

**SPARTA TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
MEETING OF APRIL 13, 2022**

The Zoning Board of Adjustment Meeting of the Township of Sparta was held by a Virtual teleconferencing system and was called to order by Chairman George Parker at 6:05 PM, with announcement that adequate notice of this meeting had been given to the public and the press under provision of the “Open Public Meetings Act”.

Members Present: Kenneth Laury, Michael Sylvester, Michael Jozefczyk, Michael Leondi, Richard Laruffa, Kelly McClurkin and George Parker

Members Absent: John Finkeldie and LeeAnne Pitzer

Others Present: Glenn Kienz, Esq., Board Attorney  
David Simmons, Board Engineer  
Diana Katzenstein, Board Secretary

**RESOLUTIONS:**

- 1) 403 SPARTA LLC # 33-21  
403 Main Street  
Block 28002 Lot 2**

Chairman Parker made a motion to memorialize the resolution of the Zoning Board of Adjustment of Sparta Township of application # 33-21 for 403 Sparta LLC decided on March 9, 2022. Mr. Laruffa seconded the motion and the roll was as follows:

Mr. Laury	Yes	Mr. Jozefczyk	Yes
Mr. Sylvester	Yes	Mr. Laruffa	Yes
Chairman Parker	Yes		

- 2) GRANT, JENNIFER & DAMATO, KENNETH # 2-22  
19 Balsam Pkwy.  
Block 3023 Lot 90**

Mr. Laruffa made a motion to memorialize the resolution of the Zoning Board of Adjustment of Sparta Township for Kenneth Damato & Jennifer Grant, application # 2-22 decided on March 9, 2022. Mr. Sylvester seconded the motion and the roll was as follows:

Mr. Laury	Yes	Mr. Jozefczyk	Yes
Mr. Sylvester	Yes	Mr. Laruffa	Yes
Chairman Parker	Yes		

- 3) KELVIN & MARY BULLOCK # 4-22  
324 West Shore Trail  
Block 4001 Lot 150**

Mr. Laruffa made a motion to memorialize the resolution of the Zoning Board of Adjustment of Sparta Township for Kelvin & Mary Bullock, application # 4-22 decided on March 9, 2022. Mr. Sylvester seconded the motion and the roll was as follows:

Mr. Laury	Yes	Mr. Jozefczyk	Yes
Mr. Sylvester	Yes	Mr. Laruffa	Yes
Chairman Parker	Yes		

## **PUBLIC HEARING:**

### **1) QUEEN, RICHARD & LISA # 32-21 319 East Shore Trl. Block 3028 Lot 11**

Chairman Parker noted this was a continuation of the public hearing held in February. Michael Lipari Esq. on behalf of the applicants confirmed the first hearing took place on February 9, 2022 for the application requesting approval for minor variances to construct a single-family home at the subject property. Mr. Lipari noted revised plans were submitted as well as additional information addressing all of the issues that were raised by the Board and the neighbors at the last hearing.

Mr. Lipari noted Mr. Stewart was still under oath from the last hearing and Mr. Kienz confirmed with Mr. Stewart that his license was still valid. Mr. Stewart referred to the revised map dated March 21, 2022, submitted to the Board to review the major changes; he noted the house was shifted to meet the side yard setback requirement of 20' (from 11.4' previously proposed to 22'); also that the size of the house was reduced to 52' wide; Mr. Stewart then explained by downsizing the house and making the driveway smaller, but still operational, the impervious coverage was reduced from 30.3% down to 26.7%; then he noted Mr. Simmons suggested adding the retaining walls to these calculations which increased the total to 28.2%. Mr. Stewart mentioned they were also able to reduce the wall height from 7.5' to 6' (at the highest point) and pulled it away from the property line; he added the grading in the rear of the property was revised and as a result the second wall initially proposed was eliminated and the only wall left was at 3.5' high across the back of the home. Mr. Stewart stated the gas service and the trench area around it as well as the water service were also added to the plans as well as the window wells which will be filled with gravel and will have drainage. Mr. Lipari then confirmed with Mr. Stewart that the rear yard variance was improved (35' required; 29.3' proposed at the last hearing and 31.1' with the revised plans to the covered porch); Mr. Stewart noted the main body of the house was conforming at 37.3'.

Mr. Lipari then confirmed with Mr. Stewart that the house now was proposed at 22' from the neighbor's property line and the gutter lines at 21'. Mr. Stewart mentioned there were other changes including: a 4' high black vinyl chain link fence starting near the rear corner of the home going up to the rear line of the property and then going to the side line towards East Shore Trail; two trees were also added in the front of the property. Mr. Stewart then noted, based on some discussions with Mr. Simmons and an analysis prepared by Mr. Stewart, they modified the previous drawings by placing two lawn drains within the swell area (behind the wall) to redirect the runoff towards the drywell. Mr. Lipari asked Mr. Stewart to clarify regarding the neighbor's concern (Andrea Slack from 321 East Shore Trail) about the increased stormwater flowing onto her property; Mr. Stewart explained the runoff currently headed towards her property and added they were regrading that area to redirect the runoff towards the front of their property which he considered an improvement, mainly for the neighbor.

Chairman Parker asked Mr. Stewart if the covered porch was included in the impervious coverage calculations; Mr. Stewart replied "yes". Chairman Parker then asked about the sight distance on East Shore Trail; Mr. Stewart noted they met the County standards and that they had received the access permit from the County for this project.

Mr. Simmons referred to his report dated April 5, 2022 and noted Mr. Stewart had covered most items; then he noted Ms. Slack had also raised an issue regarding whether there was sufficient separation distance between the proposed septic system and hers which will be subject to review from the County Health Department. Mr. Simmons also noted Mr. Stewart had to provide some revisions regarding the storm drainage calculations.

Mr. Laruffa mentioned that going over the design standards and based on conversations with Mr. Simmons, the original property fell under the category of moderately restricted and noted the drainage and the septic were the concerns with this property; then he asked if these issues were addressed in the plans. Mr. Laruffa noted the design standards for septic systems required a reserved field equal in dimension and capacity to the proposed field, and said a reserved field area was not included on the plans; then he asked if it was required.

Mr. Stewart noted regarding the drainage they had to meet County requirements as well as the Township's and noted it was mentioned earlier that they had obtained the approval from the County; he added, as far as the septic reserve area, it was not required. Mr. Simmons stated he contacted the Health Department in this regard and confirmed that a septic reserved area would be applicable for a Major Subdivision on a Site Plan for a commercial property. Mr. Kienz agreed with Mr. Simmons.

Chairman Parker confirmed with Mr. Simmons the Utility Plan will be subject to review and approval from the Township Water Department to make sure the location of the water service line and the size of the proposed lines was in accordance with their rules and regulations; Mr. Simmons recommended including this item as a condition of approval.

The meeting was opened to the public; Josh Bunkers, 292 Springbrook Trail stated he attended the last meeting regarding this application and confirmed he was sworn in; Chairman Parker noted Mr. Bunkers was still considered sworn. Mr. Bunkers stated there was pre-existing infrastructure for a drainage ditch installed by Sparta Township along his property which they had used for over 40 years without any negative impact; Mr. Bunkers stated his property was located on an upward slope. Mr. Bunkers added the rear yard setback was required in order to keep the property value of the adjacent properties and that it should be conforming by adjusting the depth of the proposed home. Chairman Parker confirmed that Mr. Bunkers noticed the only part that was not conforming with the rear yard setback requirement was proposed porch, not the main part of the house.

Andrea Slack, 321 East Shore Trail, also attended the last meeting and was sworn; Chairman Parker noted Ms. Slack was still considered sworn. Ms. Slack stated she appreciated all of the updates in the plans and added it appeared that all of her concerns had been addressed. Then she noted the location of her septic system seemed to be incorrect in the proposed plans and added it will be a mutual concern that both septic systems will not interfere with each other. Mr. Stewart confirmed they were seeking approval from the County in this regard, also that they will take Ms. Slack's observation into consideration. Chairman Parker mentioned this matter could be included as a condition of approval. There were no other members of the public present expressing an interest in this application.

Mr. Laury made a motion to have the Board attorney prepare a resolution approving application # 32-21 Block 3028 Lot 11, Richard & Lisa Queen, to construct a single family home with a rear yard variance of 3.9' and impervious coverage variance of 3.2% and the following conditions: obtain the approval from the County regarding the septic system; the as-built and landscaping plans to be reviewed by Mr. Simmons; and the Utility Plan to be reviewed by the Water Department according to all plans and testimony submitted. Mr. Sylvester seconded the motion; Chairman Parker confirmed with Mr. Simmons that the as-built will have to be provided to the Building Department, at the completion of the project, to verify all the setbacks and any other dimensional requirements were met. Mr. Laury accepted this modification as well as Mr. Sylvester and the roll was as follows:

Mr. Laury	Yes	Mr. Jozefczyk	Yes
Mr. Sylvester	Yes	Mr. Laruffa	Yes
Mr. Leondi	Yes	Ms. McClurkin	Yes
Chairman Parker	Yes		

**2) SCOTT LOTOSKY # 3-22**  
**35 East Shore Trail**  
**Block 5035 Lot 11**

Scott Lotosky, 35 East Shore Trail was sworn in and stated he was seeking approval to construct a second floor addition including a deck in the front of the property (balcony) which will be within the required setbacks and on the existing structure/frame of the existing dwelling; and to widen the front porch (about 5' on each side). Mr. Lotosky noted he was going to remove the patio on the back of his property in order to reduce the impervious coverage; also, that his growing family needed additional space.

Mr. Kienz noted the proposed addition was within the existing footprint. Mr. Laruffa confirmed with the applicant that this residence was a two-bedroom home and will stay the same; Chairman Parker noted the approval from the County regarding the septic system will be a condition; also, that the footage to the front deck will have to be confirmed.

There were no members of the public present expressing an interest in this application.

Mr. Laury made a motion to have the Board attorney prepare a resolution approving application # 3-22 Block 5035 Lot 11, Scott Lotosky to construct a second floor addition, one front porch with an impervious coverage variance of 11.5% and deck in the front yard, according to all plans and testimony submitted; with the following conditions: obtain a septic system approval from the County; provide dimensions of the deck in the front yard which could not be covered. Mr. Laury confirmed with Mr. Kienz that the Board had granted approval for the second story addition subject to final confirmation whether an additional variance was needed according to the Ordinance. Mr. Sylvester seconded the motion and the roll was as follows:

Mr. Laury	Yes	Mr. Jozefczyk	Yes
Mr. Sylvester	Yes	Mr. Laruffa	Yes
Mr. Leondi	Yes	Ms. McClurkin	Yes
Chairman Parker	Yes		

Chairman Parker asked Mr. Lotosky if he would like to waive his rights to a written resolution, Mr. Lotosky answered yes. Mr. Laury made a motion to waive the applicant's rights to a written resolution. Mr. Sylvester seconded the motion and the roll was as follows:

Mr. Laury	Yes	Mr. Jozefczyk	Yes
Mr. Sylvester	Yes	Mr. Laruffa	Yes
Mr. Leondi	Yes	Ms. McClurkin	Yes
Chairman Parker	Yes		

Mr. Dempsey noted there were questions submitted by the public regarding if there was going to be an opportunity to speak on matters/applications that were not on the agenda; Chairman Parker mentioned one of the questions was about the date when the application for an interpretation regarding the warehouse was going to be heard, then he noted it was scheduled to be heard on the first meeting of the Zoning Board scheduled in May. Mr. Kienz said the other question was if the meeting was going to be opened to the public for general questions and confirmed with Chairman Parker it will be after the public hearing was finished.

**3) BRIAN FOLEY # 6-22**  
**7 Birch Pkwy.**  
**Block 3022 Lot 11**

Brian Foley & Courtney Kardos, 7 Birch Pkwy. were sworn in as well as Matt Smetana, licensed architect, who confirmed his licensed was still valid. Chairman Parker noted Mr. Smetana's professional credentials were recognized by the Board.

Mr. Smetana explained the property was an undersized lot with two front yards, one on Birch Pkwy. (main access/driveway) and the other one in East Shore Trail (where the closest point was at 27.5'); he also mentioned there was a significant slope from East Shore Trail down to the front yard. Mr. Smetana then noted the leach field was located in the front yard as well as an existing deck and indicated the leach field limited the expansion towards Birch Pkwy.; also, that the basement was considered a story according to the Ordinance. Mr. Smetana stated they were proposing to add a full height upper level expanding towards East Shore Trail which will trigger a variance at 23.5' and being built over the top of the existing impervious. Mr. Smetana added they were also proposing to expand the living space in the front of the house (family room and dining room on the first floor); they will also square off the corners of the deck in the main floor and create a new entrance way from the front, since the current way into the house was around the side of the house through a deck; by doing this, they will be able to eliminate a walkway to access the deck on the side and reduce the impervious coverage from 38.2% to 32%. Mr. Smetana noted a variance relief was also required for the third story since the basement counts as a story.

Mr. Kienz stated it seemed like they were proposing an additional story over what was permitted under the Ordinance, according to Mr. Smetana's testimony, which required a use variance. Chairman Parker asked if the notice provided was adequate to cover a "d" variance. Mr. Kienz suggested carrying this hearing. Chairman Parker requested confirmation of the impervious coverage calculations to verify that the deck was included.

Mr. Simmons referred to his report dated April 7, 2022 and pointed out item 2.b as well as item 3.b from page 2 and listed below

2. **ZONING**

- b. The property survey shows an existing shed encroaching over the common property line of Lots 11 and 12 by 0.9 feet.

3. **MAPPING**

- b. The application package includes a portion of a survey map, with no title block or signature, that shows an approximate boundary line per a filed map. Based on the plan, the subject property is located in Byram Township.

Based on the current Sparta Township Tax Map, the subject property is located in Sparta Township. However, since the survey map was submitted as part of the application, I wanted to point out this discrepancy.

Mr. Simmons confirmed with Mr. Smetana that the existing dwelling was 3 bedrooms and will remain the same and noted the suitability of the septic system was subject to review from the Sussex County Health Department. Then he added they should contact the Township Water Department to verify the water size line going into the building to make sure that there were no changes required on behalf of the Township.

Chairman Parker announced this application will be carried to the meeting scheduled on May 11, 2022 subject to the possibility of additional notice.

**4) ANDREW MULLER # 7-22**  
**1 Lancer St.**  
**Block 31002 Lot 40**

Andrew Muller, 1 Lancer St. and Jason Dunn, P.P and Landscape Architect from Dykstra Associates, 11 Lawrence Rd., Newton, NJ. were sworn in; Chairman Parker noted Mr. Dunn's professional credentials were well known by the Board and confirmed with Mr. Dunn that his license was still valid.

Daniel Benkendorf, Esq. on behalf of the applicant stated they were seeking approval of three minor bulk variances for renovations to the property and structure which includes an addition to the house (onto the rear and left side) and proposed detached garage with a studio above, on a pre-existing undersized lot located in the R-2 Zone. Mr. Benkendorf noted about half of the property was located in Jefferson and the other section in Sparta; also, that the proposed garage will be located in Jefferson and the addition in Sparta; he added, the garage will be built on an existing concrete pad because back in 2007 the applicant requested a permit to build a pool which was approved by the Township with the condition of building a detached garage, since the existing garage was located in the rear of the property, underneath the house, and by building the pool the cars will not have access to the existing garage. Mr. Benkendorf also explained that after paying for the pool, Mr. Muller was not able to complete the garage on the side of the property due to the recession and when he went back to Sparta to get the permit to complete the garage it was determined that additional variances were needed.

Mr. Dunn stated the side addition will be 10.2' x 22' (22' being the same depth as the house); the rear addition 23.17' long x 14.5' deep will be built over the existing deck which will be preserved as an open area but will require a variance of 0.3'; also, that the applicant was proposing to expand the front porch to 6' deep, in order to make it more usable and enhance the aesthetics of the house; Mr. Dunn noted the 35.6' setback on the site plan was measured to the roof line of the porch, however on the architectural plans, pillars were shown and would extend 9" into the front yard to 34.8'. He also mentioned this Lot, according to the Tax Map, is assessed in Sparta Township and added it was uniquely shaped since it was positioned at the end of a cul-de-sac. Mr. Dunn then said a variance for impervious coverage was also required where 15% was permitted and 34% proposed; and explained the calculations for the area of the lot that was only in Sparta were 18.7%.

Mr. Kienz stated he did not believe Sparta had any jurisdiction over the garage since it will be located entirely within Jefferson; also, that it will be sufficient to note that a garage was being proposed. Chairman Parker asked for clarification of the calculations for impervious coverage. Mr. Simmons referred to his report dated April 6, 2022 and asked if the applicant was proposing to preserve the three (3) large evergreen trees along/near the common property line with Lot 41 as well as a large deciduous tree in the front of the dwelling; Mr. Dunn replied "yes", based on conversation with the applicant. Mr. Simmons then asked if the house will remain 3-bedroom; Mr. Muller clarified it was currently 4-bedroom and that they were proposing to make one of them a hallway/laundry room. Mr. Simmons also confirmed with Mr. Muller that no water/sanitary facilities were proposed for the garage and studio.

Mr. Benkendorf confirmed with Mr. Dunn that the applicant had established a hardship based on the fact that it was an undersized lot and that the cul-de-sac was the front yard of the property; also, that there was no detriment or negative impact to the surrounding properties. Mr. Kienz asked Mr. Dunn if this lot would be conforming if it was entirely located in Sparta; Mr. Dunn replied “yes” with the exception of the cul-de-sac being in the front yard.

Mr. Sylvester asked what would happen if Jefferson denied this application; Mr. Benkendorf said they will have to come back before Sparta and Mr. Kienz added Jefferson will only be permitted to take jurisdiction over the issues that affected the Jefferson side of the boundary line, which in this case was the proposed garage. Chairman Parker noted a garage was required under the Sparta Ordinance.

There were no members of the public present expressing an interest in this application.

Mr. Laury made a motion to have the Board attorney prepare a resolution approving application # 7-22, Block 31002 Lot 40, Andrew Muller, for adding an addition to a primary structure with the following variances: front yard 15.2’, rear yard 0.3’ and impervious coverage 3.7% and the following conditions: approval of the application from Jefferson Township, septic system approval from the County and as-built plans be provided; according to all testimony and plans submitted. Mr. Leondi seconded the motion and the roll was as follows:

Mr. Laury	Yes	Mr. Jozefczyk	Yes
Mr. Sylvester	Yes	Mr. Laruffa	Yes
Mr. Leondi	Yes	Ms. McClurkin	Yes
Chairman Parker	Yes		

Chairman Parker opened the meeting for public comments or questions on matters not pending before the Board and clarified an application was filed before the Zoning Board of Adjustment for an interpretation regarding 33 Demarest Rd.; then he noted the public hearing was scheduled for the first meeting in May and that for this reason the Board could not comment on it since they had not heard any testimony. Kathy Ebbinkhuysen, 25 Scudders Rd. was sworn in and asked what the procedure was to consider the application mentioned by Chairman Parker previously, and if the determination will be done prior to the meeting (in a closed session) or if it would open to the public. Chairman Parker replied it will be done in a public session and asked Mr. Kienz to explain the general procedure for an interpretation; Mr. Kienz explained the application will come in, then the Board will listen to the question being raised, after that the Board will look at the Ordinance to make a decision, according to Section 70 (b) of the Municipal Land Use Law. Mr. Kienz emphasized he did not comment on the application for an interpretation regarding Demarest Rd. and that the Board will have to seek a different counsel, he stated he did not think he had a conflict; then noted he represented the applicant before the Planning Board over five years ago. Mr. Sylvester asked what the action of the Board will be after they heard the applicant’s testimony; Chairman Parker said the members will vote on whether they accepted the application or not. Ms. Ebbinkhuysen then asked if the meeting scheduled in May could be in person; Chairman Parker answered “no” and explained he did not feel they should go back in-person because the Covid statistics were going up again and he did not want to put any of the members at risk of getting sick.

With no further business, Mr. Laury made a motion to adjourn the meeting at 8:15 PM. All present in favor by unanimous voice.

Respectfully submitted,

Diana Katzenstein  
Board Secretary