

**POINT PLEASANT PLANNING BOARD
SPECIAL MEETING
October 29, 2020**

The special meeting of the Planning Board was called to order by Chairwoman Bavais at 7pm. Ms. Bavais read the Notice of Compliance, which states that adequate notice of the meeting had been given.

UNFINISHED BUSINESS

**Minor Subdivision & Variance- Block 112 Lot 8 – 801 Dudley Ln., Applicant:
Nick & Kathryn Mancini:**

Roll Call:

Present: Mayor Sabosik Mr. Furmato Mr. Vitale Mr. Preiser Mr. McHugh Mr. Forsyth
Mr. Welch Mr. Altero Ms. Bavais

Mr. Faraldi arrived at 7:10 p.m.

Attorney: Ben Montenegro Engineer: Laura Neumann Secretary: Catherine Gardner

Mr. Montenegro stated this a continuation of the August 27, 2020 meeting. Mr. Preiser has listened to the recordings and has signed a certification to vote.

Mr. Montenegro stated Mr. Jackson had presented his case in August, Mr. Gasiorowski has listened to the recordings of the meeting and will cross exam the witnesses.

John Jackson, attorney for the appeared before the board. He stated the renderings have been revised by Mr. Kociuba showing the steps coming off the front of the house.

Joseph Kociuba, sworn previously, appeared before the board. He stated the stair reconfiguration now comes off the front of the house and leaves ample room for landscaping.

Exhibit A-5 – Cut sheet – porch relocation.

Mr. Jackson and Mr. Kociuba discussed the new porch location and the landscaping around that area.

Mr. Gasiorowski stated he has provided transcripts of the August meeting. He also stated the board secretary provided all documents he had requested in a timely manner.

Mr. Gasiorowski stated he does not agree with the board's determination on res-judicata.

Mr. Gasiorowski made his opening statements and discussed the Municipal Land Use Law (MLUL). He also discussed conforming vs non-conforming and the Borough Ordinances.

Mr. Gasiorowski argued his interpretation on res-judicata and read from Cox. He stated the dimensions of the lots are the same as the prior application. He stated the board had denied the relief from the variances in the prior application. He stated that res-judicata is applicable.

Mr. Montenegro stated that he respectfully disagreed. He explained to the Board that Mr. Gasiorowski was allowed to make his comments as he was not at the August 27th meeting.

Mr. Gasiorowski stated that if Mr. Jackson was not satisfied with the denial, he should have filed a prerogative writ with the County courts. Mr. Montenegro stated that Mr. Jackson did file a prerogative writ after the denial.

Mr. Gasiorowski stated that as the opposing attorney he should have been notified of the compliance and it was not disclosed by either Mr. Jackson or Mr. Montenegro. He stated that it was a cheap shot and is outraged. The attorneys discussed the complaint filed. Mr. Montenegro asked Mr. Gasiorowski to continue with testimony.

Mr. Gasiorowski cross examined Mr. Kociuba. Joseph Kociuba, P.E., P.P. appeared before the board – was previously sworn.

In response to questions, Mr. Kociuba stated the outbound lines and subdivision line is in the same location, however, it is not the same subdivision. He stated the previous application, the applicant had required variances for dimensions, as well as setback variances were required.

Mr. Kociuba and Mr. Gasiorowski discussed RSIS for new roads constructed. Mr. Kociuba stated the right of way is not being extended; the access easement is being extended.

Mr. Gasiorowski asked for a recess – RECESS

There being no further questions for Mr. Kociuba, Ms. Bavais opened this portion of the application to the public for questions only; no one came forward.

Ms. Bavais asked if there was anyone from the public who had questions of Mr. Grabowski or Mrs. Mancini; no one came forward.

Peter G. Steck, P.P. was sworn in. Mr. Steck is the planner for the objector, Nikolaos Gavrilis. Mr. Steck distributed exhibits he prepared for his testimony. Mr. Jackson stated he objected to Page #12 as Mr. Steck is a planner, not an engineer and there are no dimensions to the exhibit.

Exhibit O-1 – aerial photo of the area from Google maps.

Exhibit O-2 – RSIS cul-de-sac diagram

He stated the aerial photo is from the website of NJDEP site amended to show the proposed subdivision. The yellow line is the lot line and shows the location of homes on proposed Lots 8.02 & 8.03. He stated the yellow area is the right of way easement and the purple is the proposed easement.

Mr. Jackson read the RSIS standards; he stated the point Mr. Steck is making does not apply to this application.

Mr. Steck stated his exhibit reflects the development plan dated 9/11/2020. He stated the left side has an eight-foot easement; the right has a five foot right of way easement. The area colored blue on the property is the 18 ft. wide driveway easement utilized by both lots.

Mr. Steck duplicated the development drawing and identified what he believes to the front/rear and stated variances would be needed for the house being 11 ft. from the easement. He stated he does not agree with the yard situated and that additional variances are required.

Mr. Steck stated the street right of way is not an access easement. He cited the Borough's ordinance description for right of ways. He described his drawing which reflects the type of cul de sac that should be provided for this application.

Mr. Steck stated that a fire couldn't make the turns into the property with the proposal. Mr. Forsyth stated fire trucks do not come onto the property but would park down the street and bring in their lines.

Mr. Steck stated that the easement functions as a public roadway for guests, mailman and delivery.

He stated if you deduct the easement from Lot 8.03, the total square footage would be 7,212 sq. feet. He stated he feels the access easement should be deducted from the square footage of the lot. He further stated that the applicant did not make application for those variances.

Mr. Steck stated he believes the proposed pool is in the front yard, which is caused by the subdivision.

Mr. Steck stated the following variances would be required for the application:
Lot 8.03 – lot area and front yard setback; Lot 8.02 – rear yard, pool in front yard setback and lot width for being a 50 ft. wide lot.

Mr. Steck stated that granting the proposal for the applicant to construct a house for a parent is not applicable. He also stated that testimony regarding substandard streets in the Borough is not relevant. He stated at one time there were two homes, however, one was demolished and has been a single lot for some time.

Mr. Jackson cross examined Mr. Steck.

Mr. Jackson stated that Mr. Steck's client lacks front on a street and lot width. He stated that the subdivision shows that Mr. Gavrilis' property is 64 ft. wide.

Exhibit A-3 is the minor subdivision map for Mr. Gavrilis property.

Exhibit A-4 is the resolution of the Gavrilis property – Planning Board resolution # 2006-01.

Mr. Steck stated he was hired to review the plan for an objector.

Mr. Jackson stated that the application was approved twice in the past but the last approval, the applicant did not perfect the map.

Mr. Jackson stated the plan that was approved in 2016; did Dudley Ln. change; Mr. Steck stated no. He asked if the plot plans in previous years were different from this plot plan;

Mr. Steck stated yes. Mr. Jackson asked if the square footage was not deducted from the easement, then the lots would meet lot area; Mr. Steck stated yes. He stated that Mr. Kociuba had testified that he did not find the easement on any deeds but found it on a NJDEP site.

Mr. Steck stated the driveway easement is a public right of way as it is used as a public access to the properties. Mr. Steck cited the Borough's definition of a public street.

Mrs. Mancini stated that the mailboxes are located on houses; the mailman walks his route.

Mr. Jackson asked to view the document Mr. Steck was reading.

Mr. Steck stated the Mancini's could construct one house on the lot and can build a much larger home.

Mr. Steck and Mr. Jackson discussed the MLUL. Mr. Gasiorowski stated he can't compare something against something that doesn't exist. Mr. Jackson asked if there was enough air, light and space between both proposed homes; Mr. Steck stated yes.

Mr. Steck discussed the make-up of the neighborhood. He stated Lot 8.02 was out of character with the neighborhood. Lot 8.03 is designed with larger doorways and would be constructed as an age-related house. He stated both houses are being designed to meet FEMA regulations.

Mr. Gasiorowski redirected:

Mr. Steck stated that the subject property has 17,359 sq. ft and his client's adjacent lot has 17,973 sq. feet. The applicant is seeking to subdivide for two lots.

RECESS

PUBLIC – Questions for Mr. Steck – None

PUBLIC – COMMENTS

Charlotte Ayler, 1121 Sampson Rd. was sworn in. She stated there are some neighbors who cannot come to the meeting due to Covid concerns and that they should have a way to testify.

Mrs. Ayler gave her reasons as to why she believes res-judica applies. She stated she has concerned about the board approving this application and that it should be denied.

Mary Haber, 1119 Sampson Rd. was sworn. She also stated that the previous application was denied and now are appearing for another shot at a subdivision. She stated she is not in favor of the application.

Mrs. Haber stated all the neighbors received a letter from the Mancini's describing the subdivision. She stated the Mancini's could built a larger home to accommodate themselves and Mrs. Mancini's parents.

Sarah Gada, 806 Dudley Ln. was sworn and stated she was at the last meeting but didn't stand on one side or the other. She stated she does not see a problem with traffic on the street and is in favor of the application. She does not see it as a detriment.

Kathleen Fritz, 811 Dudley Ln. was sworn. She stated she has concerns with the proposal. She stated she purchased her property in 2016 and there were not many permanent residents in their neighborhood and it was a quiet street. She stated people going to Clark's Landing end up on Dudley as directed by their GPS.

She stated the Mancini's fixed up the house very nicely after their purchase and is sure both houses will be beautiful when complete, however, feels it is too much for the area.

Daniel Diaz, 1121 Sampson Rd. was sworn in. He stated his wife made points for the two of them. He stated in the 2016 subdivision, he was not notified about the meeting for a subdivision. He stated he has a problem with the size of the lots and the number of vehicles. He is not in favor of the application being approved.

Ross Anderson, 811 Dudley Ln. was sworn in. He reiterated the concerns of the other objectors. He stated he is not in favor of the applications.

A member of the audience asked if board members visit the proposed sites prior to an application. All board members stated they had visited the site. Mr. Montenegro explained how board members review applications, including visiting sites.

CLOSED TO PUBLIC

Summations were given by Mr. Jackson and Mr. Gasiorowski.

Mr. Jackson stated he would like the letter from the Mancini's to the neighbors marked; Mr. Gasiorowski objected, and Mr. Montenegro agreed stating it will not be marked.

Mr. Forsyth asked Mrs. Neumann how many variances are being requested. She stated the ordinance is very specific that easements are included in the lot area. The variance that will be necessary is not fronting on a street.

Board members gave their opinions on the application. Mr. McHugh stated he is very familiar with the area in question. He said it is a very quaint area of town and believes that constructing two smaller homes instead of one huge house is keeping with the area.

Mr. McHugh made a motion to approve the application; seconded by Mr. Forsyth.

Roll Call Vote:

Mayor Sabosik: No Mr. Furmato: Yes Mr. Vitale: No Mr. Faraldi: No Mr. Preiser: No
Mr. McHugh: Yes Mr. Forsyth: Yes Mr. Welch: Yes Ms. Bavais: Yes

VOUCHERS:

The board approved payment of the following vouchers:

CME Associates: \$39.75 (Castronova), \$278.25 (GMP Construction)

There being no further business, the Board adjourned at 10:40 p.m.

Respectfully submitted,

Catherine Gardner
Planning Board Secretary