

**METUCHEN ZONING BOARD OF ADJUSTMENT  
MINUTES  
October 14, 2021**

The meeting was called to order at 7:45pm by Daniel Topping, Chairman, who read the statement in accordance with the Open Public Meetings Act.

**Present:** Catherine McCartin  
Angela Sielski  
Byron Sondergard  
Brian Tobin, Vice Chairman  
John Schumann, Alt I  
Daniel Topping, Chairman

Robert Renaud, Esquire  
Christopher Cosenza, Planner  
Robert Mannix, Engineer  
Patricia Kaulfers, Zoning Official  
Denise Hamilton, Secretary

**Late:** Judith Sisko 7:51p

**Absent:** Jonathan Rabinowitz  
Iris Delgado, Alt. II

**RESOLUTION:**

**21-1305 Laurel Dobalo** – *(Applicant proposes extension of kitchen and requires variance approval due to pre-existing non-conforming setback conditions).* Appv. 9.9.21  
**2 Oak Avenue Block 105 Lot 30**

Motion to approve the resolution was made by Mr. Sondergard and seconded by Mr. Schuchman. Ms. McCartin, Ms. Sielski, Mr. Sondergard, Mr. Tobin, Mr. Schuchman, and Topping voted yes. Motion was approved.

**NEW BUSINESS:**

**21-1282 BKM Leonard Street LLC** – Applicant is seeking to amend a condition of approval mandated by the ZBA in 2006, to acquire the vacant lot that resulted from the subdivision.  
**70 Leonard Street Block 48.01 Lot 2.01**

Mr. Ricard Mongelli, Applicant's Attorney, stated that Applicant is asking to adjust the property line of a vacant lot. No construction is being proposed and there are no businesses on the site. The intent is to subdivide lot 2.012 into two lots, merge one portion with P&V's property, and the other with the DeFalco's family lot. A waiver from the 2006 resolution is being asked to allow for this division. The new lots would be fully conforming, yet the vacant lot would be eliminated. Mr. Mongelli requested Mr. Cosenza's review memorandum be included as an exhibit added to the application.

Mr. Renaud explained that it is a minor subdivision application with no development proposed and no variances requested. Applicant is asking to merge lot 2.012 with lots 64 and 2.011. The lot is not a detriment to the Borough.

Mr. James Heiser, Licensed Land Surveyor, was sworn in by Mr. Renaud. He received his license from NJIT and is employed by DPK Consulting. He was accepted by the Board as an expert witness.

Mr. Heiser prepared the subdivision plan for the property. He was in agreement with Mr. Cosenza's memorandum. Mr. Topping screen shared Exhibits 1, 2, and 3 (property surveys), on behalf of the Applicant. Mr. Heiser shared the subdivision plan. He explained that the intent is to eliminate the existing access easement and create a new one. Ownership would no longer belong to Treetop Partners but would become P&V's property.

Mr. Renaud stated that a deed would be required to release the easement. The easement north of the lot line of 2.011 would be extinguished. The only part of the easement to remain is the section existing within lot 2.011.

Mr. Cosenza commented that all issues raised were addressed.

Mr. Topping invited questions from the Board. There were no questions. The floor was closed, and then opened to the public for questioning of the witness. No one responded. The floor was closed for questioning of the witness and opened to the public for comments. No one responded. The floor was closed.

Mr. Renaud stated the Conditions; 1) Extinguish the easement but retain the portion south of the lot line; 2) only a portion of the lot would be merged and not the entire lot; 3) the orphan lot would be eliminated, while lot B would become part of lot 2.011. The Applicant would be required to acquire new lot lines. Deeds are subject to the approval of the Borough's tax assessor, Attorney and Engineer.

Motion to approve was made by Mr. Sondergard and seconded by Mr. Schuchman. Ms. McCartin, Ms. Sielki, Mr. Sondergard, Ms. Sisko, Mr. Tobin, Mr. Schuchman and Mr. Topping voted yes. Motion was approved.

**20-1268 A&G Renovations LLC** – Applicant is seeking major site plan and variance approval to demolish existing single family house to construct an eight (8) unit apartment building.  
(Carried from September 9, 2021)

**434 New Durham Road Block 72 Lots 48-52**

Mr. John Wiley, Applicant's Attorney, explained that both use and height variance approvals would be required. Location is the B3 zone for mixed use and the application is for single use. The building height is beyond the Ordinance mandate.

Mr. Mark Marcille, Architect, was sworn in by Mr. Renaud. He has appeared numerous times before the Board was accepted as an expert witness.

Mr. Marcille shared his screen of the renderings for his presentation. The proposal is for a three-

story, eight (8) bedroom apartment building, with the second floor having one two-bedroom and one three-bedroom unit. Page A3 of the renderings were shared. The building height is an issue and measurement was taken from the existing lowest grade, however, due to the nature of the existing slope it exceeds the height requirement.

Mr. Cosenza stated that based on his interpretation of the Ordinance, the highest point would be 39.36 ft.

Mr. Wiley added that the COAH unit would be the three bedroom apartment to the rear of the building with the half bathroom added as suggested.

Mr. Topping invited questions from the Board. There were no questions.

Mr. Thomas Quinn, Engineer, was sworn in by Mr. Renaud. He has been an Engineer since 1977 and his license is in good standing. He has appeared before many Boards over the last 24 years. He was accepted as an expert witness.

Mr. Quinn shared his screen to display the property survey and stated that the parcel is divided into five lots, all in block 72, with a square footage of 13,000. Frontage is on Durham Road to the South with Adams Street to the side. There exist a single family dwelling and a graveled area giving access off of Adams Street. There is a significant grade change of 19 feet from the south easterly corner to the north westerly corner. (He shared his screen with the site plan dated, May 20, 2021). The first floor is roughly 2,000 sq. ft., while second and third floors are 3,000 sq. ft. each. There are two balconies and a retaining wall to screen the air conditioning compressors. There will be a total of 13 parking stalls to the rear of which one will be ADA compliant, a ramp, and a 10x10 trash dumpster enclosure. A sidewalk is proposed along Adams Street. The highest building point is 40.33 ft. There are three inlets which will connect and run to the southeast corner. Roof leader drains will collect and eventually connect into the underground system located on the opposite side of New Durham Road. A retaining wall for the parking lot is located on the easterly side of the property. Lighting and landscaping plan was shared, with a total of six on site lights, three free standing of which one will be located along the street frontage at 12 ft. high. Landscaping plan offers 11 shade trees. Building will have a mix of foundation planting that includes flowering plants as a buffer. A bike rack in the front to accommodate up to six bikes.

Mr. Quinn addressed the professionals' memos. They will make the 2% adjustment in the handicap stall as requested by Mr. Mannix. Mr. Mannix was agreeable to having the cross drainage pipe increased from 12 to 15 inches, and to have his suggestion for an inlet removed. All other comments from the Engineer were acceptable. Mr. Cosenza affirmed that variances for side yard setbacks would not be required, but would for the building height. No variance necessary for the parking stalls. Three EV ready stalls have been included as mandated by law. Applicant will adhere to the suggestion for turn-around space in the parking lot. In response to Mr. Cosenza's concern for site visibility being impeded coming from Adams Street, the grading plan did address this issue and would be an improvement to what exist today. (Mr. Quinn shared a view of Google Map of Adams Street).

Mr. Topping invited questions for the Board.

Suggestion was made for the corner of Adams Street being widened on the western side. Concern was expressed for the shortage of parking spaces being offered.

Mr. Quinn confirmed that the 15 parking spaces is the number that should be offered.

Mr. Topping invited additional comments from the Board. No one responded, he opened the floor for questions from the public. No one responded, he closed the floor.

There was a break taken at 1:50pm and the meeting reconvened at 1:55pm.

Mr. Topping read a question from a resident asking whether or not a traffic light was to be installed at Middlesex and Durham.

Mr. Quinn responded that no light was being proposed.

There were not additional questions for the Planner. Mr. Topping closed the floor for questioning.

Mr. James Watson, Licensed Land Surveyor and Professional Planner in New Jersey, was sworn in by Mr. Renaud. He has worked as the Borough Planner for several towns and had previously testified before the Board. He was accepted as an expert witness.

Mr. Watson stated that there is a 100x109 ft. lot at the corner of Adams and Durham. Problem is that the property slopes. Low point is the south easterly corner and high point is the north westerly corner, resulting in a grade change of 18/19 feet. There is an old structure to be demolished. They are proposing residential use for all three floors, which is prohibited on the first floor where the designation is for retail and personal services use. Approval of a D1 Variance is being requested to allow for the residential use only. This would also allow for removal of the existing non-permitted single family use. Coverage and setback requirements would be in compliance. With the infrastructure already in place, other than storm water system crossing over into the New Durham Road connection, no new roads or utilities are being proposed. They are COAH compliant. Sidewalks will be improved. A D6 Variance is being sought as structure exceeds the 10% restriction placed on building height. Although the height is in excess of 35 ft., the peak in the roof makes for a better visual effect. The retaining wall will help to create a leveled spot to site the building. It is difficult to comply due to the change in grade across the lot. Only negative would be light noise and traffic within the area. The two deficient parking spaces can be accommodated from the 75 ft. frontage on Adams Street. Three parking spaces could fit on Adams and four on the northerly side of Durham, for a total of seven spaces, to be included into the calculation for RSIS requirements. Master Plan goals are being met with no detriment.

Mr. Topping invited questions from the Board for the witness.

The Board expressed concern with traffic making it difficult to park on Durham and insufficient parking being offered.

Mr. Watson responded that RSIS rules allows for spaces mentioned to be counted whether or not they are utilized by the residents.

Mr. Renaud stated that residential site improvement standards are designed for improvements and every municipality is required to comply. Based on the RSIS ruling, the Board determines how parking spaces can be counted, including whether alternative standards, such as off street parking is allowed. The Board does have the right to grant de minimis exception to accept the lesser spaces being offered.

Mr. Cosenza explained that under the new law, the EV charging stations offered, offsets the required number of parking spaces mandated by the RSIS. As a result, parking is deficient by only a half space, which would round up to one.

Mr. Topping invited additional questions from the Board for the witness. No one responded. The floor was opened to questions/comments from the public. No one responded. The floor was closed.

Mr. Cosenza offered several suggestions to encourage Board approval; 1) lower the roof to avoid the D6 Variance, 2) additional bike racks, 3) removal of both the light fixture on Durham and the retaining wall for the AC units, 4) increase the number of parking spots and improve the right of way on Adams Street. The condenser units could be placed in a room with a screen.

Mr. Marcille stated that he would reduce the height from the floors making it eight instead of nine feet high. The AC units will be screened as suggested.

Mr. Quinn offered to add another rack for bicycles.

A discussion continued on the elimination of the D6 variance for the building height. Concern was expressed by the Board in regards to the positioning of one parking space blocking another. Traffic and lack of parking spaces continued to be topics of discussion.

Mr. Wiley requested a brief break to speak with his client and upon his return made the request for the meeting to be carried.

Mr. Renaud announced that the meeting would be carried to November 11, 2021, at 7:45p, via Zoom and no further notice would be given.

Mr. Topping closed the public portion.

**ADJOURNMENT:**

Motion to adjourn was made by Mr. Schumann and seconded by Ms. Sisko. Voice vote, with all in favor, meeting was adjourned at 11:58pm.

Respectfully submitted,  
D. Hamilton 