

**BOROUGH OF POINT PLEASANT  
ZONING BOARD OF ADJUSTMENT  
July 28, 2021**

The regular meeting of the Point Pleasant Zoning Board of Adjustment was called to Order by Chairman Coleman at 7:00 P.M. Mr. Coleman led the Salute to the Flag. He proceeded to open the meeting in compliance with the "Open Public Meetings Act".

Members Present: Mr. Nikola Mr. Giordano Mrs. Masterson  
Mr. Nagy Mr. Veni Mr. Coleman Mr. Shrewsberry Mrs. Schlapfer  
Members Absent: Mrs. Petrillo Ms. Coulson  
Attorney: Mr. Gertner

**Correspondence**

**20-06- Schuler- Block 251 Lot 40.01- 2109 Bridge Ave- Use Variance  
Seeking administrative approval to move air conditioning condenser, change gravel parking lot to asphalt and install arborvitaes**

Mr. Jackson, attorney  
Mr. Richard Schuler, applicant was sworn in.

Mr. Veni questioned if 6ft fencing could be proposed instead of arborvitaes.

Mr. Savacool stated the driveway is already counted as impervious coverage, therefore, no change. The air conditioning unit is being relocated to the front yard. Mr. Savacool stated fencing can not exceed 3ft in the front yard.

Mrs. Masterson questioned why the front of the building, not the side.

Mr. Schuler replied, due to the interior layout of the building.

The applicant agreed to install a conforming fence, along with arborvitaes, which will be maintained.

The Board agreed this request could be approved administratively.

A motion to approve was made by Mr. Nikola, seconded by Mr. Veni.

**Roll Call Vote**

Mr. Shrewsberry- Yes Mr. Nikola- Yes Mrs. Masterson- Yes  
Mr. Veni- Yes Mr. Nagy-Yes Mrs. Schlapfer- Yes Mr. Coleman-Yes

**Resolutions**

**21-08- Warga- Block 284 Lot 9- 1852 Beach Blvd- Lot Frontage & Lot Width  
21-12 Morris & Leibfried – Block 129 Lot 18 -1182 Ridgefield Drive- Front Yard Set Back,  
Height of a fence front yard/corner lot**

**21-15 Samler & Walker- Block 98 Lot 25- 907 Davis Ave- Height of an accessory structure**

**A motion to memorialize was made by Mr. Nikola, seconded by Mr. Veni.**

**Roll Call Vote**

Mr. Shrewsberry- Yes  
Mr. Veni- Yes

Mr. Nikola- Yes  
Mr. Coleman- Yes

Mrs. Masterson- Yes

**21-09- Mathis- Block 20 Lot 8- 4 Dunham Lane- Lot Frontage, Lot Width, & Habitable Attic**

**A motion to memorialize was made by Mr. Nikola, seconded by Mrs. Masterson.**

**Roll Call Vote**

Mr. Nikola- Yes

Mrs. Masterson- Yes

Mr. Coleman- Yes

**21-10- Bernstein- Block 279 Lot 79- 1708 Bay Blvd- Maximum Stories, Rear Yard Setback, Side Yard Setback, Build & Lot Coverage**

A motion to approve was made by Mr. Nikola, seconded by Mr. Shrewsberry.

**Roll Call Vote**

Mr. Shrewsberry- Yes

Mr. Nikola- Yes

Mrs. Masterson- Yes Mr. Coleman- Yes

**New Business/Unfinished Business**

**21-14 Guaman- Block 131 Lot 5- 631 North Manetta Drive- Use Variance**

**This application has been withdrawn.**

**21-13- Stolte- 916 Atlantic Ave- Block 117 Lot 6.01- Use Variance**

**Mr. Jackson, attorney for the applicant.**

**Mr. Luca Stole, applicant, Bradford Drive was working.**

**A-1 Power Point**

**A-2 Photos**

Mr. Jackson stated the property consists of two apartments and a garage. The garage is used by the owner. There was work done on the upper level of the garage. That is when Mr. Burke, Zoning Officer and Mr. Skinner, Construction official became involved.

Mr. Jackson went through the power point and the photos.

Mr. Coleman questioned if there was a bathroom in the upper garage area.

Mr. Jackson stated Mr. Stolte can provide testimony. There is rough plumbing and a tub.

Mr. Stolte believes his father purchased this property in the late 1960's, to store classic cars and aircraft. There are two apartments and the garage. There are 3 active electric meters on the site, all upgraded. The garbage is basically used for storage. The upstairs area is for comfort, storage of personal items and office use. The bathroom is for personal reasons. There is a bathroom in the downstairs garage area. He took possession in 1989, when his father passed.

Mrs. Masterson asked if the property could be cleaned up.

Mr. Robert Burdick. PP PE was sworn in. Mr. Burdick's testimony.

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***R.C. BURDICK, P.E. P.P. P.C.***

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STOLTE

916 ATLANTIC AVE.

LOT 6.01, BLOCK 117

POINT PLEASANT BOROUGH

PROJECT NO. 20-7982

JULY 28, 2021

This application is in response to the Zoning Officer's citation for constructing interior walls in the garage portion of the building at 916 Atlantic Ave. Mr. Stolte had started to renovate the second story of the garage area to provide more efficient work and storage areas. After receiving the citation Mr. Stolte applied for permits for the work and that application is pending. In order to respond to the concerns raised a Change of Use Site plan has been provided even though according to the applicant, the use has existed for over 50 years.

This lot and the adjacent lot 6 have belonged to the Luca family since about 1968. Tax maps updated through February of 1992 confirm that the lots were separate lots at that time. In 2004 the properties were jointly owned by Aldo, Robert and Luca Stolte and at that time the brothers wanted to own their own lots and deeds were filed on 8/19/2004 which transferred ownership of lot 6, the adjacent lot, to Robert Stolte and the subject lot to 916 Atlantic Avenue LLC, Mr. Luca Stolte's company and the applicant. Under direction of the Borough Zoning Official, a side entry into the upper residential unit which encroached on lot 6 was eliminated and a new front oriented entry was constructed within lot 6.01. According to Mr. Stolte permits were obtained from Point Pleasant Borough for the entry change.

At that time and prior to that the building contained two residential apartments on the left side of the building. One unit is a one bedroom and the other a two bedroom and one unit is on the first floor then other on the second floor. As shown on the change of use plan, that leaves a large garage portion of the building which is not used for the residential units.

That portion of the building has been used as a Mr. Luca Stolte's workshop and for storage of his possessions since he took it over in 1992 +/- and before that his father used the garage for the same purpose. Recently Mr. Stolte began finishing portions of the second story of the garage area for more efficient use of the building and for storage purposes. Mr. Stolte can explain his work and activities in the building but some of his possessions need to be within climate-controlled storage areas.

The property contains several preexisting bulk variances.

- a) The lot width is 50.01' vs. 75' is required. According to the 1992 tax maps that condition has existed prior to that time and just about all the lots along Atlantic Ave. have the same condition, so we believe that this is a preexisting nonconformity.
- b) Side yard setbacks of 0.34' to east and 1.19' to west exist vs. 7.5' required and rear yard setback of 17' vs. 25' required. According to historic aerials the building has existed in the same location since at least 1957 and county records indicate that the structure was built in 1948. The only change to that was the change in stair location in about 2004 and that was permitted by the Borough. Based on that we believe that the variance is preexisting nonconformities.
- c) In addition, the site has a lot of coverage of 69.8% vs. 50% allowed. That is due to the gravel driveway at the site. The best information we can find on the gravel driveway is the 1979 historic aerials photo which shows a gravel driveway encroaching even further into lot 6 that it does not. The coverage percentage is mostly a result of the borough's change in definition of impervious coverage. Historically gravel surfaces were not considered impervious coverage but due to revised definition of impervious coverage they are now considered impervious. Again, we believe this to be a preexisting nonconformity.

With regard to the construction within the garage which Mr. Savacool states will trigger the variance the board should be informed that this use is not changing and has existed for over 50 years since the Stolte family has owned the building. The applicant would like to continue to use the structure as he has for many years. The only construction is the interior renovations so that the applicant can more efficiently use the space and to update an older structure. The improvements will not include provision for cooking facilities, but a bathroom is planned.

With regard to general note No. 6, as stated previously the Stolte brothers had jointly owned the two lots in and in 2004 at their request, Mr. Robert Gaughran Esq. filed deeds formally recognizing the two lots and granting ownership of them to different parties. As stated, the use of the property was as it exists today, and the only construction performed was the change in the entry to the second-floor unit so that it did not encroach on the adjacent lot. According to Mr. Stolte those activities were performed with the knowledge, guidance and approval of the Borough zoning and construction officer.

The gravel parking lot currently extends onto the adjacent lot and has been there since at least 1979 according to aerial photos. With gravel lots the limit of the gravel changes over the years due to vehicular movement, stormwater movement and snow plowing activities. However, the plan shows that parking within the subject property meets the off-street parking requirements of the Borough.

As stated in Mr. Savacool's letter the board must consider both the positive and negative criteria when granting a use variance. The positive criteria can be provided by demonstrating that the use is consistent with the purposes of the MLUL and in this case I believe that the project is consistent with goal A of the MLUL which encourages municipal action to guide the appropriate use of all lands in the state. Since this use has existed at the site for over 50 years and only the upgrading of the building interior is planned, I believe that it is an appropriate use of the property. It would be a hardship on the applicant to have to abandon a use simply to improve the interior of his building, then what purpose would it serve. Further, as stated in Mr. Savacool's letter, even if the garage use was transferred to the residential units the borough would consider it an expansion of the use and require a variance. That leaves the owner with very little alternative other than to abandon the use of the improved garage entirely or to remove all improvements and continue to operate as he has done for over 50 years. Abandonment of the building

isn't logical and would rapidly lead to neglect and decay of it. The continued use of the structure at least keeps the building occupied and in good condition.

The negative impacts of allowing the use to continue are minimal to nil since the use has existed for over 50 years and no change is proposed, only interior renovations to the structure.

From a practical standpoint it would be a hardship on the applicant to not allow the use. He is simply improving the interior of his building, not expanding any use, and trying to make a more efficient structure. If the board were to deny the application, he would have little choice other than to restore the interior of the building to its previous condition and to continue what he has done for years. If the use is not allowed what purpose would the garage portion of the building serve, and would it have to be abandoned?

Based on this I believe that this is a unique variance applicant and that the relief requested can be granted without substantial detriment to the zoning ordinance, master plan or public good. I also believe that this is an appropriate use of the property since it has been used in the same manner for over 50 years.

The other portions of Mr. Savacool's letter are factual and administrative since the property is in the X flood zone and the applicant will agree to replace the worn sidewalks and a curb damaged during construction and pay all fees associated with the application.

Mr. Savacool questioned the subdivision. There was a pre-existing non-conforming use, which has been increased by subdivision.

Mr. Jackson stated they are not decreasing the size of the mother-lot. The subdivision was done years ago, the lots are conforming.

Mr. Coleman stated it seems there is a use on lot 6.01 that supports lot 6.

Mr. Burdick replied, no they are both long deep lots.

Mrs. Masterson questioned if the garage is heated.

Mr. Stolte replied yes.

Mr. Coleman stated this appears to be more than storage.

Mr. Burdick replied some items need to be climate controlled.

Mrs. Masterson stated again the property needs to be cleaned up.

Mr. Jackson stated they can clean it up, fix the sidewalk and remove the tub, no stove, no overnight sleeping, strictly for an owners use and install a conforming fence.

Mrs. Masterson questioned how long/often he visits the garage.

Mr. Stolte goes to the garage every day, sixteen hours a day.

## Caucus

Mr. Coleman stated there is a lot going on here.

Mr. Nikola stated there were 34 homeowners noticed, no one showed up. It is a garage.

Mrs. Masterson wants to see it cleaned up.

Mrs. Schlapfer suggested the garage cannot be rented.

Mr. Gertner only for tenant of apartments or owner.

Mr. Savacool notes are replace sidewalk, removed tub upstairs, no cooking or over night accommodations, not used for commercial purposes, only used by owner or a tenant of the apartments and conforming fence.

Mr. Shrewsberry questioned the location of the fence.

Mr. Savacool stated if it runs the whole property length, the units won't be accessible.

Mr. Shrewsberry stated the walkway is on the other property. The fence would be on the adjoining lot. There would only be 4" for walking. Emergency services will not be able to get to access the rear.

Mr. Coleman stated the fence on the east side would basically go through the walkway.

Mr. Jackson asked the applicant if an easement could be obtained from his brother's adjoining lot. The applicant would be responsible from maintaining the fence.

Mr. Savacool suggested a 3 ½ foot easement.

Mr. Jacksons applicant agreed.

Mr. Stolte agreed to put the fence up to the corner of the building.

Mr. Shrewsberry isn't happy that the walkway on someone else's property.

Mr. Gertner stated the easement is fixing the problem, 3 ½ foot easement from the road to the rear of the property.

Mr. Jackson suggested defining the driveway and the fence to the bottom of the stairs.

Mr. Burdick suggested the easement only needs to be from the concrete to the rear of the property.

Mr. Savacool agreed, the easement can start at the stairs and goes back to the rear of the property.

Mr. Coleman also stated the parking area will be delineated with uniform stone.

Mr. Gertner questioned if the easement will run the length of the property?

Mr. Savacool stated the fence will run from the front property line to the concrete. The easement will run from the stairs back.

Mr. Gertner mentioned possibly running the length of the property, a straight line.

Mrs. Masterson agreed. She also wants the fence to run to the rear of the property.

All points raised above, including the necessity of obtaining a 3 1/2ft easement from the adjoining property and a 3ft fence will run the length of the property along the easterly side of the easement. The applicant has 90days for his brother to approve the easement.

A motion to approve was made by Mr. Nikola, seconded by Mr. Veni.

**Roll Call Vote**

Mr. Shrewsberry- Yes	Mr. Nikola- Yes	Mrs. Masterson- Yes
Mr. Veni- Yes	Mr. Coleman- Yes	

A motion to adjourn was made by Mr. Nikola, seconded by Mrs. Masterson. The meeting adjourned at 9:15PM.

Respectfully submitted,

Sharon Morgan  
Board Secretary