

**MONTGOMERY TOWNSHIP ZONING BOARD
MONTGOMERY TOWNSHIP, SOMERSET COUNTY, NEW JERSEY
REGULAR MEETING
OCTOBER 17, 2017**

MINUTES

Chairman DeRochi called the meeting to order at 7:30 p.m. and read the opening statement which affirmed that adequate notice of the meeting had been posted and sent to the officially designated newspapers.

BOARD MEMBERS PRESENT: Chairman DeRochi; Vice Chairman Fedun; Mr. Post; Mr. Voitach (arrived 7:35 p.m.); Mr. Wu, Alternate #2; Mr. Lopez-Lopez, Alternate #3

ALSO PRESENT: Mr. Drollas, Board Attorney; Ms. Goldman, Board Planner; Mr. Cline, Board Engineer; Mr. Palmer, Zoning Officer; Mr. Conforti, Township Committee Liaison

I. SALUTE TO THE FLAG

II. EXTENSION REQUEST

Case BA-07-16 **Applicant: Baker Chrysler Jeep Dodge & Ram, Inc.**
Block 34001 Lots 57 and 57.01
Extension to File Subdivision Deeds

Mr. Schatzman, Esquire represented the applicant. Approval for the project was granted on February 26, 2017. The subdivision was to be perfected within 190 days. The applicant had to hire a new surveyor and was unable to meet the 190 day deadline. The deeds have been reviewed by the Board Attorney and Board Engineer and will be filed in the County Clerk's office within the next thirty (30) days.

The meeting was opened to the public for comment. There being no public comment, a motion to close the public hearing was made by Mr. Post and seconded by Vice Chairman Fedun. The motion carried unanimously.

A motion to approve the extension was made by Vice Chairman Fedun and seconded by Mr. Wu. The motion carried on the following roll call vote:

Ayes: Fedun, Post, Wu, Lopez-Lopez and DeRochi

Nays: None

III. APPLICATION

Case BA-07-17 **Applicant: Craig and Beth Kennedy**
Block 31004 Lot 1
Submission Waiver and Bulk Variance
Expiration Date – 120 Days from Submission Waiver
Affidavit of Notification and Publication Required

Chairman DeRochi stepped down. Notice was found to be in order. Eric Wasser, Esquire represented the applicant. Craig Kennedy, Beth Kennedy and Kevin Page were sworn in.

Mr. Wasser summarized the application. The applicant is requesting approval to construct a 1,200 square foot workshop, a pool and a patio. The property is 1.27 acres and is within the R-5 zone.

Mr. Page gave the Board his qualifications and was accepted as an expert engineering and planning witness. The applicant is requesting a submission waiver from showing natural features within two hundred feet (200') of the subject property. The Board professionals recommended the submission waiver be granted.

A motion to approve the submission waiver was made by Mr. Post and seconded by Mr. Lopez-Lopez. The motion carried on the following roll call vote:

Ayes: Fedun, Post, Voitach, Wu and Lopez-Lopez

Nays: None

Mr. Kennedy testified that they constructed a workshop/garage structure at their previous house on Montfort Drive for Mrs. Kennedy who is a hobbyist furniture maker. Approximately four days before closing on the subject property they learned the lot was over the permitted coverage. They would like to construct a similar workshop/garage as well as a pool which requires the variances.

Mrs. Kennedy explained that she makes furniture for their private use. She makes one piece of furniture every year or year and a half. No hazardous chemicals are used. She uses the workshop once or twice a week.

Mr. Page distributed handouts that were marked as Exhibits. Exhibit A-1 is a plan entitled "Additional Impervious Removal" dated 10/16/17. Exhibit A-2 is a plan entitled "Map of Property Surveyed for 136 Rolling Hill Road, Lot 1 in Block 31004" dated 08-08-2016. Exhibit A-3 is entitled "Partial Topographic Survey" dated 4-05-17. Exhibit A-4 is a google earth photo and four photos of the property.

Mr. Page described the property. The property has frontage on Rolling Hill Road and its rear yard abuts a golf course. There is a strip of land to the north of the subject property that is owned by the golf course and is wooded.

Mr. Wasser explained that the strip of land was a paper street that was vacated. The applicant had asked the golf course if they would sell a portion to help alleviate the coverage issue but the golf course would not sell.

Mr. Page testified that the front yard setback for the zone is 50' but the house was constructed almost 130' from the street. The driveway length is one of the reasons it is over in impervious. The front of the property is wooded. The proposal is to construct a 30' x 40' workshop at the end of the driveway. The paved basketball court will be removed. A pool will be constructed at the southern end of the house next to the existing patio. The topographic survey and property survey do not match. Mr. Page will verify which survey is correct and then revise the zone chart.

Ms. Goldman testified whether a variance for the rear yard setback is needed for the dwelling or not, it is a pre-existing condition. It is more important to get the actual boundaries for the proposed workshop and pool area.

Mr. Page discussed Mr. Bartolone's review report dated October 11, 2017. The ordinance requires the planting of 14 trees per acre. The applicant is requesting a waiver because the lot is already wooded. Construction access to the pool area is on the southern side of the property. The Kennedy's hired a forester to prune the trees and remove the diseased or dead trees. There is no objection to relocating the access but they believe the access as shown is acceptable. The applicant will hire his own landscape architect to look to make sure the construction equipment will not impact the trees. The information will be provided to Mr. Bartolone. Whatever route Mr. Bartolone suggests will be acceptable to the applicant. The French drain that was installed will be avoided. The pool is proposed to be fifty feet from the southern property line where fifteen feet is required. The pool location is appropriate. A buffer plan of Leyland Cyprus was proposed to be installed but it was recommended that another species be used. The applicant will work with the Mr. Bartolone to install appropriate buffer planting of the swimming pool and on the east and north side of the workshop.

Mr. Page discussed the Environmental Commission (EC) review report dated October 11, 2017. The pool will be saltwater. A swale is shown on the plans and the applicant agrees to revise the plans to show a vegetated swale. The only lighting for the pool are underwater lights.

Mr. Page discussed the Shade Tree Committee (STC) review report dated October 13, 2017. The applicant will work with the Board's professionals to choose the vegetation.

Mr. Page discussed Lauren Wasilauski's review report dated October 9, 2017. As suggested in her memo, the applicant requests a waiver from installing sidewalks along Rolling Hill Road, from installing street trees and from installing 14 trees per acre but instead installing 14 trees per disturbed area for a total of 5 trees. In response to the comment regarding removal of additional impervious surface, Mr. Page referenced the "Additional Impervious Removal" plan. The applicant is proposing to remove an additional 448 square feet of existing impervious coverage. Two hundred and sixty two square feet of driveway will be removed, ninety four square feet of walkway will be added, three hundred fifty one square feet of the existing deck will be removed and seventy one square feet of steps/walk will be added for a net reduction of 0.8%. They will now be requesting a variance for 20.6% coverage.

Mr. Page discussed the Clarke Caton Hintz review report dated October 11, 2017. A variance is required for the distance to the side property line for the accessory building. The requirement is fifteen feet or the height of the building which is 23.92 feet. The building will be reduced in size so they won't need the variance for the distance to another building. A waiver is requested from providing additional plantings to screen the pool from the street since the front yard is already wooded. The fence surrounding the pool will be four feet in height and will comply with the required pool codes. One or two trees will be removed in the area of the workshop. The underground utilities along the street frontage will be adequately protected from the weight of the construction vehicles. The existing curb will be adequately protected and if damaged will be repaired. Mr. Page estimated a net movement on and off the property of 600 cubic yards or less of soil.

Ms. Goldman testified that she spoke to Mr. Palmer prior to the hearing who confirmed that the workshop use is something that has been permitted as an accessory use to a residential dwelling.

Mr. Page discussed the Remington & Vernick Engineers review report dated October 12, 2017. The workshop will be constructed first. There will be low voltage path lighting around the patio. Mr. Kennedy testified it is likely the property exceeded the coverage when it was originally constructed. The driveway was most likely expanded a little in 2010. Mr. Cline testified that now the coverage has been reduced, the drywell for the shop covers more impervious than they are exceeding by. The applicant agrees to dimension the stabilized construction entrance and pool construction access. The projected total disturbance shall be shown. A north arrow will be provided on the variance plan. Access points for the workshop will be indicated. Construction details for all proposed improvements will be provided. The utilities for the workshop and pool will be shown on the plan. The workshop will not have a bathroom and will not be converted to living space.

Mr. Page summarized that there are two variances being requested, one for the side yard setback for the accessory building and the other is for total lot coverage. With the pool consideration they are allowed 19% and they will be 20.6%. The additional 1.6% represents approximately 800 square feet. The front yard setback for this property is 50' and the house was setback 130'. The extra 80' of driveway length at a width of 12' is about 1,000 square feet. Part of the workshop will be constructed on the existing driveway but it had to be setback far enough so that it does not interfere with access to the existing garage door. Overall the project is de minimis. A drywell is being installed to reduce any stormwater runoff. The workshop is dictated by the other physical features. An accessory structure is not permitted in the front yard. The workshop is proposed to be 18' to the property line but the property line is supporting a 50' strip of land which belongs to the Bedens Brook Club and is in its natural state. This is uniquely shaped because of where the house is placed on the property. There are no negative criteria because the neighbor to the north is a strip of land that can't be built on. The neighbor to the east is golf course which has an active tee that is located substantially off the property. The workshop does not create a lot of noise or light. It is fairly benign because all work is done inside. Granting the variance can be accomplished without resulting in substantial detriment to the public good and there is no substantial detriment of the intent and purpose of the zoning ordinance and zone plan.

Mr. Lopez-Lopez noted the testimony has been that two trees were to be removed but the plan shows more. Mr. Page confirmed seven will be removed and they are replacing with a minimum of seven.

Vice Chairman Fedun opened the meeting to the public.

Martha Sword, 148 Rolling Hill Road, was sworn in. Mrs. Sword said she is concerned with the project because of her loss of privacy and loss of a beautiful and valuable viewshed. Having a pool and fire pit on the side directly adjacent to her back patio and outdoor living space will mean that the recreational activities and sounds from the applicant's property will become unavoidable and will detract from the enjoyment of her outdoor space. The diminishment of what is now a quiet and private living area would reduce her home value significantly. The proposed location of the swimming pool, fire pit and furniture workshop are in the direct line of view from her kitchen and terrace to the Sourland Mountains. The location of the construction will damage her property value. The proposed workshop gives her concern because of its height and size. She objects to the square footage of 1,200 and a height of 24' as well as its location. The workshop will be two times the size of her two car garage. It will not be modest nor blend in with the character of the existing neighborhood. The property has a three car garage which offers an opportunity for remodeling and conversion into a workshop without the need to increase the footprint on the lot. Failing this, a location should be found on the property to construct something smaller that works for the family's needs and the neighbor's viewsheds. The pool and fire pit could be located further west on the property adjacent to the western edge of the existing fence. The fire pit wall could be constructed so that it will be tall enough to sit on and so that it will visually obscure both the fire pit and the pool. Deer resistant evergreen landscaping that will not grow tall enough to block her existing view should be used. The landscaping should be situated closer to the pool and fire pit than to her yard. Existing space in the 3 car garage should be retrofitted to construct the workshop or construct a smaller space appropriate to the aesthetic of the neighborhood. Ms. Sword presented a rendering of what the view would be from her kitchen when the workshop is constructed which was marked as Exhibit O-1. The top photo is from the golf course looking at the proposed workshop. The bottom picture on the left shows the current view from her property and the photo on the right shows the view with the workshop.

The Board discussed how the buffer landscaping may block the view of the pool from Mrs. Sword's property and the applicant agreed to install additional trees.

Richard Schatzman, Esquire, representing the Bedens Brook Club, confirmed the strip along the northern property line is a vacated street. The Club is concerned with the size of the workshop and would like to have additional screening between the workshop and the rear lot line. Mr. Page said the applicant agrees to additional screening but does not want to block Mrs. Sword's views.

The Board took a ten minute recess.

Mr. Page and Mr. Kennedy discussed the possibility of moving the workshop and offered a solution by installing some additional landscaping. Mr. Page said by removing the portion of the deck it frees up space to install a maple tree which will provide shade and screen the visual impact. The corner of Mrs. Sword's house to the corner of the pool is about 90' so the corner of the workshop to the corner of her house is probably about 250', although he hadn't measured it. It is important that the pool be cited on the property so that it gets the maximum amount of sun during the day and so that it is visible from the Kennedy's kitchen window. The workshop could be painted in an earth tone to minimize the impact. Mr. Kennedy said they tried to construct and place the structure in a way that maintains the existing character of the property. They looked at several locations for the workshop and the proposed location was chosen because it allows them to have the lowest possible lot coverage, it allows the basketball court to be removed and restored back to grass, it is setback from the street at a similar line to the actual house and will look similar to the house. The proposed location has a high probability of saving the root structure of one of the existing large trees on the lot.

Mr. Kennedy agreed to have his landscape consultant go to Mrs. Sword's property and design it from her point of view to minimize the impact. The fire pit can be relocated from the south end to the north end.

There being no further public comment, a motion to close the public comment was made by Mr. Post and seconded by Mr. Wu. The motion carried unanimously.

A motion to approve the application with the conditions that were discussed was made by Mr. Post and seconded by Mr. Lopez-Lopez. The motion carried on the following roll call vote:

Ayes: Fedun, Post, Woitach, Wu and Lopez-Lopez

Nays: None

IV. MINUTES

September 19, 2017 – Regular Meeting

A motion to approve the minutes was made by Mr. Post and seconded by Mr. Woitach. The motion carried on the following roll call vote:

Ayes: Fedun, Post, Wu and Lopez-Lopez

Nays: None

There being no further business to come before the Board, the meeting was adjourned at 9:55 p.m.