

**BOROUGH OF SPRING LAKE HEIGHTS LAND USE BOARD**

**Minutes**

**April 17, 2024**

**Meeting Commences at 7:00 PM**

**Announcement Made by Secretary:**

THIS MEETING IS CALLED PURSUANT TO THE PROVISIONS OF THE OPEN PUBLIC MEETINGS ACT, CHAPTER 231, PUBLIC LAW 1975. ADEQUATE NOTICE HAS BEEN PROVIDED TO THE COAST STAR AND THE ASBURY PARK PRESS POSTED ON THE BULLETIN BOARD IN THE MUNICIPAL BUILDING AND THE BOROUGH WEB-SITE. NOTICES ARE ON FILE WITH THE BOARD SECRETARY. OFFICIAL ACTION MAY BE TAKEN ON THE MATTERS LISTED.

**A. Flag Salute**

**B. Roll Call**

**Board Members present:** Chair Eileen Eilenberger, Councilwoman Sara King, Brian Brendle, Michael Milano, Bruce Waitzel Roy Francolino, Dennis Pearsall, Nancy Maclearie

**Board Members absent:** Councilman Chris Willms, Joseph Tompey, Adam Anzzolin, Tom Martin

**Board Professionals present:** Mark Kitrick Esq. , Christine Bell, PP, Gerald Freda, PE, Barbara Van Wagner, Secy.

**C. Minutes:** Meeting of March 20, 2024

Motion to approve: Councilwoman King

Second: Chair Eilenberger

In Favor: Councilwoman King, Brian Brendle, Michael Milano, Dennis Pearsall, Roy Francolino, Bruce Waitzel, Chair Eilenberger

**D. Applications:**

**1. Application 2023-14 Joseph & Sandra Alfano**

**727 Pitney Drive, block 46.03 lot 44, R5 Zone**

Bulk Variances for oversized storage shed for single family home

Mark- reviewed notices, everything in order, Board has jurisdiction

James Kinneally, Esq. – attorney for the applicant- variances for oversized shed – measures 106 square feet, 13.5 feet high where 10 feet high is permitted.

Sworn In: Joseph Alfano, Shawn Teicher, Christine Bell, Jerry Frieda

Alfano – have done improvements to the property – new deck, pool, pavers, sprinkler, landscaping. The pavers raised the ground where the shed was built. Replaced the shed and it was constructed on the site. It measures 10 feet by 10 feet inside the shed, 106 square feet on the outside. It was put on top of the pavers so it raised the height.

Dennis – were you aware that it was oversized. Did you find out what the requirements were before you built it? Where did the extra 3 feet come from? It is sitting .75 feet from the ground.

Alfano – the patio raised the shed. Its 13 feet high when measured from the curb

Eileen – on December 18, 2023, the ordinance was changed to measure the height of the shed from the average height around the base of the shed not from the top of curb. Applied on December 21, 2023. Need to amend the variance to .75 feet over the required 10 feet high and the also a variance for the size of 106 square feet where 100 square feet is permitted which is 6 feet more than permitted.

Dennis – the shed is over slab. What is the total lot coverage?

Christine – it is still slightly over on coverage with 50.81% coverage which is non-conforming

Eileen – the AC needs screening

Jerry – can plant evergreens or shrubs

Kinneally – agree to the screening



Sullivan – liked the way the sign looked when it was designed. The roof was changed when we added the peak. Had an artist sketch it, didn't know it needed a permit. Didn't know what part of the sign to measure. (discussed Exhibit A-2 – rendering of the existing sign and Exhibit A-6 – the six photos)

Eileen – The definition of a sign is that it includes all the wording and the design and the background. This sign ordinance has been in effect since 1981.

McGill – a wall sign is not specified in the ordinance, painted wall sign is not addressed, there is some confusion

Nancy – was there a permit for the sign?

McGill- no

Brian- you did major renovations, was the façade approved? The sign wasn't just painted, it was planned. The *Champagne Porch* had a sign.

Eileen – since 1989, a permit is needed for a sign

McGill- client didn't apply for a sign permit, there was no site plan for the renovations. Was denied for a permit and now here.

Brian – the sign has been there for 9 years, don't think it's a negative impact on the town, looks nice but wish it said "Heights".

Nancy – agree, don't mind the sign, brings Asbury Park to Spring Lake Heights, I've grown used to the sign but should have dealt with years ago.

Mark – applicant needs to show proofs on why the Board should grant the variance, has not presented that.

Christine – the sign is not the only issue

Sara – you were made aware this was a violation, find it disturbing that this was not addressed in the past. The issue is not whether it looks nice, we have ordinances there is a need to comply.

Eileen – this existing sign is more than double, 145 square feet, really way over what's permitted. We have ordinances for a reason. Ordinance has been around since 1989 so it is not a surprise and it was brought to your attention years ago.

Mark – the closest type of sign would be the wall mounted sign

Sullivan – never got a violation in the past until Ms. Van Wagner brought it to our attention

Nancy – what if you just call it the Tap House and get rid of Spring Lake?

Christine – have you contemplated a conforming sign? Or alternatives?

Sullivan – no, hoping to get approval

Mark – maybe you can come back with alternative designs

Christine – ongoing issue, need alternative plan, didn't get a permit, haven't done anything and wants relief. This is one of the many variances you need. Need to provide certain proofs, not just say its been up there and it looks nice, you need to provide planning testimony. The Board needs to decide whether you should come back with other options.

Bruce- can you paint over it?

Sullivan – could paint the wall all black just have the letters count

Nancy – how big are the letters?

McGill – the engineer can answer that

Questions from the public for Mr. Sullivan's testimony – NONE

Brian – what is the exact variances for the application?

Christine – paver patios – need a variance because over on impervious coverage. During Covid, an Outdoor Dining Ordinance was adopted and never rescinded. Ordinance was a result of Covid to encourage business.

Mark – it is now acceptable even though no Covid

Nancy- the State allowed Outdoor Dining.

Mark – that period of time changed but not for this change in the ordinance, the Board of Adjustment superceded the Ordinance

Sara – the concern during Covid was that we wanted businesses to stay open but not intent to make permanent

Christine – need to have the engineer address the issues in the letter

William Merunka, PE, engineer since 2018 and Planner since 2020

Merunka – discussed Exhibit A-1 the Plan that was supplied to the Board

Ray Carpenter signed the Plan

Merunka- installed the bollards and arborvitae per the approval

The Ordinance changed ant stones are not counted toward the impervious coverage. In December the stone and gravel counted as impervious coverage. There is 94.5% coverage if the stone is counted. Prior to the stone there was stones and soil, if put in the pavers, would be the same coverage. Applicant filed in November and stone was counted as coverage. Want to change stone to pavers. If applied four years ago, the pavers would not be permitted.

Christine- so the proposed and existing coverage is 94.5 %?

McGill – pavers will change the impervious coverage. Will have two gutters go to a recharge system, can tie into the other system

Nancy – nothing now, not recharge?

Merunka – a tank underneath

Nancy – even if water table rising, glad you have the system

Jerry – can show that it can handle it

Merunka – can pick up 1,600 square feet

McGill- the entire front of the building can go into the system?

Merunka – yes, can make sure the system can handle it, to pick up another 400 square feet will have to trench to get the pitch to tie it in

Jerry – sounds good, provided when you do the test pit, the water table can handle it, may be the water table is too high, need to be investigated, can't guarantee

Nancy – possible to put in the front and the back

Jerry- the parking lot in the back, existing wet well is too low – proposed trench is shallow,

Merunka – propose 80 feet long by 2 feet by 3 feet

Jerry – make the paver patio smaller and further away from 71, would help the coverage and take out stones

Eillen – normally have more space between the curb and the paving, good if go back and it not right on 71

Redirect the front edge on 71 and Mercer

Sullivan – don't want patrons entering onto dirt

Dennis – if smaller area, then less tables

If lose 2 feet around the perimeter, change the tables, can be same amount of seating

Eileen – still need variance for the coverage, but need to be closer to what is permitted

McGill- what are the benefits to change from stone to pavers?

Merunka – pavers are safer and cleaner, the arborvitae will stay under 6 feet high. There is no change to the neighbors, no change to the parking, outdoor dining doesn't change the parking demand

McGill- ordinance says that you don't need parking for the outdoor dining

Merunka – will not increase the parking requirement, they give the option to sit inside or outside, people use Uber or Lift, so doesn't increase parking

Sullivan- dining peak is 4 – 8 PM, in the summer there are bike racks, a lot of people bike or walk, maybe end up with less tables, parking is the same for the past 4 years. Outdoor dining allows 11 am – 11 pm, no entertainment, there is lighting there now, want to change the tables but will have the same umbrellas

Dennis – does the weather dictate the outdoor dining?

Sullivan – usually Memorial Day is the start to September depending on the weather. The ordinance is April 15 to November 16

Merunka – the sign is 144.5% square feet, if take out the white line, it will be less, if paint black and count the letters.

Nancy- what are other options if you are turned down?

Mike – maybe can paint over the words Spring Lake

Bruce- if Board denies, then come back with other options

Mark – or get a sign that complies

Merunka – it's 94 square fee with just letters

Bruce – Can we separate into two issues?

Mark – can have a discussion on that

Dennis – this Board can grant variance, its been there for 10 years, part of scenery, I would grant the variance

Bruce- there is need for a discussion

Mark – can make a motion to approve one and then do the other. Can have a discussion and make a motion to deny one aspect

Eileen – do you have anything more to present?

McGill- need to address traffic

Merunka- the prior sign was hard to read, the current sign has no negative impact to the neighborhood

McGill – this is not a hardship variance, need to show positive and negative impact

Merunka – no specific ordinance on wall painted signs, not negative

McGill – what is the positive and negative for the pavers?

Merunka – will be the same impervious coverage with the pavers, since the gravel counts, safer option for the diners and there is decreased seating, the application was submitted on November 9

Eileen – still lacking 7 spaces

Merunka – there are 37 required, 21 legal spots, there are 9 in the right of way on Mercer

Eileen – need a variance for the parking, doesn't comply. Requires 20 feet per ordinance and some are in the right of way.

Jerry – fence needs to be replaced

Sullivan – the dumpster is not on this property, there is small one by the walk in, dumpster is on adjacent property

Eileen – the dumpster is not enclosed or screened

Sara – the lid is left open often

Sullivan – its on the Wintron property and still deciding what to do with the property

Jerry – the parking is in compliance with RSIS, but not the ordinance. Deficient in design standards, need to take care of the planting strip

Christine – the golf course was required to comply. Are you willing to put in decorative lighting? Need to discuss the location and the design with Jerry

Brian – are you putting in the two required shade trees? Would be nice

Jerry – if there is a trench drain, can't put trees in trench drain

McGill – client wants to donate the trees

Eileen-lacking 7 spaces

Merunka-37 required-21 legal spots of parking, 9 are in the right of way on Mercer,

Eileen – you need a variance for parking

Christine- don't comply with the Highway 71 criteria

Eileen- requires 20 foot length parking

Jerry- RSIS is 18 by 9 which is acceptable

Eileen- our ordinance says 20 feet, some spaces are in the right of way

Jerry-the fence is in bad condition and needs to be replaced, it's a 6 foot vinyl

Sullivan- the dumpster is not on this property, just a small one by the walk-in, the dumpster is on the adjacent property

Eileen- it needs to be screened

Sara – and the lid is always open

Sullivan- still deciding what to do with Wintron

McGill- what about the size of the parking stalls

Jerry-RSIS standards are OK, its working now

Eileen-they are not in compliance with the ordinance. Need to review the Highway 71 design standards

McGill-deficient in the design standards, the planting strip has been taken care of

Christine- the golf course was required to put in items. Are you willing to put in the decorative lighting? The type and location need to be discussed with Jerry

Brian- what about the street trees? And going back 2 feet would be nice

Jerry- can't have trees in the trench drain

McGill- client wants to donate two trees. No bench will be provided, no change to the utilities, the arborvitaes will be 6 feet or less and will comply with the trash enclosure ordinance

Sara – does the Tap House own the house next door and can it be utilized for the Tap House in the future?

McGill- its residential

Public Questions for the engineer: None

Durkin- if shrink the sign, then will lose the allure of the sign, can get rid of the white that would shrink the overage or can paint over with black

Sara- I feel that nothing is being addressed, find it difficult to approve the sign, doesn't comply with our ordinances

Brian- think it would be a disaster if you paint the sign black

Nancy- need to clean up the garbage, want you to thrive. Want you to get permits though

Against the size but the sign is a part of the fabric of the town

Christine- given the location and specific place, going south, it identifies the restaurant, not a lot of other stuff this size but don't want every restaurant with a sign this size.

Need testimony that it fits for this site.

Sara – does the Tap House own the house next door and can it be utilized for parking?

Sullivan – yes, own it but it is in the residential zone

Public Questions for engineer: None

Durkin- if we shrink the sign then lose the allure of the sign, if got rid of the white then would shrink the overall sign, paint over with black

Sara – Nothing has been addressed, difficult to approve, not in compliance with the ordinances

Brian – think it will be a disaster if it is painted black

Nancy – I like the sign, but want you to clean up the garbage. Want you to thrive but you need to get permits. The sign is part of the fabric of the town

Christine- given the location and specific place, going south it identifies the restaurant, not a lot of signs this size. Don't want every restaurant with a sign this large but they need to provide specific testimony that it fits for this site.

Dennis- I like that the water run off will be better and they are shrinking the patio, can live with the sign

Eileen – not fond of the sign, oversized, we have ordinances for a reason, other businesses comply

Brian- been on the board for 18 years, signs keep coming up, nothing gets done, but like the sign

Eileen – discussed this sign when the issue of it being oversized first came up at the Board

Brian – is there an alternative proposal

Sara – there are 10 variances proposed, can we vote independently?

Mark – don't recommend voting independently, makes sense for a number of the variances can be combined. There is a difference of opinion for the sign, can vote on the sign separately.

Public Comments:

Jim Haines, 611 Mercer Ave, been to the Board to complain but they have become a better neighbor, noise has decreased, Sullivan gave me his cell to call if there is a problem. Hope it continues as patio.

Dennis – how is parking in the summer?

Haines- neighbors know how to park on the street, on busy days there are a lot of cars on Mercer, was a problem in the past with noise and disorderly but has improved

McGill – like Christine's comments that the sign is appropriate for the area and they are a good neighbor. The existing coverage is 92.4%

Gerry – 75% is permitted for coverage, there is 83.35% not including the stones, 94.4% with the stones, would like to see it closer to 90%, need to add dry wells and a storm water trench to capture the roof water and the patio drainage. The stormwater variance is removed. Condition of approval for storm water plan

McGill- will remove a portion of the patio to be 80 feet by 22 feet wide to be 90% or less of coverage, applicant will remove 2 feet from the perimeter on the west and south.

Merunka – will take off 200 square feet on west and southern edge

Sullivan – will remove the stones by the sign and put in grass

Jerry- applicant will need to provide a new site plan showing the areas to paved and that it will be a total of 90% impervious coverage. They will need a variance for the parking, the bench, shade tree variance, streetscape issues – will comply with the lighting and planting strip, corner lot has two fronts

Christine- Ordinance was adopted December 18, applicant submitted prior to ordinance

Jerry- primary front by the front entrance

Eileen-need fence around dumpsters

Mike – include patio modified without sign

Brian-should.

vote separately

Dennis- was before the Board before, lack of parking, they made some concessions, it's a good business for the town

Nancy- feel the same as Mr. Pearsall, came a long way since Covid, want businesses on 71 to survive – we don't have a main street

Brian- worked with the Board to reduce impact and the neighbor testified there was an improvement

Dennis- bigger than it should be but it has been there and not a detriment

Roy- excessive size, applicant did not justify the variances requested

Nancy- don't know how the sign came about, but think it is a benefit to the community, not hurting anyone

Brian- have been against the sign all along but after tonight, I changed my mind

Eileen – work hard for ordinances and to do what is best for the community

Sullivan – want to thank the Board for their efforts

Mark – discuss the requirements: no bench, no change to the utilities, arborvitae will be 6 feet or less, the recycling and dumpster will be enclosed and comply with the trash enclosure requirements

**Motion to approve outdoor patio:** Brian Brendle    **Seconded by:** Councilwoman King  
**In Favor:** Dennis Pearsall, Roy Francolino, Nancy Maclearie, Brian Brendle, Bruce Waitzel, Councilwoman King, Chair Eileen Eilenberger

**Motion to deny Sign Variance:** Councilwoman King            **Seconded by:** Roy Francolino  
**Voted in favor to deny:** Roy Francolino, Councilwoman King, Chair Eilenberger  
**Opposed:** Dennis Pearsall, Brian Brendel, Bruce Waitzel, Nancy Maclearie, Michael Milano

**Motion to approve Sign Variance:** Bruce Waitzel            **Seconded by:** Dennis Pearsall  
**Voted in favor:** Dennis Pearsall, Brian Brendel, Bruce Waitzel, Nancy Maclearie, Michael Milano  
**Opposed:** Roy Francolino, Councilwoman King, Chair Eilenberger

**E. Board Business:**

**Board review and comments for Borough Council referral of:**

**Ordinance #2024-03 Amending Chapter 22 Article V – Required Improvements, Standards and Specifications**

**Ordinance #2024-04 Amending Chapter 22 Article III Section 302 – Definitions**

**F. Resolutions:**

**1. Resolution #2024-13 – Referral to Borough Council for Ordinance #2024-03**

Christine -

**Motion to approve:** Nancy Maclearie            **Seconded by:** Brian Brendle

**Voted in favor to approve:** Chair Eileen Eilenberger, Councilwoman Sara King, Brian Brendle, Michael Milano, Bruce Waitzel Roy Francolino, Dennis Pearsall, Nancy Maclearie

**2. Resolution #2024-14 – Referral to Borough Council for Ordinance #2024-04**

Christine – this Ordinance was for new definitions and updates.

**Motion to approve:** Nancy Maclearie            **Seconded by:** Brian Brendle

**Voted in favor to approve:** Chair Eileen Eilenberger, Councilwoman Sara King, Brian Brendle, Michael Milano, Bruce Waitzel Roy Francolino, Dennis Pearsall, Nancy Maclearie

Motion to adjourn: Nancy Maclearie  
All members vote in favor to adjourn  
Meeting adjourns at 9:35 PM

Seconded by: Bruce Waitzel