

**BOROUGH OF INTERLAKEN
MINUTES- PLANNING BOARD
MARCH 21, 2022 7:30 P.M.
BOROUGH HALL, 100 GRASSMERE AVENUE**

A meeting of the PLANNING BOARD of the Borough of Interlaken, Monmouth County, New Jersey was held on March 21, 2022, at 7:30 p.m. in the Borough Hall.

Chairman Papp opened the meeting, announced that the meeting was being held in accordance to the Open Public Meeting Act and that Notice of the meeting had been published in the Coaster. The announcement was followed by the Pledge of Allegiance.

ROLL CALL:

Present: Chairman Papp, Vice Chairwoman Umfrid, Councilman Butler, Mr. Tilton, Ms. Dalton, Mr. Wasilishen, Mr. Weaver, Mr. Blasucci, and Ms. Kapp

Also Present: Planning Board Attorney Sanford Brown, Board Engineer Peter Avakian and Planning Board Secretary Gina Kneser

Late Arrival: 7:33pm Ms. Kane

Absent: None

UPON MOTION of Mr. Wasilishen, seconded by Mr. Blasucci carried, the Board approved the minutes of February 28, 2022, meeting.

ROLL CALL:

In Favor: Chairman Papp, Mr. Tilton, Ms. Dalton, Mr. Wasilishen, Ms. Heinz, Mr. Weaver and Mr. Blasucci

Opposed: None

Ineligible: Vice Chairwoman Umfrid, Councilman Butler, and Ms. Kapp

Abstain: None

Absent: Ms. Kane (for this vote, late arrival)

APPLICATION

100 Bridlemere Avenue
Block/ Lot
Shamosh

Stephen & Vered Shamosh, Applicants, joined the table. They and were welcomed by the Board and sworn in by Board Attorney Brown.

Board Attorney Avakian gave a summary of his letter prepared on March 11, 2022. The report was marked B-1. Ms. Kane joined the table at this time (7:35pm).

Board Attorney Avakian stated that it is a fairly unique property orientation. The property fronts on the intersection of Bridlemere Avenue and Buttermere Avenue. It forms a triangular shape. With frontage on Bridlemere Avenue on the north side and frontage Buttermere Avenue on the south side with a sideline to the west. The property is well in excess of the minimum lot area at 16,499sqft. The applicant is simply requesting an approval to relocate an existing shed. The existing shed is currently in a non-conforming location, and it is proposed to be moved to a location along the Bridlemere Avenue frontage. It is being planned to be moved into the southwestern corner of the property.

The survey revised through February 14, 2022, prepared by Lakeland Survey was marked as A-1 by Board Attorney Brown.

Board Planner/Engineer Avakian stated that the property is listed as Block 1/Lot block 35. It is in the R-A single family zone. The lot width conforms. The uniqueness of the property is that it does not really have a lot depth. Lot depth minimum is 100ft. If you walk from Bridlemere Avenue and Buttermere Avenue to the top property line, you are traveling approximately 185ft or so. It is well in excess of the minimum for that dimension. Both front yard setbacks for the existing structure represent an existing nonconformity. The Board is being asked it to look at the location of the shed, the fact that it is proposed to be reoriented and hear testimony as to why. Perhaps the applicant can shed some light on the existing and potential proposed landscaping to shield this a little bit.

Mr. Shamosh stated that he and Ms. Shamosh moved to the Borough two years ago and fell in love with the town. Extensive renovation work was done to the 125-year-old home which was purchased originally as a summer home. Mr. Shamosh stated that once the first summer was over it was decided that they would become year-round residents.

Mr. Shamosh stated that they have children and grandchildren that are at the house from June to Labor Day. The Shamosh's want to move the shed to create a safer area for the grandchildren to play. Currently, the shed takes a lot of the space that the children have to play.

Mr. Shamosh feels that the chosen location is the best place to keep the children safe with the least amount of affect on the neighbors. There will be no lights, no electric and no music around the shed. The new location would move the shed from in front of the neighbors' windows to the back corner of the property and the shed would be in the back corner where it is between 50-75ft from the nearest neighbor. It is surrounded by trees that are currently 8-9feet tall. The trees will be maintained at about 12feet high. The shed will be used to store bikes, balls, and other children's items.

Mr. Shamosh noted that it has cost him more to do the variance application than for the cost of the shed.

Board Engineer/Planner Avakian stated that the accessory structure is compliant in square footage at 111.2sqft, where 120sqft is permitted. The height is also compliant as it is 9ft where there is a 15ft maximum.

Board Engineer/Planner Avakian advised the applicant that the driveway slightly encroaches on the neighbor's driveway at the back edge of the property line.

Mr. Wasilishen told the applicants that he walked by the house. Mr. Wasilishen told the applicants that the house was gorgeous and feels that the new placement of the shed is a better location. You would have to look for it to be able to see it in the new location.

Mr. Tilton stated that the proposed relocation is exactly where the shed would go and be allowable if the property were rectangular. Mr. Tilton stated that the 9ft proposed height of the structure should be memorialized into the resolution.

Ms. Heinz noted from the time the shed was installed in the current position she felt it did not belong there and feels it would be best to relocate the shed.

Chairman Papp opened the floor to the public. With no public comment, the floor was closed.

UPON MOTION of Ms. Heinz that the variance be granted with the stipulation that the height remain 9ft and that it only be used as a shed, seconded by Mr. Weaver carried, the Board approved the variance.

ROLL CALL:

In Favor: Chairman Papp, Councilman Butler, Ms. Umfrid, Mr. Tilton, Ms. Dalton, Mr. Wasilishen, Ms. Heinz, Mr. Weaver and Mr. Blasucci

Opposed: None

Ineligible: Ms. Kane and Ms. Kapp

Abstain: None

Absent: None

Mr. and Ms. Shamosh thanked the Board and left the meeting.

611 Windermere Avenue
Block 6/Lots 21, 22 & 23
Speedy

Ms. Krimko of Ansell, Grimm & Aaron, Applicant Attorney, joined the table.

Ms. Krimko stated that the prior owners received approval from this Board to construct the exact structure that the applicant is currently seeking to construct. At the time of the initial application, a Use variance was required. After a discussion with Board Engineer/Planner Avakian, Ms. Krimko believes that the Use Variance requirement might have just been an abundance of caution since Use variances only apply to principal structures, not to accessory structures.

Ms. Krimko stated that it was all put in the notice, but in reality, it is a garage structure that will have an attached storage area and attached to that a cabana for use with the existing pool. Ms. Krimko does not think the Borough ordinance contemplates accessory structures or buildings other than storage sheds. The storage shed size is limited to 120sqft. As it is not named as a listed existing, accessory use, the zoning office determined that since the non-garage portion of the structure exceeds 120sqft we need a variance for an accessory structure in excess of 120sqft. One could argue it is part of the garage. At the time the original application was made, the existing coverage was over 45%. The original approval from 2009 did require that the coverage would be conforming so the current

plans do show conforming at 45%. The following items were marked into evidence: A-1 Survey prepared by Charles Surmonte dated 11/22/2021; A-2 Architectural plans prepared by Montiforte Architectural Studio dated 01/27/22.

Ms. Krimko stated that she believes the resolution of the original approval in 2009 was shared with the Board by Board Secretary Kneser. Ms. Krimko stated that the architect and the homeowners were in attendance and available, but the plans are self-explanatory.

A report written by Board Engineer/Planner Avakian dated February 18, 2022, was marked into evidence as B-1.

Board Engineer/Planner Avakian detailed the report. The property located at 611 Windermere Avenue, Block 9/Lots 21, 22 & 23, is significantly in excess of the lot area at 25,742sqft. That is important in an application of this nature because sometimes you are looking at accessory structures on a very small property which can become overwhelming and cause it to exceed building or lot coverage in this case it does not. All the bulk requirements of this lot are conforming. The proposed building coverage with improvements is total 15.2% where 25% maximum is allowed. The impervious coverage has been reduced from the previously approved application to 43.21% where 45% is the maximum. There are, however, two variances associated with the application. One is to do with the cabana. It is simply that cabanas are not listed as principal accessory structures in the Borough ordinance. Accessories are identified as mailboxes or basketball courts or something like that. A simple variance will be required for it.

Ms. Krimko stated that she spoke with Denis from Board Engineer/Planner Avakian's office. From a planning perspective Ms. Krimko thinks that the office was being overly cautious. The ordinance does say that other customary accessory uses and structures which are clearly incidental to the principal structure are permitted. The Board could interpret that cabana are permitted. The Zoning Officer did not call it out as a variance for the structure, only for its size.

Board Engineer/Planner Avakian stated that it is a good point for the Board to rely on. His office is being abundantly cautious. The reason being that there is a footing, foundation and a roof over this structure so it is a little more substantial than what it appears to be included in that customary caveat within the ordinance. The Board can also rely on the fact that the variance was previously granted with a Use variance for exactly the same configuration. The second variance has to do with the accessory shed or storage building exceeding the 120sqft and the area is identified as a total 157sqft.

Ms. Krimko stated that it is a unique case because the accessory is within the garage.

Board Engineer/Planner Avakian stated that you don't see it. It also does not appear to exceed any existing coverage. Aside from that there are not any other non-conformities.

Board Engineer/Planner Avakian stated that other general comments in the report encourage the applicant to try to control run off by taking the downspouts into a drywell. There are other comments having to do with the fence between the adjoining Lot 20 which is to the west of the property. There appears to be a chain link fence that we were not quite sure of the ownership. The fence runs along the property line and bumps out in two locations.

Ms. Erica Speedy was sworn in by Board Attorney Brown to comment regarding the chain link fence.

Ms. Speedy explained that there is a chain link fence and a wood fence. There is just a wood fence along the western property line and a chain link fence along the northern property line that connects into the existing garage. Then an aluminum fence connects to the house, so the pool is completely surrounded.

The Board had a brief discussion regarding the fencing around the pool.

Mr. Tilton stated that the neighbors have a pool so that fence is not going to come down.

Ms. Krimko stated that the applicant will stay in compliance with the state code as it pertains to fences.

Mr. Tilton asked about a planned hot water heater, furnace and air conditioning.

Ms. Krimko stated that the cabana area will be a conditioned space that is so in the winter can potentially be used as a playroom for the kids and it would never be used as a sleeping room. The applicant would agree to a deed change should the Board require one.

Chairman Papp questioned the existing bathroom

Ms. Speedy there is an existing bathroom and there is currently a hot water heater.

Ms. Krimko stated that there will only be one bathroom.

Councilman Butler questioned the location of the bathroom.

Mr. Tilton questioned the configuration of the upstairs of the garage.

Ms. Krimko stated there is no second floor and there is no steps to get upstairs.

Chairman Papp questioned the overall footprint of the property.

Ms. Krimko stated that the current coverage is non-compliant. She believes it was that way when purchased. The project would bring it to below the maximum permitted.

Mr. Tilton asked Board Attorney Brown, hypothetically, if the whole thing was moved seven feet and attached to the existing residence would they even need any variances?

Ms. Krimko stated that previous owner received approvals for the project were in 2009. It was never constructed, and the variance expired. Rather than come for an extension of the variance the applicant felt it was cleaner to submit a new application.

Vice Chairwoman Umfrid stated that she remembers the original application.

Chairman Papp opened the floor to the public. With no comment from the public, the floor was closed.

Ms. Heinz questioned the plan for the bathroom. Other applicants have come before the board wanting to put a bathroom in another accessory and the Board turned them down. Ms. Heinz has concerns that if the Board approves this application, it is setting up precedent for the whole town.

Ms. Krimko stated that there is no precedential value in granting a variance. Each application stands on its own. Nobody can come in and say the Board granted for them and has to grant it for me. One, this was previously granted and the applicant is looking to reinstitute a prior approval. Secondly it is not a free-standing structure. It is part of an overall garage structure. If it were attached to the house, it would need no relief. And most importantly, there is an existing bathroom that is being relocated. It is not introducing a new bathroom into the structure. There are other existing pool houses with facilities in the town. Being a land use attorney for longer than she would like to admit Ms. Krimko can tell you that pool houses are one of the most common accessory structures for residences, particularly on the Jersey Shore. There is nothing the Borough ordinance that would even authorize the Board to prohibit a bathroom. If the Board has a concern about bathrooms or pool houses it

can certainly change the ordinance to address it, but as it currently exists, the applicant's position is that it really is only as it relates to the size of the structure.

Chairman Papp stated that he believes Ms. Heinz was saying the Board does not want cabanas to turn into living quarters.

Ms. Krimko stated that the applicant has offered a deed restriction and there is no kitchen. There is no closet. The Board has heard testimony that the applicant is not going to be living in the space. The large French doors on one side is not conducive to privacy expected for a bedroom.

Mr. Tilton noted that there is only one way into the structure.

Vice Chairwoman Umfrid noted that in the previous proposal there were restrictions with regard to the structure not being used for residential occupancy, so that could now be added as a deed restriction.

Ms. Krimko stated that there would be the same conditions as the first time around. The resolution would be recorded against the deed so any future homeowner would be aware of it. More importantly the Borough zoning office would have a resolution to enforce it.

Board Attorney Brown stated that every application speaks for itself. The Board is supposed to be consistent. The fact that this variance was granted in 2009, is not a precedent because it went away. It happened 13 years or so ago it is not germane. However, the Board can look at the application before in a unique way. Fine tuning is something to take into consideration.

Chairman Papp stated that cabanas are something the Board will talk about when going back to look at the Master Plan in the future.

Ms. Speedy testified that the siding will most likely match the house shingle style.

Ms. Krimko stated that it is not a box design. Care was taken in the design it is going to aesthetically match the home.

Ms. Heinz stated that there is pretty much a kitchen in the project because there is a setup for a refrigerator and an ice maker, everything except for cooking. It also has a serving area.

Ms. Krimko stated that the design is very consistent with what would be in a pool house.

Ms. Krimko stated that if applicant attached a breezeway, it would be part of the house. There is enough building coverage. This would certainly affect everyone's light, air and space. The house could be made bigger and incorporate this exactly the same way. I think this is by far the better Zoning alternative.

Ms. Krimko stated that the application speaks for itself but would like to say that she respectfully disagrees with the planner and engineer that a variance is needed for the use itself. Ms. Krimko thinks it is inherent in the ordinance. The reason why the ordinance put other customary uses is because it was known that customary changes with time and they couldn't possibly list every single one that could be anticipated. So the case law that follows that provision for accessory uses consistently holds that if it is usual and customary for homes of this ilk in this region in which it is and it has that language than it is permitted Ms. Krimko would argue that a variance is not needed for the pool house itself but because the unique way the ordinance is written regarding the with regard to the size of the accessory structures arguably we do need that variance. The application is requesting a variance for the attached cabana.

Mr. Weaver moves that the Board approve the variance how it has been presented with the deed restrictions incorporated.

Ms. Heinz stated that she is not against the application. Everything does change in the town for structures like this. The town was founded and had extra areas and there were artists that had separated places to work. Ms. Heinz feels like this is it. If anybody else comes to request cabanas the Board is now allowing anybody who comes before the Board would have to receive approval for a cabana on their property. The Board cannot give it to one person and then say, "No." to others.

Chairman Papp noted that this application is unique. A general statement cannot be made to say the board is going to allow pool cabanas all over town necessarily look at this application for what is being requested.

Mr. Tilton stated that this is a big piece of property well within the building coverage. If the Board looks at how the property is already developed, the cabana is not really an incidental Use. It is an accessory structure. The Board may be getting a little bit thrown off by the fact that it is attached to the garage. If you move this all to the south just seven feet and attach it all, the Board would not be sitting here. It will be deed restricted and they are cleaning up the driveway encroachment on the neighbor. They are cleaning a lot of impervious coverage to the west. Mr. Tilton stated that he is in support of the application.

Chairman Papp stated he is in support of this application as well. There are no neighbors that have come forth with any concerns. The structure looks quite nice from the design, and it fits the area.

Vice Chairperson Umfrid asked about exterior lighting and sound systems.

Ms. Krimko stated that this will be typical residential lighting and no sound system.

Ms. Speedy stated with four kids they not throwing massive parties.

Mr. Tilton noted that the project also backs up to other garages.

Ms. Krimko agreed to an amendment in the resolution regarding the lighting and sound system.

UPON MOTION of Mr. Weaver, seconded by Mr. Tilton carried, the Board approved the variance.

ROLL CALL:

In Favor: Chairman Papp, Councilman Butler, Ms. Umfrid, Mr. Tilton, Ms. Dalton, Mr. Wasilishen, Ms. Heinz, Mr. Weaver and Mr. Blasucci

Opposed: None

Ineligible: Ms. Kane and Ms. Kapp

Abstain: None

Absent: None

UPON MOTION of Mr. Weaver, seconded by Mr. Wasilishen, carried, the Board adjourned the meeting.

ROLL CALL:

In Favor: Chairman Papp, Vice Chairwoman Umfrid, Councilman Butler, Mr. Tilton, Ms. Dalton, Ms. Heinz, Mr. Wasilishen, Mr. Weaver, Mr. Blasucci, Ms. Kane and Ms. Kapp

Opposed: None

Ineligible: None

Abstain: None

Absent: None

Approved: _____
Mr. Papp, Chairman

Attest: _____
Gina Kneser, Secretary