



Borough of Demarest
Zoning Board of Adjustment
MINUTES

June 18, 2024

7:30 PM

DEMAREST BOROUGH HALL

The Borough of Demarest Zoning Board of Adjustment held its regular meeting on TUESDAY, JUNE 18, 2024, at 7:30 p.m. located at 118 Serpentine Road Demarest, NJ 07627.

CALL TO ORDER

Meeting was called to order at 7:30 PM by Chair Hayden.

FLAG SALUTE

The Board was led in a salute to the flag by Chair Hayden.

ROLL CALL

MEMBERS PRESENT: Todd Adelman, Robert Corrado, Ted Davis, Dorothy Hayden, Steve Park, Timothy Woods

MEMBER(S) ABSENT: Robert Hirsh, David McLain, Diana Pavlova

ALSO PRESENT: Michael Greco – Secretary, Mark Madaio – Attorney, Nick Chelius – Engineer

APPROVAL OF MINUTES:

A motion was made to approve the May 21, 2024, minutes, by Mr. Corrado and seconded by Mr. Adelman. On roll call, the vote was recorded as follows:

Vice Chair Woods:	Yes	Mr. Davis:	Yes	Mr. Corrado:	Yes
Mr. McLain:	Absent	Mr. Park:	Yes	Mr. Adelman:	Yes
Chair Hayden:	Yes	Mr. Hirsh:	Absent	Ms. Pavlova:	Absent

Motion Passed.

RESOLUTIONS:

APPLICATIONS:

ZB24-002 – 63 Central Avenue

Chair Hayden called up Paul Haberman and expressed that the board would need the legal proof required to approve the application.

Mr. Madaio clarified the plans that are being presented.

Mr. Haberman called up Perry Frenzel, the applicant's engineer.

Perry Frenzel was confirmed sworn in from the prior meeting. Mr. Frenzel explained the updates to the plan.

Mr. Davis asked a question about the elevations for the shed. Mr. Davis stated that the shed had three feet of fill around it.

Chair Hayden asked a question about the visibility of the walls to the neighboring properties and the slope of the property and Mr. Frenzel clarified the heights of the walls on all points of the property.

Vice Chair Woods asked a question about the elevation of the wall from the corner of the property.

Mr. Frenzel explained that the distance between the wall and the property line despite the slope does not appear as drastic as it may seem.

Mr. Woods commented on the height of the wall and its respect to the grade of the property and discussed it with Mr. Frenzel.

Mr. Madaio clarified the two different points being suggested.

Mr. Davis asked a question about the bottom elevation of the seepage pits. Mr. Frenzel answered him. Mr. Davis expressed concern over the amount of water and whether the drainage would be enough.

Mr. Chelius, Board Engineer, explained that the wetlands are not on the site and that the application if approved would go through soil tests to ensure the drainage measures are satisfactory. Mr. Chelius stated that they are comfortable that the drainage design is feasible as presented.

Mr. Frenzel explained that the stream is more than 300 feet from the property.

Mr. Corrado asked a question about how the wall will help keep the water from draining onto the neighboring properties and Mr. Frenzel explained the drainage and how it works to accomplish this.

Mr. Chelius pointed out to the board the crushed stone layer of the wall that intends to carry water under and down to the ground.

Chair Hayden asked Mr. Chelius and Mr. Frenzel about the visibility of the wall to the neighboring properties.

Mr. Frenzel explained that the property decreases in grade as you move toward the house and there is only one spot on the property where the wall would appear at such a height.

Mr. Chelius explained that the area between the two walls could be landscaped for more visual appeal.

Mr. Woods asked a question about the heights of the walls and how far back a wall needs to be to be considered a different wall. Chair Hayden explained that our ordinance does not address this.

The board discussed with Mr. Chelius the heights of the wall, and Mr. Chelius explained that the applicant could move the wall back to the set back and have it be a four-foot wall, but asked the board if it is the better alternative.

Mr. Woods spoke about the town's ordinance and discussed the interpretations of the definition of walls versus structures versus buildings.

Mr. Madaio asked about the proposed finished grade of the back yard.

The board discussed with Mr. Frenzel the current topography and the original topography and which the submitted survey is reflective of.

Chair Hayden asked why the wall was being proposed, and Mr. Frenzel stated that it was proposed to replace the existing wall and expand the property. Now the wall has been brought back to be almost in line with the original wall.

Mr. Madaio asked if the new wall is the same height as the previous wall, and Mr. Frenzel confirmed that it is in the same place and the same height as the original wall now.

Mr. Park asked a question about the improved lot coverage and Mr. Frenzel explained that most of the lot coverage is pre-existing from the prior homeowner, and that the applicant is asking for approval of a removal of coverage that is still over the limit.

Mr. Park asked a question about garbage and tidiness of a site during construction. He stated that he visited the site prior to the meeting and that the site is messy and has not been cleaned up.

Chair Hayden stated that the property needs to be kept clean and orderly.

Mr. Woods asked a question about why the distance between the stone walls varies throughout the property. Mr. Frenzel explained that this was done out of necessity to protect some trees at the edge of the property.

Mr. Woods asked about the shed and whether it was proposed to be moved. The applicant confirmed that it was not planned to be moved.

Mr. Madaio asked a question about the fill that was illegally dumped in the back yard, and if it would be removed. Mr. Frenzel confirmed that it would have to be removed.

Mr. Davis stated what he witnessed in the backyard.

Chair Hayden asked about the garbage on the neighboring properties, and Mr. Davis stated he did not know.

Mr. Haberman stated that the applicant was not allowed to do any work, and Mr. Siboni confirmed that he cleaned up the site, but no large-scale work could be done as there is a stop work order. Mr. Siboni also stated that his intent is to remove them when the stop work order is removed.

Mr. Chelius stated that as suggested if the wall is to be counted as a structure and included in Building Coverage, if the applicant went back to a single wall, then they could do this without needing a variance for building coverage.

Chair Hayden asked if there was a benefit to having the tiered wall as opposed to a single wall.

Mr. Chelius responded from an engineering standpoint no, but from a visual appeal, the two-tiered wall can look better. He also answered from a soil erosion standpoint the tiered wall may be less likely to erode quicker.

Mr. Madaio discussed with the board what variances are required.

Mr. Woods discussed with the board if retaining walls are building coverage.

A motion was made to the open the meeting to the public by Mr. Corrado and seconded by Mr. Davis.

All in Favor – Motion Passed

Joyce Lustbader, 71 Central Avenue, made comments about the seepage pits potentially being hazardous to the nearby trees. Ms. Lustbader also made comments about the water runoff being a problem, she then stated that the prior rock retaining wall was not a retaining wall.

Mr. Chelius answered that seepage pits do not typically cause damage to nearby trees.

Ms. Lustbader disagreed.

Mr. Chelius stated that he cannot provide testimony on the elevations of the property as he does not have records of the property in the past.

Mr. Madaio asked if the stone wall was a retaining wall, and Ms. Lustbader testified that the wall was not a retaining wall and was just a stone border to the property.

Mr. Madaio called the meeting to order when the public was asking questions of the applicant. He then asked Ms. Lustbader to confirm that the wall was sitting in the yard and not a retaining wall, and she stated that was correct.

Mr. Madaio asked Mr. Frenzel if these statements are accurate, and he stated that they are not.

Mr. Davis and the board discussed the grade of the property around the existing shed.

Mr. Siboni and Mr. Haberman showed a picture to the board and Ms. Lustbader entering it into evidence depicting the rock wall which was a retaining wall.

Mr. Madaio called the meeting to order, asking that the board and audience not speak all at once.

Mr. Madaio asked Mr. Chelius if the picture depicts the boulders as a retaining wall or as ornamental boulders, and Mr. Chelius stated that the picture depicts a retaining wall.

Ms. Lustbader asked about the platform in the front of the house and if it is temporary or permanent. Mr. Frenzel stated that it is a permanent structure. Mr. Madaio stated that the platform cannot be expanded or otherwise changed once a decision has been made.

Diane Conti, 77 Central Avenue, asked if the retaining wall would be level or follow the change of grade. Mr. Frenzel answered that the retaining wall would be level. The testimony reflects that the wall would be at it's highest, two feet and would follow the grade to less of a wall staying level with the two feet elevation. Ms. Conti stated that the neighbors are worried that the applicant will make changes after the approval, and Mr. Madaio responded that this would require them to return to the board.

A motion was made to the close the meeting to the public by Mr. Corrado and seconded by Mr. Davis.

All in Favor – Motion Passed

Mr. Madaio asked the board and the applicant what they would like to do next with all the information presented. Mr. Madaio stated that there is a lack of statutory testimony regarding the existing required variances and the building coverage. Mr. Madaio then explained "C" Variances to the applicant.

Mr. Woods asked Mr. Madaio about procedure when it comes to entering evidence as a board member.

Mr. Madaio spoke on the different points made and asked Chair Hayden if the application should be carried and Mr. Madaio stated that they would like an exhibit list to be made for the application by the applicant's attorney.

Chair Hayden and Mr. Madaio stated the application would be carried to the next meeting on July 16, 2024, without further notice and confirmed that the applicant would extend the boards time to act.

Mr. Siboni made some closing comments discussing the purpose of the wall and the application, being to improve the wall as the old wall was degrading. He spoke about the mistakes he made in performing work without permits. He spoke about the drainage measures that have been added and that the new wall would be beneficial for the neighbors and the town. He spoke on the grade of the properties and that he finds it difficult to understand how water would flow toward the neighbors instead of toward the woods. Mr. Siboni expressed his displeasure over the experience he has had at the board.

Chair Hayden stated the requirements for the board to act.

NEW/OLD BUSINESS

ADJOURNMENT

With no further business presented, a motion to adjourn the meeting was made by: Mr. Davis and seconded by Mr. Corrado.

All in Favor – Motion Passed

The meeting was adjourned at 9:20 PM.

Respectfully Submitted,
Michael Greco
Land Use Secretary

