

February 9, 2023

Township of Randolph
Randolph, NJ 07869
February 9, 2023

A regular meeting of the Randolph Township Board of Adjustment was called to order at 7:30 PM by Chairman Sesko. Adequate notice of the meeting was given to the official newspaper and an agenda was posted on the Township bulletin board.

ROLL CALL:

Present: Comrs. Asbaty, Bell, Norman, O'Neill, Stracco, Alts. Tatch, Fiscella, Vice Chairman Dunn, Chairman Sesko, Darren Carney, Assistant Manager/Planning and Zoning Administrator, Thomas Molica, Covering Board of Adjustment Attorney

Absent:

ACTION ON MINUTES OF:

PUBLIC COMMENTS: None heard.

MEMBERS COMMENTS: Chairman Sesko welcomed Gina Fiscella to the Board.

Chairman Sesko discussed the memo from Darren Carney about the recommendation to the council.

Mr. Carney noted that Mr. Schneider will prepare a resolution to go along with the recommendation. The resolution will be at a future meeting.

Chairman Sesko noted that there was a correspondence from the mayor to council chairman it suggested how to increase the information to the residents. It talks about how to get information to the residents. Mr. Sesko asked what the information should be shared from the BOA in highlight communications to the town residents.

Mr. Carney noted that this Board handles decisions and that this memo was not geared to the BOA.

CORRESPONDENCE: Annual Report Draft - The Board discussed the Annual Report and the resolution will be on at the next meeting.

RESOLUTION:

DATE CREATED: February 3, 2023

REVISED:

**TOWNSHIP OF RANDOLPH
BOARD OF ADJUSTMENT**

**RESOLUTION MEMORIALIZING THE DENIAL OF THE
APPLICANT'S REQUEST FOR AN INTERPRETATION/SPECIAL
QUESTION PURSUANT TO N.J.S.A 40:55D-70b BUT GRANTING**

**VARIANCE RELIEF PURSUANT TO N.J.S.A 40:55D-70c
RELATING TO PROPERTY LOCATED AT 13 MOUNTAINSIDE
DRIVE AND DESIGNATED AS BLOCK 142, LOT 13 ON THE
OFFICIAL TAX MAPS OF THE TOWNSHIP OF RANDOLPH**

NAME OF APPLICANT: Thomas Veman

LOCATION OF PROPERTY: *13 Mountainside Drive*
Block 142, Lot 13
Randolph, NJ

APPLICATION NO: 22-18

ZONE: RR

WHEREAS, Thomas Veman, (“Applicant”) has applied to the Randolph Township Board of Adjustment (“Board”) for permission to construct a single-family dwelling on property located at 13 Mountainside Drive and designated as Block 142, Lot 13 on the official tax maps of the Township of Randolph; and

WHEREAS, the Board conducted a public hearing on January 26, 2023 in accordance with the jurisdictional requirements of the New Jersey Municipal Land Use Law and the Randolph Township Land Development Ordinance; and

WHEREAS, the Board hereby makes the following findings of fact and conclusions of law:

1. The Applicant is an owner of the subject property and has the right to request the relief sought herein.
2. The Applicant was represented by Legal Counsel, Bernd E. Hefele, Esq., and presented the testimony of the following witnesses:
 - A. Thomas Veman the Applicant.
 - B. Alfred A. Stewart, Jr. – whose qualifications were accepted as a New Jersey Professional Engineer and Land Surveyor.
3. The application proceeds before the Board in furtherance of a prior grant of approval for the construction of a single-family, residential dwelling under Application No. 22-07, decided on June 23, 2021, and memorialized in a Resolution of Approval dated July 14, 2022. That Resolution of Approval

granted to the Applicant's predecessor in interest, Tranquility Property Holdings, LLC, a variance to permit the construction of a single-family, residential dwelling pursuant to N.J.S.A. 40:55D-70c and, in conjunction with same, granted a side yard setback variance approval to the Applicant specifically to permit a 20-foot side yard setback adjacent to Lot 12 and a combined side yard setback of 47 feet, whereas 30 feet and 80 feet were required respectively (see Section 15-13.2D). The Board also granted to the Applicant variance relief from Section 15-72-12N to permit a 0-foot driveway setback adjacent to Lot 14, whereas said ordinance section requires a 10-foot setback. The Board further granted, to the extent required, variance relief from the minimum lot area and minimum lot frontage requirements of the ordinance, which were pre-existing conditions. (The Board's description of the required variance relief was set forth in Paragraphs 2 and 3 of the aforesaid Resolution.)

4. In conjunction with that approval, there was a lengthy discussion as to the design of the proposed residential dwelling for which variance relief was granted. For the reasons detailed therein, the then Applicant indicated that it requested the right to construct a ranch dwelling in accordance with the plans that were submitted in conjunction with the prior application. As a result, the Board imposed that, as a condition of approval (Condition No. 2), the proposed single-family dwelling be constructed in substantial accordance with the architectural plans submitted in conjunction with the application. Apparently, when the present Applicant went to apply for its construction/building permits, it submitted plans that were not consistent with the architectural plans previously approved, and the permit applications were appropriately denied. As a result, the Applicant has first sought an interpretation under N.J.S.A. 40:55D-70b advocating that it had right to construct a different design of a house and nevertheless be in conformance with the Board's prior Resolution of Approval.
5. The Board denies the Applicant's request for interpretive relief pursuant to N.J.S.A. 40:55D-70b that the prior approval authorized the construction of certain plans that are reflected on this application submission. Included, as part of this application submission, are certain architectural plans prepared by Gates Architectural Design, Inc. dated October 12, 2022. In summary, those architectural plans reflect a colonial style, two-story dwelling and not a ranch dwelling as was specifically testified and stipulated to in conjunction with the prior application. The architectural plans submitted in conjunction with this application are materially different in terms of design than that which was approved. Accordingly, the Board is able to conclude that the plans are not in substantial accordance with the architectural plans submitted in conjunction with the prior application as required under Condition No. 2 of the prior Resolution. In addition, the Board notes that if in fact a ranch dwelling had been constructed and thereafter it was sought to be modified (by way of example, to add a second story as is proposed here), by virtue of the non-conforming side yard setback approved in conjunction with the prior approval, new additional variance relief would be

required for the construction of the colonial, two-story dwelling. By virtue of the necessity for such variance relief occasioned by the second story being located in the non-conforming side yard setback and the fact that the present plans are not in accordance with the original approval, the Board must appropriately deny the Applicant's request for interpretative relief pursuant to N.J.S.A. 40:55D-70b.

6. Therefore, the Board must turn its attention to the Applicant's request for variance approval. The present application maintains the same side yard setback variance relief as originally previously approved, albeit with a different design as reflected in the aforesaid architectural plans. This application, as was the prior application, would propose a 20-foot side yard setback to adjoining Lot 12 and a 27.08-foot setback to Flag Lot 14, thereby proposing a total side yard setback of 47.08 feet. A 30-foot minimum side yard setback is required in the RR Zone and a combined side yard setback of 80 feet is required. Therefore, both proposed side yard setbacks are non-conforming, as proposed here, albeit the same for which variance relief was previously granted. In adopting the findings of fact and conclusions of law in conjunction with the prior application, the Board concludes that for the same reasons largely set forth in the prior application, the statutory criteria pursuant to N.J.S.A. 40:55D-70c(1) is satisfied notwithstanding the colonial, two-story dwelling proposed here. As more particularly set forth in Paragraph 5 of the prior Resolution, pursuant to N.J.S.A. 40:55D-70c(1), the Board previously found that, by reason of the property's narrowness, the strict application of the side yard setback requirements (both as to one side yard and combined side yard) would result in exceptional, practical difficulties and undue hardship upon the Applicant and that the Board should grant a variance from the strict application of such side yard setback requirements to relieve such difficulties or hardship. The Board again recognizes the narrowness of the subject property and that notwithstanding the change in the design, the proposed residential dwelling represents a far better zoning alternative than the previous razed residential dwelling and, in this case, the proposed design would generally be more consistent with the design of other existing residences in the general neighborhood. The Board notes that, as to the 27.08 foot setback to Lot 14, said Lot 14 is a uniquely shaped flag lot and that, by virtue of same, there is no detriment given the location of the existing residential dwelling on Lot 14 not being located within the approximate 40 foot flag of said lot. With reference to the non-conforming setback as to Lot 12, the Board recognizes the 20-foot setback to Lot 12, but notes an approximate additional 35 feet to the existing residence of Lot 12, thereby creating an approximate 55-foot setback between adjoining residences. The board finds that there is no substantial detriment to either the zone plan or the zoning ordinance of the Township or to the public good and further finds that there is no substantial detriment occasioned by the revised colonial design maintaining a two-story structure. As such, the Board finds that the statutory criteria is satisfied.

7. The Board further grants the required variance relief from the Randolph Township driveway ordinance, which requires a 10-foot setback under Section 15-72.12N; and, in this case, the driveway, at its closest point, would be 5 feet 6 inches from the adjoining property being Lot 14. In this case, the Board notes that, recognizing that the driveway only impacted the flag of the adjoining lot, it previously granted a 0-foot setback adjacent to Lot 14 for the driveway and was able to conclude that, for the reasons set forth in the prior Resolution, the statutory criteria was satisfied notwithstanding the 0 foot setback. In this case, the Board concludes that the 5 foot 6 inch setback would likewise not create any substantial detriment to the public good, zone plan or zoning ordinance by virtue of the driveway setback having been increased from 0 to 5 feet 6 inches.
8. Based on all of the foregoing, the Board is able to conclude that the statutory criteria of N.J.S.A. 40:55D-70c(1) is satisfied both for the granting of the requested variance relief from the respective side yard setbacks, as set forth above, as well as relief from the driveway provisions of the ordinance thereby granting the necessary relief from Sections 15-13.2D and 15-72-12N

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Randolph that the application for interpretative relief is denied, but the application for variance relief is granted subject to the following conditions:
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1. The Applicant agrees to be bound by all representations and stipulations made during the course of the public hearing
2. The proposed single-family dwelling shall be constructed in substantial accordance with the architectural plans prepared by Gates Architectural Design, Inc. bearing a date of 10-12-22 consisting of five sheets.
3. This approval is subject to the approval of any other federal, state or local governmental agency with jurisdiction, including but not limited to any required approval from the Randolph Township Board of Health.
4. This approval is subject to the Applicant paying all taxes, fees and escrows required by the Township of Randolph. The Applicant shall pay any additional fees or escrow deposits that may be due and owing within thirty (30) days of notification or this approval shall be deemed withdrawn.
5. The variance herein granted is subject to the time limitations on variance relief as set forth in Section 15-4.12 as hereinafter may be amended or any subsequent amendments thereto as may apply to this application.

The foregoing Resolution is memorialized on February 9, 2023 pursuant to N.J.S.A. 40:55D-10(g)(2), memorializing an action taken at the meeting of the Board held on January 26, 2023.

APPROVED:

Comrs. Norman, O'Neill, Stracco, Alt. Tatch, Vice Chairman Dunn, Chairman Sesko

OLD BUSINESS:

22-06 Newman Turf LLC (carried to March 9, 2023)

B 86 L 63.01, 1275 Sussex Turnpike

D Variance

Thomas Molica, Esq. was covering for Mr. Schneider who was ill.

There was a letter from Chris Quinn, Esq. requested to be carried to the March 9, 2023 and has granted an extension to March 31 2023.

Mr. Molica will ask Mr. Quinn to provide transcripts for the alternative member to be made eligible to vote.

The Board had a discussion about what date and who would be eligible.

Mr. Molica made the formal announcement to the March 9, 2023 meeting with no further notice to the public.

NEW BUSINESS:

22-16 Claudia Perlaza(carried from January 12, 2023)

B 131/01 L 72, 70 Quaker Ave

C Variance

Claudia Perlaza was sworn and explained the variance request. She noted that the addition is six feet. She explained that there is a deck that requires a variance.

Mr. Carney noted the addition and the deck require the setback variance.

Chairman Sesko noted that the variance request is for the front porch.

Mr. Carney noted that the open front porch can be in the front yard setback.

Ms. Perlaza explained that the variance is for the addition and the deck.

Mr. Carney noted that the front yard on paper street Ridge Street is 35 feet.

Mr. Molica clarified that the variance is for 20 feet front yard setback from Ridge Street.

Comr. Norman asked about the encroachment on to Ridge Street.

Mr. Molica noted that there could be a deed restriction for not further encroachment.

There was a discussion about the paper street Ridge Street.

There was a discussion about the front porch.

Mr. Molica clarified if there could be a restriction about the front yard on the paper street. He noted that Board seemed concerned about the issue.

CASE REVIEW:

The Board discussed the application.

Vice Chairman Dunn made a motion and Comr. Stracco seconded the motion.

ROLL CALL:

AYES: Comrs. Bell, Norman, O'Neill, Stracco, Asbaty, Vice Chairman Dunn, Chairman Sesko

NAYES:

ABSTAIN:

Motion carries.

COMMENTS OF THE BOARD:

ADJOURN: A motion and a second to adjourn.

Attest:

Kimberly Coward
BOA Secretary

TIME: 8:07PM