

**Borough of Peapack & Gladstone
Land Use Board
Special meeting**

June 5, 2019

Opening Statement: Adequate notice of this meeting of the Land Use Board of the Borough of Peapack & Gladstone was given to the Courier News on January 17, 2019 and was posted at the Municipal Complex, 1 School Street, Peapack; The Peapack Post Office, 155 Main Street, Peapack; and the Gladstone Post Office, 266 Main Street, Gladstone, New Jersey on January 17, 2019.

Salute to the Flag

Roll Call:

Present:

Greg Yannaccone, Chairman
Mayor Greg Skinner
Mark Corigliano, Councilman
Kingsley Hill
Joan Dill
Judy Silacci
Chris Downing
David DiSabato
James Heck, Alternate # 2

Absent:

Peter Sorge, Alternate # 1
Lisa Saunders, Alternate # 3
Matte Sutte, Alternate # 4
Susan Rubright
William Ryden, Borough Engineer

Also Present:

Roger Thomas, Esq. Board attorney
John Szabo, Planner

The meeting commenced at 7:10 p.m.

PUBLIC HEARING:

Application # 2019- 003 – Block 28, Lot 20.19 – 4 Oratam Drive – Danette Lewis

Roger Thomas, Board attorney swore in Danette Lewis. Ms. Lewis testified that she proposes to construct a two-story addition to the property which would consist of a third garage which will be attached to the structure as well as a second floor living space which will include a bedroom, bath, laundry and family area. The first floor will consist of a third car garage. There will be renovations in the existing house that will include a new mudroom together with a new breakfast area, kitchen, office, bathroom and elevator which will be installed to access the new second floor living space. The property is in the RR-2 Zone and contains a one-story framed dwelling with an in ground pool, playground and shed. The Board Engineer, Mr. Ryden, rendered a report dated May 7, 2019 in

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which he indicated that the addition would be 556 square feet requiring variances for building coverage and lot coverage.

Upon the request of board attorney Roger Thomas, Ms. Lewis explained the floor layout of the proposed addition and renovation of the existing home. She testified that the house is a ranch but the previous owners had put a living area over the existing 2 car garage consisting of 560 s.f. The living space would be increased in total to 1,200 s.f. which would include the existing living area. Her parents are looking to down size and come live with her since she is a single mom with 3 children. Mr. Szabo, Borough Planner commented on the 1,200 s.f. living area and advised that the definition of a dwelling unit is one or more rooms for occupancy with cooking and living as a single-family household. She advised that when not used by her parents it would just become additional living space for her and her family. Mr. Downing questioned the use. It was pointed out that the zone allows boarders but sharing the same cooking facilities. The Board discussed conditioning the approval on the occupancy by her parents and not to be rented out. The board was concerned that it could be considered a second dwelling unit. The board discussed requiring a recorded deed restriction. James Heck questioned the enforcement of the unit. John Szabo explained that one cannot assume a violation and suggested that the language of the deed allow the owner to come back to the Board for a 'd' variance if circumstances change. Roger Thomas explained that a 'd' variance is difficult to get approval of.

The Board took a brief recess so that the applicant could speak with her father to decide if they want to go for a 'd' variance.

The meeting was reconvened and the applicant advised that she would agree to the deed restriction and not seek a 'd' variance.

Ms. Lewis indicated that the addition was 97.83 feet from the westerly property line. She further indicated that there was a treed buffer between her property and the house to the west which was an additional 45 to 50 feet from the addition. She indicated that the treed buffer would prevent the neighbor from seeing the new addition.

John Szabo reviewed the application and the two variances being sought. Mr. Szabo testified that in his opinion the project had no substantial detriment to the public good since it was going to be screened by the existing tree line and was a substantial distance from the existing house to the west. He also noted that in his opinion there was no substantial detriment to the intent and purpose of the Zone Plan or the Zoning Ordinance.

Mr. Ryden's engineering report of May 7, 2019 was reviewed and it was noted that he had no engineering concerns but that all stormwater grading and soil erosion control issues would be the subject of a review of the application at the time of a construction permit.

Ms. Lewis offered photos of the area but the board saw no need to review them.

Public Portion – The public portion was opened and closed to the public since no one in the public wished to comment.

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Joan Dill moved to approve the variance application with the condition that a deed restriction prepared by the Board attorney be recorded; Kingsley Hill seconded the motion which was passed by the following roll call vote:

AYES: Greg Yannaccone; James Heck; Chris Downing; Councilman Corigliano; Mayor Skinner; Joan Dill; Judy Silacci; David DiSabato; Kingsley Hill.

NAYS: None

Resolution - Block 4, Lot 22.04 – 5 Patriot Road, Gladstone

**BOROUGH OF PEAPACK AND GLADSTONE LAND USE BOARD
RESOLUTION OF MEMORIALIZATION**

**Approved: May 15, 2019
Memorialized: June 5, 2019**

**IN THE MATTER OF
THORSTEN AND PAM SCHLUTER
BLOCK 4, LOT 22.04
VARIANCE APPLICATION**

WHEREAS, Thorsten and Pam Schluter, (hereinafter known as the “Applicants”) filed an application for variance approval with the Borough of Peapack and Gladstone Land Use Board (hereinafter known as the “Land Use Board”) on March 26, 2019, and

WHEREAS, the matter was deemed complete on April 1, 2019, and

WHEREAS, public hearing was held on May 15, 2019 with notice being required, at which time the Land Use Board rendered its decision on the application in accordance with the requirements of N.J.S.A. 40:55D-10(g), and

WHEREAS, it has been determined that the Applicants have complied with all of the rules, regulations and requirements of the Land Use Board and that all of the required provisions of compliance have been filed with the Land Use Board, and

WHEREAS, the Land Use Board has received as part of the hearing process the following testimony and documentary evidence submitted by the Applicants and their consultants, the Land Use Board staff, and members of the public:

The Applicants are the owners of property known as Lot 22.04, Block 4 on the Tax Map of the Borough of Peapack and Gladstone. It is otherwise known as 5 Patriot Road. Ms. Schluter testified that they are seeking a variance for side yard height variance with regard to the construction of a proposed attached garage on their property which already contains a single-family residence. Ms. Schluter indicated that the location of the barn is eight (8) feet from the side yard where 25 feet is required. She further indicated that the height of the barn is 18 feet where 15 feet is authorized. She indicated that the barn is designed to be used for storage of household materials and equipment. It will have electricity but no other utilities. She testified further that the lot is somewhat unusually shaped and that the location of the barn is dictated by the fact that there is an existing pool in the rear yard and that there is a significant slope in the rear yard. Therefore, the only level location on site is that which is proposed. She further noted that the portion of the property that abuts the barn has significant woods and therefore will not be a disturbance to the abutting property owner.

The meeting was opened to the public and an abutting property owner who is to the side of the property that is most affected by the barn at 7 Patriot Lane indicates that he does not feel that the project is in any way detrimental to his property and will in fact add value to the neighborhood.

In addition to the testimonial evidence, the Applicants submitted the following documentary evidence:

- A-1: A photo of the backyard.
- A-2: A photo of the garage area at the end of the drive.
- A-3: A photo of the pool.
- A-4: A photo of the backyard.
- A-5: A survey of the property including 7 Patriot Lane.
- A-6: A conforming exhibit of where the barn will be located.
- A-7: Similar barns in the area.
- A-8: Photo of property in the area.

Ms. Schluter indicated that the material submitted included architectural plans of a barn-like structure with a cupula on top. She indicated that the intent and purpose was to make the facility more of a barn to be in keeping with the character of the area.

Mr. William Ryden, the Board Engineer, rendered reports dated April 1, 2019 and April 26, 2019, both of which were made a part of the record. He did not indicate any engineering concerns.

Mr. John Szabo indicated that in his opinion the application could be satisfied under the “c (1)” criteria on the basis that the lot is unusually configured and that the only viable location for the barn is as indicated. Anything to the rear will be impacted by a deviation in height; front to back of 20 feet which is generally steep slopes which would be inappropriate for the location of the barn. He also believed the “c (2)” criteria is applicable since it advances the purposes of zoning by allowing for less disturbance on the site.

Several Board members raised concerns with regard to the height of the cupula. While it was not considered to be such a concern as to eliminate the cupula as a condition, it was recommended by the Board that the Applicants give consideration to

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maintaining the cupula but lowering its height. The Board acknowledged through its Attorney and Planner that the cupula is an exception to the height requirements in the Ordinances of Peapack and Gladstone.

WHEREAS, the Land Use Board, in reviewing the foregoing testimony and documentary evidence, makes the following findings of fact and conclusions:

The Applicants are seeking both a setback variance and a height variance for the accessory structure of the barn. In order to accomplish same, the Applicants must establish either the "c (1)" or the "c (2)" criteria. The "c(1)" criteria is established when the Applicants are able to establish due to unusual conditions by way of shape or configuration of the lot that it would be an impractical or extraordinary hardship placed upon the developer to comply with the Ordinance requirements. Alternatively, the "c(2)" criteria indicates that if the Applicants can establish a purpose of zoning and show that the benefits of granting the deviation substantially outweigh the detriment, the criteria can be met. In both cases, the Applicants must establish that the variance can be granted without substantial detriment to the public good and without substantial impairment to the intent and purpose of the Zone Plan and the Zoning Ordinance.

The Board finds that the Applicants have satisfied both the "c (1)" and the "c (2)" criteria. The "c(1)" criteria is based upon the fact that the lot is unusually configured and already has development on it including an existing single-family house and a pool which limit the location where the barn can be placed. Further, the Board acknowledges that there are slopes that would be adversely affected if the barn was located in a conforming location.

Additionally, the Board finds that the "c(2)" criteria is met since the location of the barn will reduce the amount of further disturbance of the lot that might otherwise be required in the conforming location of the lot.

Finally, the Board finds that there is no substantial detriment to the public good. The Board particularly notes that the abutting neighbor has no objection and in fact supports the application. The Board further finds that there will be no substantial impact to the intent and purpose of the Zone Plan or the Zoning Ordinance. The Board finds that the barn is in character with the area and that the deviations are not substantial. The Board also notes that under the Land Development Ordinance barns can have a height of up to 20 feet subject to the Board's review and approval. The Board finds that the height of this barn, taking into account the architectural that are being proposed, does meet the standard in Section 23-40.6.

NOW, THEREFORE, BE IT RESOLVED that the Land Use Board of the Borough of Peapack and Gladstone does hereby grant the variances for side yard and height for the reasons expressed hereinbefore.

This approval is subject to the following terms and conditions:

1. The Board incorporates the architectural plans submitted by the Applicants.
2. This approval is subject to the payment of all appropriate fees and taxes.

The undersigned does hereby certify that the foregoing is a true copy of the action taken by the Borough of Peapack and Gladstone Land Use Board at its regular meeting on May 15, 2019.

Judy Silacci moved to adopt the foregoing resolution; David DiSabato seconded the motion which was passed by the following roll call vote of members eligible to vote on the resolution.

AYES: Judy Silacci; Mayor Skinner; Councilman Corigliano; David DiSabato and Chris Downing

NAYS: None

Minutes: May 15, 2019 minutes were approved as read.

Mark Corigliano moved to close the meeting to the public because of possible litigation; Mayor Skinner seconded the motion which was approved unanimously by the Board.

At this time the Board went into executive session.

The board came out to executive session at 8:25 p.m.

Chairman Yannaccone announced that the FinPro application is carried to July 17, 2019.

The Board administrator asked if a building permit could be issued for work on the Lewis Property. The Board agreed with the condition that the Certificate of Occupancy is not to be issued until the Deed Restriction is recorded.

Public Portion

The meeting was opened and closed to the public since no one wished to speak.

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Adjourn

A motion to adjourn was made and seconded and the meeting was closed at 8:30p.m.

Sarah Jane Noll
Administrator/Secretary