: Commissioner Gemenden Second: Commissioner Zapatocky

Yes: Commissioners Gemenden, Zapotocky, Heim, Smith, and Hering

No: Commissioners Parson and Zdan

Abstain:

Absent: Commissioners Givens, Basso, Tomkiewicz, Pellettiere

The motion had been approved.

The Planning Board will look at submittals to approve the look of the property.

The applicant has accepted the conditions of the motion.

The plans will have to be submitted 10 days prior to the memorialization of the resolution.

The client asked to move the adoption of the resolution to the June meeting. Based on this request the deadline for adoption will now be extended to June 21st.

The new plans will have to be submitted to the board by June 10th.

The Board was briefed with an update of current Planning Board applications.

MINUTES: Any necessary changes to the Zoning Board of Adjustment meeting minutes of January 24, 2022 shall be made and approved by action of the Commissioners

Motion: Commissioner Zapotocky Second: Commissioner Gemenden

Yes: Commissioners Gemenden, Zapotocky, Smith, and Hering

No: none

Abstain: Commissioners Heim, Zdan and Parson

Absent: Commissioners Givens, Basso, Tomkiewicz, Pellettiere

January 24, 2022 minutes were approved.

A motion was made to adjourn the meeting.

Motion: Commissioner Zdan Second: Commissioner Gemenden

Yes: Commissioners Gemenden, Zapotocky, Heim, Parson, Zdan, Smith, and Hering

No: none

Abstain: none

Absent: Commissioners Givens, Basso, Tomkiewicz, Pellettiere

ADJOURN: There being no further business; the meeting was adjourned at 8:55pm.