

**BOROUGH OF SPRING LAKE HEIGHTS
BOARD OF ADJUSTMENT MINUTES NOVEMBER 12, 2015**

The meeting was called to order and salute to the flag by Chairman Pearsall

Roll Call:

Brian Brendle - present
Raymond Miller - present
Owen Quinn - present
John Tangeman - present
Steven Weiss - present
Andrew Zelenak - present
Chairman Dennis Pearsall - present

Alternate #1
Thomas Martin – present
Alternate #2
Susan Lalji - absent

Also in Attendance: Janine Gillis, Secretary
Ann Marie Kuhn, Board Attorney

Meeting Notice: This meeting is called pursuant to the provisions of the open public meeting law. Notice of this meeting was included in a list of meetings sent to the Coast Star and Asbury Park Press, posted on the bulletin board in the Municipal building and on the borough web-site.

Approval of Minutes: October 22, 2015

Janine Gillis reported a correction to the minutes on the vote taken for the Ketchum application, Mr. Zelenak was present at the meeting therefore his vote should be removed.

Motion was made by Mr. Brendle to approve the minutes of October 22, 2015 with the correction; seconded by Mr. Tangeman. Roll call taken:

AYES: Mr. Brendle, Mr. Quinn, Mr. Tangeman, Mr. Weiss and Chairman Pearsall
NAYS: None
ABSTAIN: Mr. Miller, Mr. Zelenak, Mr. Martin

Correspondence: None

Old Business: Resolution 2015-13
David & Lori Ketcham Application # Z2015-05
112 Sixth Avenue
Block 22 Lots 70 & 71

Motion was made by Mr. Brendle to approve Resolution 2015-13 and seconded by Mr. Tangeman, roll call as follows:

AYES: Mr. Brendle, Mr. Quinn, Mr. Tangeman, Mr. Weiss and Chairman Pearsall
NAYS: None
ABSTAIN: Mr. Miller, Mr. Zelenak, Mr. Martin

Board Secretary announced that Mark Kitrick would be arriving late, but that Ann Marie Kuhn is present. Ms. Kuhn introduced herself, an associate at Mark's firm, she commented that she had been with us one time previously.

New Business:

Owen & Melissa Quinn Application # Z2015-06
1917 Park Avenue
Block 29 Lots 60
Build Covered Porch

Mr. Quinn recused himself.

Mr. Miller expressed concern for moving forward with the application; he offered a motion to table the application. He added that a previous applicant had appeared before the board for a porch, who had received approval. He added that the board commented that it did not want to set a precedent. Mr. Miller stated that the application should be moved to another board in another town, since Mr. Quinn is a member of the board it should not be heard here. Chairman Pearsall added that Mr. Zelenak had been before the board and there was not a problem then. We all live in town, we just need to act in a prudent way and review each application. Ms. Kuhn stated that there is case law that dictates that this is not a conflict, everyone is a volunteer. Mr. Tangeman seconded the motion, he added that he was getting uncomfortable hearing member's application and agreed that it might have the appearance of a conflict and felt it should be moved.

Mr. LoBosco asked Ms. Kuhn if the Planning Board or another town could even grant a variance. Ms. Kuhn replied that the same situation could exist with the Planning Board; the applicants could know members there.

Mr. Martin asked if there is a conflict here or are we setting a precedent, Ms. Kuhn replied no. Mr. Tangeman requested that a vote be taken.

Mr. Quinn asked to speak, Chairman Pearsall asked Ms. Kuhn if that would be allowed, she replied yes. Mr. Tangeman expressed that he did not think it appropriate. Mr. Martin asked Ms. Kuhn if she was an attorney and would it be OK for Mr. Quinn to speak, she replied yes.

Mr. & Mrs. Quinn were sworn in.

Mrs. Quinn stated she was concerned with Owen on the board and researched this matter, she cited there is a statute that it in fact a member could not go before the board as a member is not an issue. She added that it would be unfair to them. Mr. Quinn added that if the board members had concern about future applications, he would in fact step down and resign.

Mark Kitrick arrived at the meeting at 7:50pm.

Mr. Tangeman updated Mr. Kitrick as to the motion on the floor. Mr. Martin stated that he had verified with Ms. Kuhn if there was a conflict, she stated no, he asked Mr. Kitrick if he was in agreement. Mr. Kitrick stated that he had previously researched this issue. He explained that under land use law, Cox Book, it states that an official can come before the board. There was such a case in Wall Township. The Cox Book allows for a board member to appear before the board, Mr. Kitrick stated that is his legal opinion as well.

He added that any board member that feels they cannot be impartial can remove themselves from the hearing.

Mr. Kitrick questioned the presentation that the application be moved to another town; Mr. Martin asked Mr. Kitrick if he's ever heard of that, Mr. Kitrick replied no. Mr. Tangeman asked if everyone recused themselves, then what would happen. Mr. Kitrick replied that members of the Planning Board would have to be made alternate members to the Board of Adjustment. He again reminded members that if they are uncomfortable and can't remain objective, they should remove themselves.

On the motion to table; the vote was as follows:

AYES: Mr. Miller, Mr. Tangeman,

NAYS: Mr. Brendle, Mr. Weiss, Mr. Zelenak, Mr. Martin and Chairman Pearsall

ABSTAIN: None

Attorney Kitrick stated that his opinion is based on Land Use Statute.

Mr. Tangeman asked Mr. LoBosco about a what is meant by the statement benefits any detriment to the neighborhood. needs to be proved about hardship, Mr. LoBosco responded it's the language used, Mr. Kitrick added that the benefits outweigh the detriment.

Mr. Kitrick asked board members if anyone needed to excuse themselves, none responded.

Mr. LoBosco and Mr. & Mrs. Quinn were sworn in by Attorney Kitrick.

Mrs. Quinn introduced herself; she stated that she was a real estate attorney. She added that her & Owen have lived in Spring Lake & Spring Lake Heights, with their current residence at 917 Park Avenue. She reviewed the property as it exists; the front exterior has a staggered look. They would like to expand the existing front porch to take advantage of the view of the golf club across the street. She stated that the existing front yard setback is now 25 feet; the variance request is to reduce the front yard setback to 21.8 feet. Mrs. Quinn expressed that a porch lends itself to a sense of community.

Introduced as exhibits was the following:

1. Survey by Charles Surmonte, dated July 6, 2015, marked as A-1.
2. Plot Plan by Charles Surmonte dated September 11, 2015, marked as A-2.
3. Photograph of neighbor's house to the east, marked as A-3.

Mrs. Quinn pointed out that the home sits on the curve of the street, so front yard setback measurement varies. Mr. Martin asked if the neighbor on the other side of the property has a porch also, Mrs. Quinn replied no. Mrs. Quinn added that the porch is deteriorating and needs replacement. She respectfully asked that the variance be granted.

Chairman Pearsall asked Mrs. Quinn if the increase is about 3 ft, Mrs. Quinn replied yes. Mr. LoBosco asked what the width of the porch would be, Mrs. Quinn replied about 9 feet. She added that the window bows out and cuts into the porch area. But she added the expansion extends about only 3 feet.

Mr. Tangeman asked about comment #6 on the applicants Addendum Application regarding comparable homes, he felt that most of the homes have steps & stoops. Mrs. Quinn replied that throughout town there are several homes with full porches, she added that the porch would be aesthetically pleasing. Mr. Martin added that on that side of town there are numerous homes with porches.

Chairman Pearsall added that the board has reviewed applications for porches; he added that porches do lend itself to community.

Attorney Kitrick reminded board members that each application be heard and reviewed on its own merit.

Mr. Brendle asked if any other work going to be done, Mr. Quinn replied that they would be getting a new roof and siding. Mr. Brendle asked why the porch would be 9 feet, Mr. Quinn stated that the bow window impedes the area.

The meeting was open to the public for questions of the applicants; None presented

The meeting was open to the public for any comment.

Frank Russo-Alesi 918 Lake Avenue was sworn in. Mr. Russo-Alesi stated that he resides to the rear of the Quinn's, he felt that the porch would be a plus.

Motion was made by Mr. Brendle to approve the application; seconded by Mr. Martin. Roll call taken:

AYES: Mr. Brendle, Mr. Weiss, Mr. Zelenak, Mr. Martin. & Chairman Pearsall
NAYS: Mr. Miller, Mr. Tangeman
ABSTAIN: None

Mr. Tangeman asked Chairman to visit through town to see how many porches are used.

Adjournment: On a motion by Mr. Brendle and seconded by Mr. Martin the meeting was adjourned without objection at 8:32 p.m.

Submitted And Approved:

Janice Alesi

Date: December 17, 2015