



**BOROUGH OF FOLSOM
PLANNING/ZONING
BOARD OF ADJUSTMENTS
MINUTES
MAY 17, 2023**

CALL MEETING TO ORDER: 6:00 PM

SALUTE TO THE FLAG:

CERTIFICATION: Adequate notice of this meeting has been given in accordance with the Open Public Meeting Act pursuant to Public Law 1975, Chapter 231. Said notice has been advertised in the Hammonton Gazette and is posted on the bulletin board showing the time and place for the meeting.

ROLL CALL:

Members Present: Joe Pino, Dave Capuccio, Michael Veneziani, Leslie Roberson, Kristin Gummoe-Lubrano, Catherine DeYoung

Members Absent: Mayor Schenker, Glen Smith, Jim Hoffman, Michael Sutts

Others Present:

Solicitor:	Carol N. Goloff, Esquire
Board Engineer:	Jen Heller PP, AICP for Polistina & Assoc., PE, PP
Board Secretary:	Susan Carroll

APPROVAL OF MINUTES:

A motion was made by Ms. DeYoung and seconded by Mr. Veneziani to Approve the Minutes of April 19, 2023. There was a roll call vote with 4 ayes and 2 abstentions.

Joe Pino	Yes
Dave Cappuccio	Abstain
Mike Veneziani	Yes
Leslie Roberson	Yes
Kristin Gummoe Lubrano	Abstain
Catherine DeYoung	Yes

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APPLICATION: 02-PB-2023 Stephen Czajkowski 2401 4th Road, Block 1201 – Lot 17, for a Variance of a setback regarding an addition.

Solicitor Goloff addressed the legal notice requirements. The Land Use Law NJSA 40:55D 11 regarding the requirements was reviewed. The content of the notice must state the date, time, and place of the hearing. The Applicant had that in the notice. The notice needed to contain the nature of the matter to be considered and must state clearly the Use for which the Zoning/Planning Board Approval was requested. The Notice did say an addition. Reading from the Land Use Law: While it's not essential that every Variance that might be required be mentioned in the Notice. An Applicant should be careful to include all of those that will call the public's attention to the particular and substantial impact that the project would have on the community. Thus, if a Bulk Variance is required it should be noticed. Identification of the property; the Notice included the location of the property and where the maps could be looked at.

It was difficult because the last thing she would want to do was tell an Applicant the Application would be carried because the Notice was deficient. It was not up to the Board to provide legal advice. New Jersey's Zoning and Land Use Administration provided templates that municipalities can provide.

In this case the Applicants were not identified. The property was identified. A C -Variance was mentioned. The true nature of the application was not clear.

Inadequate notice means the Board did not have jurisdiction to act. The Board only had power to act if certain things happen. The notice was adequate. It was mailed and published appropriately. Our own notices, and Agendas were done appropriately.

The Solicitor thought it was close, but she didn't think a court would overturn any Decision based on the notice. It was decided to proceed because the law stated: Contents of the notice: Notices pursuant to this section shall state the date, time, and place of the hearing. It was in the Notice. The nature of the matters to be considered. The notice was read into record. The applicant is seeking to get Approval for a C Variance to put an addition on a single family home. No one will understand what that means. The public would know the Applicant wanted to put an addition on a home, but what was it about the application. Will the addition be too high? Will it be too long? Will it be too close to the road? Will it be too close to the neighbor? People shouldn't have to guess what the application was requesting. It was not perfect, but if anybody knowing this property looked at the legal notice they could have come to Borough Hall and look at the application.

Ms. Heller spoke as to why the Engineer was charged with figuring if the application is as described in the notice and in the application. When applicants make an application, they are supposed to describe what they were seeking variances from, what they are proposing to do, and what sections Ordinance they are deviating from. Not everybody will be able to look up the Ordinance and read it, but if an applicant knew the setbacks are 50' in the front and is

encroaching into that, a Variance was needed from the front yard setback. That was where being specific about what the C Variance was from. There were applications where it doesn't meet the lot coverage or lot area we need to know that. There is usually a catch all in the noticing that says "and any and all" other variances deemed necessary by the Board." This wording is useful when the Board request a change which would need a different variance. The Board would have jurisdiction to grant a variance that is not explicitly listed in the notice. The notice should be able to describe so the public will know if they would be interested.

The Solicitor explained the applicant technically had those things that need to be in the notice, but not as clearly as an attorney would have had them do. There was no way for lay people to know that. The Board had jurisdiction, but we needed to do a better job.

Solicitor Goloff swore in the Applicant. He was expecting a second child in July and needed another bedroom in the house. Ms. Heller recommended deeming the application complete. The applicant did not provide any zoning information regarding required setbacks. The sketch provided showed the setbacks. The Applicant was seeking a C Variance to allow a setback of 17.92 feet where 75 feet were required. The existing house setback was 37.2 feet. It will encroach another additional 19.5 feet into the setback. The existing non-conformity will be expanded. Contours were not provided and the following waivers were requested.

Item 19: Natural and artificial water courses

Item 28: Regarding the septic system

The applicant was not installing septic at this time because he brought the house nine years ago and put a brand new septic system in for 3 bedrooms knowing he was going to need an addition.

Ms. Heller recommended deeming the application conditionally complete. There was enough information for the Board make a determination whether or not to grant a variance.

Questions were taken from the Board. Board Member Gummoe-Lubrano asked the applicant if he was adding two bedrooms or just one. The Applicant explained it was two bedroom and 1 bathroom. He will use the current bedroom to make a hallway to the addition and confirmed the addition will make the home 3 bedrooms and two bathroom. Solicitor had the applicant clarify the number of bedrooms and bathrooms before and after the addition. The applicant explained there were currently 2 bedrooms and 1 ½ bathrooms. After the addition, the house will be 3 bedrooms and 2 ½ bathrooms.

To address the positive criteria, Mr. Pino asked what the benefits were. The applicant explained the house had only two bedrooms. He was expecting his second child and needed the extra room. If not, he would have to move. He couldn't put two children in a small room. He testified when he purchased the house he put a new 1,000 gallon septic tank to service three to four bedrooms because he knew he would be putting an addition. He could not build off the back of the house because the septic was there. The runoff will be past the septic area.

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To address the negative criteria, the applicant addressed the water runoff. He explained to the right of the house was about 40 feet of woods then the neighbor's house was another 20 feet from there. Water runoff from the increase of impervious coverage of the addition will remain on the property. The property was flat and he will run it to the front and to the back of the house.

There were no other questions from the Board.

The meeting was opened to the public. Seeing no one from the public to be heard, the public portion was closed.

Upon Solicitor's guidance a Motion was made by Ms. DeYoung and seconded by Ms. Gummoe-Lubrano to approve the application to increase the current two bedroom one bath house to a three bedroom two and a half bath house which will require the variances detailed on Ms. Heller's report. A roll call vote was taken with ayes all.

Joe Pino	Yes
Dave Cappuccio	Yes
Mike Veneziani	Yes
Leslie Roberson	Yes
Kristin Gummoe Lubrano	Yes
Catherine DeYoung	Yes

APPLICATION 03-PB-2023: Robert Presti, Jr., 100 5th Street, Block 3401 – Lot 36.01 seeking a Variance request for square footage.

Solicitor Goloff addressed the noticing for the Application. She read the notice into record. The noticing was for a C Variance for square footage for an accessory building.

Ms. Heller review the application and found a C Variance for a front setback was also needed (the back of the house fronted 5th Road). She explained the front yard area of the lot was the area between the furthest most point of the dwelling and the street line. Accessory structures were not allowed in the front yard.

Solicitor Goloff swore in Cassandra Priesti, 100 5th Rd., Folsom N. J. 08037. She addressed water runoff. Dirt will be brought in to make it as level as possible. The water will run on their property, but it will be leveled with dirt. The land was flat where the pole building was going. The land didn't slope down until the front of the property. The water won't puddle. It will run toward the back yard.

Ms. Heller reviewed the application. The applicant requested waivers from contours, wooded area and location of trees 6 inches or more because they were not clearing any trees, and from any easements or right-of-ways. She recommended the application be deemed complete. They included all of the setbacks and information regarding the size of the building and anything that would be needed for the Board to make an informed decision.

The Applicant was seeking a C Variance. Initially she thought it was for square footage, but it was also for location to build a pole barn for home storage.

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Positive criteria: The benefit for the pole barn will be strictly storage. The applicant explained they moved from Hammonton to Folsom. They had a pole barn at their old house. When they moved to Folsom, all of their things that were in there pole barn in Hammonton were now all packed into their side by side attached garage.

The front of the Applicants house faced 8th Street. Their road was a dirt road. It was the last road on the tax map. The front of the house was where the driveway was. It will be set behind (the house), but there wasn't enough room to put it closer to the other tree line. It would work best right in the middle.

Ms. Heller commented. The house faced 8th Street, but 5th Road was the front. It was the way the Ordinance defined Front Yard Area. The Solicitor explained the public notice was for a C Variance for square footage. There was no reference to an encroachment in the front yard. Ms. Heller was able to prove the record about why it was a technicality. She asked for testimony from the Applicant regarding what it was about the property that made having a 1,200 sq. ft. pole barn appropriate when the Ordinance allows for the maximum of 900 sq. ft. Ms. Heller responded that the Applicant had a conforming lot which met the minimum lot area and actually exceeded it. The Applicant met all the other setbacks for the Zoning District with the exception of the 1,200 sq. ft. pole barn. If the Applicants did a 900 sq. ft. pole barn in this area, they would still need a Variance. She also noted there was a Section of the Ordinance that prohibits the conversion of the structure into living space. The Applicant confirmed they would not be converting the pole barn by adding bathrooms and having someone living there. There won't be running water.

The Solicitor swore in Robert Presti, 100 5th Road, Hammonton/Folsom 08037. He gave an explanation of why he needed the pole building. There was a lot of maintenance that needed to be done and he invested in equipment to maintain the property and we would be able to accommodate that with this kind of structure.

Ms. Heller commented on the water runoff. The Applicant had 6.29 acres that was cleared. There were no flooding issues. Most of the water percolated. On the survey there was 25 ft. between the Applicants property and the boundary of Hamilton Township. Seventh Street was not improved. It was a trail and had no neighbors on the adjacent properties and would not be negatively impacting any adjacent properties. The Applicant noted that there was one neighbor on the other side of 5th Road. Mr. Presti added that their house sat on a hill and it slopes forward and backward. Ms. Heller described the application.

There were no other questions or comments.

The meeting was opened to the public. Seeing no one from the public to be heard, the public portion was closed.

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Upon the Solicitors guidance a Motion was made by Ms. Gummoe-Lubrano and seconded by Ms. Roberson to Approve the C Variances needed which include encroachment in the front yard and size from 900 sq. ft. to 1,200 sq. ft. There was a roll call vote with all ayes.

Joe Pino	Yes
Dave Cappuccio	Yes
Mike Veneziani	Yes
Leslie Roberson	Yes
Kristin Gummoe Lubrano	Yes
Catherine DeYoung	Yes

OTHER BUSINESS: A discussion about the presentation of Applications by Applicants was initiated because presentations were lacking. Suggestions were made to guide the Applicants in their presentations, the Application Form lacked guidance, making a chart change to the master plan, replacing the noticing template, and Board Members giving their reasons for their vote. Solicitor Goloff advised many Board Attorneys guide the Applicant.

Mr. Cappuccio stepped away from the dais.

Mr. Pino expressed his discomfort with asking leading questions because of the possibility the applicant may be lead to give a misrepresentation. Solicitor explained whenever she spoke it was purely from a place of wanting to help and make a clean record. She reassured the only time she interjected was to make sure the record is the way it should look. Her suggestions were to make the night go nice and smooth and to have a good record.

Mr. Cappuccio returned to the dais. He was glad the Solicitor was doing it. She did it for many Boards for many places and was happy to do it.

There was no other business for the Board

NEXT SCHEDULED MEETING: June 21, 2023 at 6:00 pm

A Motion was made by Ms. Gummoe-Lubrano to adjourn the meeting. All in favor.

Meeting Adjourned 7:04 PM

Respectfully Submitted,

Susan Carroll,
Board Secretary