

**Borough of Ho-Ho-Kus  
Bergen County, New Jersey  
Zoning Board Minutes  
April 5, 2018  
Regular Meeting  
8:00PM**

**Meeting Called to Order at 8:00PM by Chairman Barto**

**Open Public Meetings Statement: Read into the record by the Board Secretary.**

**Roll Call:** Messrs. Tarantino, Cox, Forst (absent), Ms. Metzger, Messrs. Deegan, Rodger, Ms. Loew, Chairman Barto

**Also in attendance:** David L. Rutherford, Esq., Board Attorney; JoAnn Carroll, Board Secretary

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**Mr. Nayden Kambouchev, 130 Ross Place, Block 1003, Lot 19:** applicant submitted revised plans to construct a 2-story addition; updated Zoning Official review finds all bulk variances have been eliminated; improved lot coverage remains at the existing 43.46% after reconfiguration of building and structures on property; non-compliance with Section 85-10 G (3) improved lot coverage (application carried to the May 3, 2018 meeting of the Board at the request of the applicant; letter received)

**Chairman Barto:** stated the applicant has requested his application be carried to the May 3, 2018 meeting of the Board; request granted.

**Mr. Rutherford:** stated the application will be heard on May 3, 2018 in the Council Chambers of Borough Hall beginning at 8:00PM; no further notice required.

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**Chairman Barto:** stated the agenda will be heard out of order; called for the 461 Birch Lane application to be heard.

**Mr. Rutherford:** stated Mr. Deegan, Board Member, is recused from the 311 Ardmore application due to being listed on the applicant's 200' list.

**Jody & Beatriz Chesnov, 461 Birch Lane, Block 902, Lot 6:** applicants seek 16 variances for the construction of an in-ground pool, related patios, cabana, pool equipment, walkways, driveway, new detached garage, three stanchions and bocce court; non-compliance with Section 85-15.1 C no accessory structure may be located in the front yard; 85-32.3 B driveway width; 85-9 G (3) improved lot coverage; 85-9 G (5) lot coverage by accessory structures/buildings; 85-9 I (3) detached accessory structures/buildings-side street setback; 85-9 I (2) detached accessory structures/buildings-front street setback.

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**Matthew Capizzi, Esq., applicant's attorney:** gave an overview of the application; property is located on a corner lot at the end of Birch Lane; developed in the 1970s with a single family home; unique portion of Birch Lane is located on their property which takes up a fair share of impervious coverage; is accounted for in zoning calculations.

**Chairman Barto:** stated the Borough Engineer's report makes that point as well.

**Mr. Capizzi:** stated on the property there is a brook easement, a riparian area and the lot lines are not congruent; applicant is seeking to construct a pool, patio and accessory improvements; the initial plan submitted to the Zoning Officer indicated variances for the accessory structures due to front yard setbacks; after a discussion with their design team, all the accessory structures have been moved and are more than 50 ft. or more from Wearimus Road; due to environmental conditions, the applicant does not have the room to remove the accessory structures from the front yard; the applicant's engineer and landscape architect will testify this evening.

**Mr. David Egarian, DJ Egarian & Associates, applicant's engineer: sworn in by Mr. Rutherford;** gave his educational and professional background; license in good standing; accepted as an expert in the field of engineering.

**Exhibit A1: original plan revised by the Zoning Officer, dated 10/26/17, revised 1/22/18, marked 4/5/18**

**Exhibit A2: Pool location grading plan, dated 10/26/17, revised 4/5/18, marked 4/5/18**

**Mr. Egarian:** referred to A2; reviewed existing conditions; odd shaped lot; corner lot; brook in rear with 25' easement; riparian area on property; portion of Birch Lane resides within the property line, which was taken into account when calculating improved lot coverage; Birch Lane is a cul-de-sac and does not extend all the way through to Wearimus Road; lot lines are not parallel to each other; property in the rear yard sits lower than Wearimus; proposing an in-ground pool, cabana, detached garage and driveway; pool has been shifted over; all the improvements in the rear yard have been designed in accordance with stormwater regulations; designed with a dry well; the garage needs a front yard variance; discussed proposed and required setbacks; only variance is on Birch Lane; chose this location because the garage would run parallel with the house; no house located across the street; accessory structures comply with front yard setback requirements but they are still located in the front yard; can't get out of the front yard because of the brook easement; 50 ft. riparian buffer from center of brook; shifting over would shoehorn everything on the property and would create disturbance in the easement and riparian buffer; need a variance for improved lot coverage; if Birch Lane was removed the project would conform in regards to improved lot coverage; discussed drainage design.

**Exhibit B1: David Hals, Borough Engineer, review letter dated March 30, 2018, consisting of 3 pages**

**Mr. Egarian:** stated the application can conform to all items in the letter.

**Chairman Barto:** stated, if the application is approved, conforming to all items in Mr. Hal's letter will be a stipulation of that approval.

**Mr. Rutherford:** confirmed there were no further front or rear yard setback variances for any structure or improvements and the only variance sought was for improved lot coverage; stated there are various structures in the front yard, meaning between the house and Wearimus Road; they comply with the setbacks but they are not permitted on that portion of the property; these structures are the pool, patio, garage, cabana and pool equipment.

**Mr. Egarian:** stated the variance for the driveway width is no longer sought due to the driveway being reconfigured to 35 ft., which conforms; showed the stanchions on the plan; there are 3 in all; no lighting associated with the stanchions; they will match the house.

**Mr. Rutherford:** stated the ordinance does not make provisions for stanchions; they are considered an accessory structure.

**Mr. Capizzi:** distributed a cut sheet of the stanchions to the Board.

**Exhibit A3: stanchion detail; one sheet; marked 4/5/18**

**Chairman Barto:** asked for the dimensions of the bocce court.

**Mr. Egarian:** stated it is approximately 60 ft. by 10 ft. wide.

**Chairman Barto:** stated it was longer than the house was deep.

**Ms. Loew:** asked if there would be a cover over the bocce court.

**Mr. Egarian:** stated no.

**Mr. Chris Mauro, 8 Powderhorn Road:** asked about the landscape architecture plan.

**Mr. Capizzi:** stated the landscape architect would be testifying and would be able to answer Mr. Mauro's questions.

**Mr. Andres Montoya, 1 Birch Lane:** stated it was testified to that there was a vacant lot across the street from the applicant's property, but his house is located across the street; his house would be in front of the construction.

**Mr. Egarian:** stated he misspoke when he referred to a vacant lot.

**Mr. Matt Jones, applicant's landscape architect, sworn in by Mr. Rutherford:** gave his educational and professional background; license in good standing; accepted as an expert in the field of landscape architecture.

**Mr. Jones:** stated he has visited the site; reviewed the site plan; described his plan.

**Exhibit A4: landscape plan, dated 4/5/18, prepared by Tapestry Landscape Architecture; marked 4/5/18**

**Mr. Jones:** stated there is a deciduous woodland buffer along Wearimus Road; provides nice coverage in the summer; this time of year it is bare; there will be landscaping around the pool; 26 Norway spruces to be planted along the perimeter to get real coverage in the winter; there will be 10 ft. green giant arborvitaes planted along the fence line where the pool fence will be at the end of the modified driveway; Norway spruce will grow 18 inches a year; will max out at 40-50 ft. tall; arborvitaes will grow to 20-25 ft. tall; installing at a height of 8 ft. tall; for most of the months when the area is in use the existing coverage will be plenty.

**Mr. Rodger:** stated it did not appear that way when he went by the site.

**Mr. Jones:** stated the applicant wants to provide a year round buffer.

**Mr. Rodger:** asked how many years it would take to achieve total privacy.

**Mr. Jones:** stated after 3 years there are big jumps in growth; would be open to bumping up the heights of the trees.

**Mr. Rodger:** asked if the applicant would be committed to replacing any trees that might die.

**Mr. Jones:** stated landscape contractors will replace trees that die within one year; there will be an irrigation and maintenance plan with proper landscaping care.

**Mr. Capizzi:** stated, as a historical note, the applicant's bought the property 2-3 years ago and undertook an extensive renovation; wants to take care of what has already been invested into the site.

**Chairman Barto:** asked for Mr. Jones to indicate on the plans the locations of the bocce court and the garage.

**Mr. Jones:** referred to the plans to answer Chairman Barto's question.

**Mr. Tarantino:** asked how many spruce trees were to be planted.

**Mr. Jones:** stated 26 at 8 ft. and arborvitaes at 10 ft.

**Mr. Tarantino:** asked if there were gaps by the Mauro property.

**Mr. Jones:** stated there is a plan in a later phase to plant there so there is better coverage; there are trees in that area now.

**Mr. Capizzi:** stated if the Borough Engineer grants permission, the applicant will plant in that area.

**Mr. Tarantino:** stated if that is the case, the gap should not be there; there are 10 to 12 other trees in that area.

**Mr. Jones:** stated there are no trees in the brook easement; if they were to plant there they would be giving up 25 ft. of property; it is a heavily wooded intersection where the brook hits and continues in the back of the properties; the lawn rolls down away from the brook; not disturbing anything on that side.

**Mr. Mauro:** questioned Mr. Jones regarding planting in that area and trees that had been removed in that area already; requested screening to be placed as it was before.

**Mr. Capizzi:** stated he will speak to Mr. Hals in regards to filling in the gaps in that area.

**Chairman Barto:** stated, in his opinion, it looks like a lot of recreational area is being shoehorned onto the property due to the brook; asked what the goal of the application was.

**Mr. Capizzi:** stated shoehorning would mean they would have to go closer to the neighboring properties and to the riparian area; benefit of the variance is the improvements stay out of that area.

**Mr. Tarantino:** stated the homeowner should respond to Chairman Barto's question, not the attorney.

**Mr. Jody Chesnov, 461 Birch Lane, sworn in by Mr. Rutherford.**

**Mr. Tarantino:** asked why so much leisure equipment was being shoehorned onto the property.

**Mr. Chesnov:** stated the goal of the project is to have a home for his children and grandchildren to come to; dream home; wants privacy when outside; not shoehorning; the location chosen is the only location for the improvements.

**Mr. Tarantino:** asked Mr. Chesnov to address Mr. Mauro's statement regarding the removal of trees.

**Mr. Chesnov:** stated there were some tall trees that were dead and removed.

**Ms. Beatriz Chesnov, 461 Birch Lane, sworn in by Mr. Rutherford:** stated there was an abundance of dead trees and debris that had been laying along Wearimus Road; tried to clear that area; there was a huge tree laying at the corner of Powderhorn and Wearimus for a long time.

**Mr. Mauro:** asked if the intent was to repopulate the border area with trees.

**Mr. Jones:** stated there are currently no plans to plant at the lower left corner; can add three big sugar maples to refortify the tree line; will receive approval from the Borough Engineer to do so.

**Mr. Montoya and Mrs. Montoya, 1 Birch Lane, sworn in by Mr. Rutherford:** were not in support of the application; will affect their privacy; submitted a set of 13 pictures of the view from their home to the applicant's property.

**Exhibit M1-M13: 13 pictures taken by Mr. Montoya showing the view from various locations on his property to the applicant's property; marked 4/5/18**

**Chairman Barto:** asked if the corner of the new detached garage would be the view from his front yard.

**Mr. Montoya:** stated it will block his view; concerned with trees being removed and a loss of his privacy.

**Ms. Metzger:** asked if there was currently a garage which was attached to the house.

**Mr. Chesnov:** stated yes; adding a detached garage to provide for additional cars; though all 3 garage doors are the same size, the interior does not accommodate 3 cars.

**Ms. Loew:** asked if the landscaping could be extended to buffer the front of the garage.

**Ms. Chesnov:** stated yes.

**Mr. Tarantino:** stated most of the objections heard deal with the detached garage.

**Chairman Barto:** agreed there are many houses which face garages in the Borough; the property belongs to the applicant and the applicant has come before the Board with a plan and has requested variances; looking at a garage is not that odd; agrees with the idea of additional screening of the garage as Ms. Loew suggested.

**Dr. Irwin Berkowitz, 140 Wearimus Road, sworn in by Mr. Rutherford:** stated he was against the application; did not like the location of the pool; felt it could be made smaller and placed in another area.

**Exhibit Berkowitz-1: 5 pictures showing the view from Dr. Berkowitz' property to the applicant's property; marked 4/5/18**

**Mr. Cox:** asked if the garage would be closer to the road than the house.

**Mr. Capizzi:** stated yes.

**Mr. Chris Mauro, 8 Powderhorn Road, sworn in by Mr. Rutherford:** asked for accommodations to be made to provide for screening.

**Mr. Cox:** asked if privacy screening could be placed on Mr. Mauro's property if funded by the applicant.

**Mr. Mauro:** stated he supposed it could; some vegetation should be planted; possibly on both properties.

**Mr. Tarantino:** asked if the 5-6 trees were dead prior to them being removed.

**Mr. Mauro:** stated he did not know.

**Mr. Rutherford:** stated, for the record, the tax map shows the brook easement does not extend onto Mr. Mauro's property.

**Please note: no further members of the public spoke on this application.**

**Mr. Capizzi:** stated neighbors are concerned about their vista; no trees are being removed within 50 ft. of the northerly property line; feels the application is a good variance case; there will be a significant buffer provided through time; the majority of the structures are at grade; trying to repurpose Wearimus to be used as the applicant's backyard.

**Chairman Barto:** asked Mr. Capizzi to review the variances requested since changes had been made to the plan.

**Mr. Capizzi:** stated he had prepared an exhibit reviewing the changes in variances sought; reviewed for Board.

**Exhibit A5: Revised zoning table; marked 4/5/18**

**Chairman Barto:** asked if the improved lot coverage calculation included Birch Lane.

**Mr. Capizzi:** stated yes.

**Mr. Deegan:** stated it is notated on the plan that the temporary cul-de-sac was to cease upon completion of the extension of Birch Lane.

**Mr. Capizzi:** stated it is a permanent right-of-way accepted by the Borough.

**Mr. Tarantino:** asked what the largest size spruce was that could be planted behind the garage at Wearimus.

**Mr. Jones:** stated he would plant hemlock which could be planted at 15 ft. tall; it is the only plant that will survive in that location.

**Ms. Metzger:** stated Wearimus is not the problem for the Montoyas.

**Mr. Tarantino:** stated the garage seems to be the issue and its visual impact; the location of the pool and the bocce court are minor; the hardship is clear from the standpoint of the lot; hardship is self-evident.

**Ms. Loew:** stated garages can be architecturally pleasing.

**Chairman Barto:** stated the Board was not in receipt of the updated plans the applicant had been discussing.

**Mr. Tarantino:** stated the Board needed to see the revised plan; the Board cannot make a decision without it.

**Chairman Barto:** agreed; would like to see the actual plan; stated the application can be carried to the May meeting of the Board; Mr. Capizzi can speak with his clients about possibly exploding the landscaping a bit with respect to the garage and provide the Board with updated plans; would like to see some information regarding the garage.

**Mr. Capizzi:** stated his client had no issue with carrying the application.

**Mr. Rutherford:** stated the application would be carried to the May 3, 2018 meeting of the Board; all requested documents must be submitted at least 10 days before the hearing date; stated the application will be heard on May 3, 2018 in the Council Chambers of Borough Hall beginning at 8:00PM; no further notice required.

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**Mr. Pat Pianelli, Ardmore Road LLC, 311 Ardmore Road, Block 202, Lot 1.02:** applicant previously received zoning and building approval for a 2-story single family home on this lot; an update to the plan for a partial second story has been submitted and reviewed by the Zoning Officer; partial second story is non-compliant with Section 85-10 K second story setback.

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**Please note: Mr. Deegan recused himself from this application; he is listed on the applicant's 200' list; Mr. Deegan left the dais and the Council Chambers.**

**Please note: Chairman Barto recused himself from this application; he has been retained by the family of the applicant's architect; Chairman Barto left the dais and the Council Chambers.**

**Richard Cedzidlo, Esq., applicant's attorney:** stated Ardmore Road LLC purchased a subdivision granted to another builder; Mr. Pianelli is the owner and managing member of Ardmore Road LLC; lives in the Borough; has constructed homes in the town previously; homes built are quality products; homes are aesthetically pleasing and conform with the surrounding neighborhood; the original plan submitted to the Construction Department had the location of the fourth bedroom on the top floor; the buyer wants all of the bedrooms on the second floor; the home proposed is not a large home; lot coverage is under as well as the bulk requirements; footprint could have been made bigger to accommodate the bedroom, but Mr. Pianelli felt it made more sense to seek a variance.

**Mr. Pat Pianelli, applicant, sworn in by Mr. Rutherford.**

**Mr. Rutherford:** confirmed the applicant was seeking one variance.

**Mr. Pianelli:** stated he is the builder of the home to be located at 311 Ardmore Road; reviewed the plan; the footprint is the same as the previous plan submitted for permits; only difference is the second floor will carry an additional room so the end user would not have to ascend another flight of steps to get to the additional bedroom that would be located in the attic; similar to what is being built at 303 Ardmore; after the Completeness Review, he submitted 2 separate plans with the elevations and the second floor setback without the variance; also submitted a separate plan that is proposed that would need the variance and shows all 4 side elevations and also the second floor story plan because the first floor would be the same he did not submit it; the Board can see the difference between the two homes; in addition, he submitted pictures of what the proposed home would look like on the property.

**Mr. Rutherford:** stated the plan indicated no variance needed is dated 9/20/17; the plans with the variance are dated 2/19/18; both received by the Borough on March 20, 2018.

**Mr. Pianelli:** referred to the plan dated 9/20/17; there would have been a bedroom on the third floor; when the plan was altered and the second story was made larger, there was no change to the footprint of the house; advised by his experts that he could increase the building envelope and achieve the same result; from a planning perspective, it is better to leave the first floor footprint and expand the second floor; has built similar types of homes; gave the size of the lot; relatively large lot compared to surrounding lots; could have built a

larger home; discussed elevations; aesthetically pleasing; discussed building materials.

**Mr. Tarantino:** confirmed the only variance sought was for the second floor setback.

**Mr. Rutherford:** stated individual side yards comply; second floor setback is the only variance sought; for the record, Kent Rigg's plan is dated 9/29/17 revised to 2/12/18; two page plan.

**Ms. Loew:** asked how the proposed house at 311 Ardmore will look in comparison to 303 Ardmore.

**Mr. Pianelli:** stated the homes will look different; there is a color difference between the two; both will still fit in with the neighborhood.

**Mr. Kent Rigg, applicant's engineer, sworn in by Mr. Rutherford;** gave his educational and professional background; license in good standing; accepted as an expert in the field of engineering.

**Mr. Rigg:** stated he was familiar with the property; described the size of the property and the general nature of the neighborhood; only difference for this plan is the second story setback; gave bulk requirements; proposal does not max out the lot; each individual side yard complies; the applicant requires a variance for the combination side yard; the home as proposed is smaller than what is permitted; the proposal before the Board is maintaining more green space; the side variance will not impact light, space or air of any contiguous property; only side yard impact is to 303 Ardmore; will not impact the rear or the right; home proposed fits into the surrounding neighborhood.

**Please note: no Board Members had questions of Mr. Rigg; no members of the public had questions of Mr. Rigg.**

**Ms. Brigitte Bogart, applicant's planner, sworn in by Mr. Rutherford;** gave her educational and professional background; license in good standing; accepted as an expert in the field of planning.

**Mr. Bogart:** described the property; oversized lot; need graduated side yard setback variance; familiar with the concept of big, bulky boxes; proposed architectural plan has the detail and elevations that are encouraged by the ordinance and Master Plan; providing more green space; visited the site earlier this week; realized a lot of the dwellings do not have side yard setbacks that meet the 20 ft. requirement; many dwellings have second stories which are straight up; the proposal is consistent with the development pattern; hoping the Board will agree the proposal and proposed architecture is in keeping with the architecture and scale of the neighborhood; C2 variance sought; benefits outweigh the detriments; advances the purposes of the MLUL; the floor plan

reinforces the scale and density of the neighborhood; better zoning alternative for this neighborhood.

**Please note: no Board Members had questions of Ms. Bogart; no members of the public had questions of Ms. Bogart.**

**Mr. Cedzidlo:** stated the reason for the ordinance is understood; trying to discourage “mcmansions”; applicant respectfully took an alternate approach; kept first floor footprint the same; nice architectural feature to the property; statutory criteria met.

**Please note: no members of the public had questions/comments at this time.**

**Ms. Metzger:** stated she welcomes the fact the applicant decided to go smaller.

**Motion to approve application:** Tarantino

**Seconded by:** Metzger

**Ayes:** Tarantino, Cox, Metzger, Rodger, Loew

**Nays:** None

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**Approval of Minutes: Carried to the May 3, 2018 meeting of the Board.**

March 1, 2018

**Motion to adjourn:** Metzger

**Seconded by:** Cox

**All in Favor**

**None Opposed**

**Meeting adjourned at 10:10PM.**

Respectfully submitted by:

JoAnn Carroll

Zoning Board Secretary

April 23, 2018