

**MINUTES
OF THE
CRANBURY TOWNSHIP
ZONING BOARD OF ADJUSTMENT
CRANBURY, NEW JERSEY
MIDDLESEX COUNTY**

**APRIL 6, 2022 MINUTES
APPROVED MAY 4, 2022**

TIME AND PLACE OF MEETING

The regular meeting of the Cranbury Township Zoning Board of Adjustment was held via Zoom <https://us06web.zoom.us/j/89352721724> Webinar ID: 893 5272 1724 on April 6, 2022, at 7:00 p.m.

CALL TO ORDER

Ms. Meacock, ZBA Chairperson, called the meeting to order and presided over the meeting.

STATEMENT OF ADEQUATE NOTICE

Adequate notice as well as electronic notice of this meeting was provided in accordance with the requirements of the Open Public Meetings Act and the regulations governing remote public meetings. The notice included the time, date and location of the meeting and clear and concise instructions for accessing the meeting. A copy of the agenda for this meeting was made available to the public for download on the Township's website, and all documents and other materials pertaining to any applications listed on the agenda were posted electronically and made available for download at least forty-eight hours prior to the meeting.

All participants in this meeting are required to keep their microphones muted until recognized or directed otherwise. The Board will engage the Zoom "mute" function until the time for public comment is reached.

Members of the public who wish to make a comment are required to use the "Raise Hand" feature in Zoom, or, if participating by telephone, by pressing *9. Once recognized by the chair, the participant will be able to unmute his or her microphone and offer a comment. Interested parties wishing to ask a question or make a comment during a public hearing on an application will be sworn in and asked to provide their name and address before proceeding. The Board Chair or his designee will manage the order of the comments.

MEMBERS IN ATTENDANCE

- ☒ Joseph Buonavolonta
- ☒ Robert Diamond
- ☒ John Hoffman
- ☐ David Nissen

- ☐ Neal Wagman
- ☒ Frank McGovern (Alternate #1)
- ☒ Richard Kallan (Alternate #2)
- ☒ Merilee Meacock

PROFESSIONALS IN ATTENDANCE

- ☒ Robert Davidow, Zoning Board of Adjustment Attorney
- ☒ Robin Tillou, Secretary
- ☒ David Hoder, Engineer
- ☒ Elizabeth Leheny, Planner
- ☒ Randy Barranger, Traffic Consultant (Filling in for Andrew Feranda)

RESOLUTION

ZBA349-21 Robert Allen
60 Maplewood Avenue
Block 33, Lot 5 – V/HR Zone
Subdivision - (d)2 and Bulk Variance

Motion to adopt resolution.

MOTION MADE BY: Mr. Kallan

MOTION SECONDED BY: Mr. Buonavolonta

ROLL CALL

AYES: Mr. Buonavolonta, Mr. Diamond, Mr. Kallan and Ms. Meacock

NAYS: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

APPLICATIONS

ZBA355-22 Alice and Kyle DeBlois
1 Hardley Drive
Block 21, Lot 37 – RLD-1 Zone
Bulk Variance – Fence

APPLICANTS PRESENT: Alice Deblois, Owner
Kyle Deblois, Owner

EXHIBITS:

- A-1 – Zoning Board of Adjustment Application**
- A-2 - Zoning Permit application**
- A-3 - Denial of Zoning Permit by the Cranbury Township Zoning Officer**
- A-4 – Septic System Plan**
- A-5 – Map of Development**
- A-6 – Map to Show Adjacent Tree Nursery, Access Road**
- A-7 – East Facing Yard During Summer**
- A-8 – East Facing Yard During Fall**
- A-9 – East Facing Yard from Hardley Drive**

Mr. Davidow swore in the Applicants, Alice and Kyle Deblois.

Ms. Deblois explained the application by stating they live in a corner lot of the Shadow Oaks development off Old Trenton Road. They are looking to install a four-section fence on their property. Two sections of the fence require the variance. The corner lot makes them have two frontages. The setback requirement is not met for one variance, and the second variance is due to the privacy fence being proposed between 1 Hardley Drive and 2 Hardley Drive. The privacy fence they are proposing will be 6 ft. high and approximately 95 ft. in length. The privacy fence will run by lot 36 and to the point where they will put a split rail fence up and connect it to the garage. The split fence is an open wooden fence that will run along Hardley Drive. They spoke with their neighbors, and the neighbors are in favor of the fencing due to providing privacy to the neighbors as well. One reason the fence is needed is for their dogs. Due to their proximity to Old Trenton Road, which is a high traffic road with commercial vehicles, they want to make sure the property is secure for their dogs and future children. The inability to use a natural barrier is an issue as well. There is greenery from June – September which creates some barrier, but the other months create visibility in all the neighbor's yards.

Ms. Deblois showed her exhibits of views showing the privacy level from her front door, patio and the wood deck area (A-7 – A-9).

Mr. Deblois stated there is a 50 ft. setback requirement for the split rail fence and we cannot do that because that is where the septic system will be, and you cannot put a fence on top of that.

Ms. Deblois stated the fence will be a couple of feet to the left of the septic system and will connect to the garage.

Chair Meacock asked what the setback is for the garage to get a more exact number for the setback.

Ms. Deblois stated she is not sure. It is estimated to be 38 – 39 ft. setback.

Ms. Deblois stated the other variance is only for the 6 ft. 100% solid fence, what is required is only 25 ft. in length and we would like approximately 95 ft.

Chair Meacock stated that there is a setback variance request at section "c" (referring to exhibit A-2) and the solid fence for section "a" (again referring to exhibit A-2). Section "b" and "d" have been approved by the zoning officer and no variance is needed.

Mr. Davidow agreed.

Mr. Deblois stated they had shown their neighbor at 2 Harley Drive their application and they are in favor of the application.

Mr. Diamond asked how a split rail fence is going to provide privacy.

Mr. Deblois stated it will not be an open split rail fence, there will be mesh wire.

Mr. Kallan stated the discrepancies that he had noticed with the application are as follows: fence "s" measures 92 ft., not 120 ft that the application indicates; Fence "b" indicates 280 ft. on the application but he measured it as 136 ft.; he measured fence "c" to be 120 ft., which was not measured and should have been; he measured where fence "c" joins fence "a" as 42 ft. setback; he measured fence "c" at the garage to be 35.5 ft. setback. Other discrepancies Mr. Kallan found is as follows: on Exhibit A-1, page 3, item 6, 1 Wynnewood does not exist; 3 Wynnewood has a 50% block metal picket fence starting at the rear of the house and surrounds the pool area; 2 Woodview Drive has no fences; 60 Old Trenton Drive has 4 ft. high picket fence and 4 ft. high 3 flat rail horse coral fence. When analyzing the application and reasoning for the fence, it was noticed that the Old Trenton Road view is blocked by trees and bushes that line the shoulder. No homes on Hardley Drive or Lynch Way have 100% solid fence. Lots 36 and 38 block Old Trenton Road view and existing trees and bushes allow a large amount of privacy at the present time. The 6 ft. privacy fence will only block the easterly view of adjacent lot 38 and the view would be an eye sore from the easterly view. Cranbury has pushed for unobstructed views, and high fences would not advocate that.

Mr. Buonavolonta asked why three different fences are needed.

Ms. Deblois stated to install the chain link fence, they must go for a variance. For the privacy fence there is a level of maintenance and they do not want their home to be overgrown. The landscaping in the back is dying and overgrown. The contractor suggested the chain link as opposed to split rail due to vegetation and will be more of a permanent solution due to vegetation growing over split rail not lasting as long and the privacy fence will look nice and will be easier to maintain the landscape.

Mr. Diamond stated he is not convinced of the application due to the measurements not being exact and the misinformation in the application. The 6 ft. privacy fence would be a white wall. The split rail fence would be appropriate, but he does not agree with the privacy wall.

Mr. Kallan agrees that a 92 ft., 6 ft. high solid fence being placed there is too much. White pine trees are 6 ft. tall when you plant them, that could be an option.

Ms. Leheny stated what is permitted in the V/HR zone is a 50% solid fence up to 5 ft. in height.

Chair Meacock stated with the feedback from the Board, we can approve the setback variance with an exact number of the setback and if you did a split rail for the back fence, it would not need our approval.

Ms. Deblois would like another option due to a split rail being more open. Could they decrease the height to 4 ft. for the privacy fence?

Chair Meacock asked the Board if it would be acceptable to do a 4 ft. solid fence.

Mr. Kallan stated he would not be opposed to a 4 ft. solid fence and to consider using the wood grain to blend in with the vegetation.

Mr. Buonavolonta and Mr. Diamond agreed.

Chair Meacock went over the conditions of having an exact number for the location of the setback and the solid fence will be 4 ft. as opposed to 6 ft. and striking out item 6 of the application due to misinformation.

Ms. Deblois asked if a minimum variance could be put in the resolution.

Chair Meacock stated they can do that.

Ms. Deblois asked if they can do a maximum length of 95 ft. for the solid fence.

Mr. Kallan motioned to approve the application with the conditions to specify the setback of "c" (split rail) (minimum of 35 ft.), the length of fence "a" and "a" will be no higher than 4 ft. solid fence. Mr. Diamond seconded the motion.

ROLL CALL

AYES: Mr. Buonavolonta, Mr. Diamond, Mr. McGovern, Mr. Kallan and Ms. Meacock
NAYS: None.

ABSTAIN: None.

MOTION APPROVED

**ZBA357-22 Cranbury Board of Education
23 N. Main Street
Block 23, Lot(s) 63.011 & 70.02 – A-100 Zone
d(2) Variance**

REPRESENTATIVES: Mr. Frank Brennan, Esq., Brennan Law Firm
Dr. Susan Genco, Cranbury School Principal and Superintendent
Ms. Beth Kenderdine, Applicant's Engineer, Edwards Engineering
Mr. William Bannister, Applicant's Architect, Parette Somjen Architects
James Kyle, Applicant's Planner, Kyle & McManus Associates

EXHIBITS:

A-1 – Zoning Board of Adjustment Application, Cranbury Referendum 3-D “Fly Through” video <https://youtu.be/JpD8lgGY8LI>.

Mr. Davidow announced notice is adequate and this Board can take jurisdiction over the application.

Mr. Davidow stated this project went before the Planning Board for consistency review in May 2021. It was then discovered the A-100 Zone does not list schools as a permitted use. This resulted in the need of the use variance that is here tonight. Site plan specifics are not up for debate, that is for the jurisdiction of the New Jersey Department of Education. Any potential issues from a practical standpoint for the better and the d(2) use variance is within jurisdiction of this Board.

Mr. Brennan explained the application by stating the district is seeking a use variance to allow the construction of several projects which will be detailed by the witnesses. It is the construction of the auxiliary gym to the existing building, reconfigure the school entrance to accommodate the auditorium/performing arts center, a fire lane to the auxiliary gym addition, related construction such as sidewalks, walkways and curbing, stormwater measures, parking area and circulation, the relocation of dumpsters and smaller alterations as noted in the application. There has been a school on the property for approximately 125 years (since 1896) and schools are not permitted in any zone in Cranbury Township. The applicant is expanding a preexisting non-conforming use and that is the reason they are before the Board tonight.

Mr. Davidow swore in the Board's and Applicant's professionals.

Dr. Genco advised she is the principal/superintendent of Cranbury School District and has been for 11 years. The Cranbury School is a pre-k through 8th grade district and currently serve 483 students. The projects being reviewed tonight were part of a referendum and passed in December. Dr. Genco introduced Exhibit A-1, Cranbury Referendum 3-D “Fly Through” video <https://youtu.be/JpD8lgGY8LI>.

Mr. James Kyle, Applicant’s Planner, advised he has a bachelor’s degree in science and environmental design from Rutgers University in 1996. He has been a practicing planner for over 25 years and their office represents multiple municipalities and have appeared before this Board. He is licensed by the State of NJ and a member of American Institute of Certified Planners.

Chair Meacock accepted Mr. Kyle’s credentials.

Mr. Kyle explained the school is before the Board due to the expansion of the non-conforming use d(2) variance. The site is approximately 22 acres, has limited frontage on North Main Street, it extends approximately 1,500 ft. from North Main Street to the back. The uses that surround it are Township recreational facilities, farmland to the west, woodlands and Brainard Lake to the south and commercial Village Center is located to the east. This application is considered an inherently beneficial use. The MLUL was amended in 1999 and the legislature added a specific definition which includes a school. In the case of Sica v. Wall Township BOE, it was deemed that in a case of inherently beneficial use the positive criteria are assumptively satisfied. For the public interest at stake, the expansion of the school in this manner is critical to the district to provide the highest quality education possible. This will modernize the facility, achieve sustainability goals and provide a better overall educational experience. This is more of a compelling public interest than most that the Board may hear on the beneficial use cases. The public benefit is there is a direct benefit to the students and parents in the district. Any detrimental effects associated with continuing use of the site as a school and an expansion are limited at best. The areas where the construction will occur are not significantly expanding the footprint. It is the auxiliary gym addition on the southwest side that is a step outside of the footprint and that is away from any sensitive receptors. The residential homes are away from where the gym addition will be. The land to the south and west are recreation lands or conservation lands that are wooded. There is sufficient buffering to any adjacent uses to address that. This should not result in any impact to adjacent activities and will not increase traffic of activity to the site. The conditions to reduce any detrimental effects are, this is based on the context of the application. Typical conditions are buffering, and we are open to any suggestion the Board may have. The public interest of the expansion of services that will be provided to students and any potential detrimental effects is on balance as required by Sica, the benefits outweigh any detriments. The granting of the variance will not impair the intent and purpose of the zone plan. The intent of preserving the rural character through the continuing of farming is not impacted by this proposal. This does not come at the expense of any farm or open space.

Mr. McGovern agreed that education is an inherently beneficial use. There is concern about the detriment of expanding the use currently due to the leadership team departing. There is no educational team lined up to address this expanded use. There should be a plan for an executive search for a leadership team if Dr. Genco and Ms. Waldron (Vice-Principal) cannot stay through the project would be a good idea.

Dr. Genco stated the staging and design phase will be in the summer and she will be a part of that. She will be creating that plan for when projects will be addressed as designated until her retirement. They are in the active search phase for her replacement and will bring the candidate up to speed in terms of the amount of time and planning that has gone into the project proposal and discuss the long-range facility plans for the district. We have been collaborating with our architect with how the construction will disrupt the students. She will be available to assist, even if it needs to be volunteer, if that is something that is wanted by the school community.

Mr. McGovern stated if there was a way to secure Dr. Genco and Ms. Waldron through the project it would satisfy him. There is no leadership team on the horizon and expanding the use is concerning to him.

Mr. Brennan stated that reasoning should not be held in the positive or negative criteria for purposes of the use variance.

Mr. Davidow stated he agreed that it is a concern and is allowed to voice that concern, but it should not impact the d(2) variance decision.

Mr. Diamond stated that construction has started already and would like to know what construction is happening right now.

Mr. Bannister stated the staging has begun for the construction and the contractor has been awarded and mobilized. With permission from the Township, the contractor has started to construct the drainage and mobilization of equipment for the project and has stopped there.

Mr. Diamond would like to hear testimony for the possible detriment of public good for the performing arts center on an already bad traffic situation that happens with events at the school.

Ms. Kenderdine, Applicant's Engineer, has not performed any traffic analysis of the school property. Part of the project involving the performing arts center would be to analyze the existing traffic patterns and see if they can improve those. The report from Shropshire has been received regarding recommendations for traffic circulation and the possibility of a second access to improve circulation on the site. They will take a closer look at that when the time comes.

Mr. Kallan stated if people from other areas use the new expansion it will increase the traffic.

Dr. Genco stated the Board of Education has policy and regulations on the use of the facilities. The Board has the purview on whether organizations can use the facility, the time they can use the facility and if it would interfere with the daily operations of the school. They have the option to permit or deny the use of the facility. If an outside organization asks for use of the facility, they go through an application process and the Board denies or allows access of that outside organization.

Mr. Hoder stated his concerns is advisory only and one of them is regarding the parking and traffic. There is a loss of 14 spaces due to the expansion and that should be considered due to the multiple uses of those spaces (Town Hall, new library, tennis courts). The stormwater management has a possibility of icing if all the leaders and gutters are not run to a dry well or storm system. The fire lane appears to end where the new gym will be. Is that going to be continued?

Ms. Kenderdine stated all the runoff from the new roof of the gym will be put in the new drywell system. The fire lane will be rerouted around the new auxiliary gym addition. The existing reinforced grass fire lane is in pieces so we will be replacing what is there now and expand that around the gym.

Ms. Leheny asked what the state's role for the Department of Education is and why the Planning/Zoning Board cannot place their decision on the parking and traffic.

Mr. Bannister stated the Department of Education created a Facilities Efficiency Standard. That is a set of standards that Board of Educations need to follow when renovating schools. That sets the guideline for what it should look like, and the Department of Education will get into the site plan review when submitted. It is a schematic submission which we identify the referendum that will be voted on and the next phase would be the final application which is formalization of the documents. Those two submissions then get approved by the Department of Education, one of them has been received and the second one gets submitted in the next four months. They have Department of Education managers that are assigned to the various Districts throughout the state. They review the applications and approve them, but there are still the requirements that are through construction department of the municipality and code.

Mr. Davidow stated the Board can recommend a traffic study which is the case with this application.

Mr. Barranger stated the information that there is a lease use of the new expansion is new to Shropshire and is different from a school function. A traffic study would be beneficial for the Board to investigate the issues that were addressed and is a recommendation.

Chair Meacock stated the parking should be investigated as well.

Mr. Diamond stated if there is a detriment effect to the public good, that is not advisory only.

Mr. Davidow stated it must be outside the purview of site plan issues for the detrimental effect from the standpoint of the actual site and its suitability. If it is a detrimental effect on the community overall and outweighs the inherent beneficial use, then potentially yes.

Ms. Leheny stated part of the Sica balancing test is you must balance what are the detriments vs. the use. It is in the Board's purview to set certain mitigation measures for any detriments they have identified.

Mr. Hoder would like to have the recommendation for the gutters and leaders and icing in the resolution.

Mr. Davidow advised the applicant did state that his recommendation would occur and can put in the resolution as well.

Mr. Kallan motioned to approve the application with the recommendations set forth. Mr. Diamond seconded the motion.

ROLL CALL

AYES: Mr. Buonavolonta, Mr. Diamond, Mr. Hoffman, Mr. Kallan and Ms. Meacock

NAYS: Mr. McGovern.

ABSTAIN: None.

MOTION APPROVED

MINUTES

Upon a motion made and seconded the minutes for March 2, 2022 were unanimously approved by those members eligible to vote on said dates.

ADJOURNMENT OF MEETING

There being no further business, Mr. Kallan made a motion to adjourn, and Mr. Buonavolonta seconded, the meeting was thereupon adjourned.

CERTIFICATE OF SECRETARY

I, the undersigned, do at this moment certify.

That I am duly elected and acting secretary of the Cranbury Township Zoning Board of Adjustment and, that the preceding minutes of the Zoning Board of Adjustment, held on April 6, 2022, consisting of eleven pages, constitute a true and correct copy of the minutes of the said meeting.

IN WITNESS of which, I have hereunto subscribed my name of said Zoning Board of Adjustment this May 11, 2022.

Robin Tillou
Robin Tillou, Secretary