ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
November 16, 2023 AT 7:00 P.M.

Mr. Reisinger called the meeting to order by reading the following statement: "As Presiding Officer of the Colts Neck Zoning Board, I hereby declare that the notice requirements of the law has been satisfied by prominently posting a notice of this meeting on the Township Bulletin Board, and that there has been transmitted a copy of said Notice to the Asbury Park Press and the Star Ledger and that a copy is on file in the office of the Township Clerk. This meeting is a quasi-judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all times. I further order that this public announcement be placed in the minutes of this meeting.

Salute to the Flag:

Roll Call:

PRESENT: Reisinger, Farrell, Buzzetta, Mahoney, Nicoletta, Maguire

ABSENT: Dnistrian (excused), Kornbluh (excused), and Yodakis (excused)

ALSO PRESENT: Timothy Anfuso, P.P., and Michael B. Steib, Esq.

Approval of Minutes:

Motion to approve the October 19, 2023 Meeting Minutes:

OFFER:	Buzzetta
SECOND:	Mahoney
AFFIRMATIVE:	Reisinger, Farrell, Buzzetta, Mahoney, and Maguire
NEGATIVE:	

RESOLUTIONS:

1. **ZB2003 – LM537 Colts Neck, LLC – Block 30, Lot 18 – 187 Route 537**
   Memorialization of a Resolution granting a one year extension of time to the Use Variance and Minor Subdivision approval. The extension begins on September 22, 2023 and expires on September 21, 2024.

   Motion to Memorialize the Application:

OFFER:	Buzzetta
SECOND:	Maguire
AFFIRMATIVE:	Reisinger, Farrell, Buzzetta, Mahoney, and Maguire
NEGATIVE:	None

2. **ZB1093 Express Auto Spa Car Wash – Block 48, Lot 6 – 297 Route 34**
Memorialization of a Resolution granting approval for a Deviation to the Preliminary and Final Major Site Plan Approval granted on April 20, 2023, amending Special Condition No. 2(w) of the Resolution of Approval.

Motion to Memorialize the Application:

OFFER:	Buzzetta
SECOND:	Reisinger
AFFIRMATIVE:	Reisinger, Buzzetta, Mahoney, and Maguire
NEGATIVE:	None

APPLICATIONS: Old Business

1 **ZB2018 Rundella – Block 7.21, Lot 18 – 57 Laurelwood Drive**
Application to construct an open pavilion in the A-2 Zone. Variances are required to permit a pool and pavilion separation of 9' where 10' is required, and a separation of 13' between the pavilion and house where 20' is required. Time to December 7, 2023

Mr. Steib stated that this is a continuation of a hearing for which the Board has already accepted jurisdiction. The applicant requested the Board take up the matter again having had the opportunity to submit additional exhibits.
Exhibits
8. aerial photo
9. an email from the applicant with three additional photographs

Mr. Rundella presented even more photos taken from different angles, making his case for a hardship variance. The Board appreciated the photos. They agreed the photos gave them a better perspective on the situation. They also agreed the current grading presents a hardship.

Motion to Approve the Application:

OFFER:	Farrell
SECOND:	Reisinger
AFFIRMATIVE:	Reisinger, Farrell, Buzzetta, Mahoney, and Maguire
NEGATIVE:	None

2 **ZB1053 Colts Neck Reformed Church – Block 29.01, Lots 13 & 14 and Block 29.13, Lots 6 & 17 – 139 and 143 Route 537**
Application for Preliminary and Final Major Site Plan Approval with Use Variance to remove the existing driveways and construct a new driveway in the A-3 Zone. Time to January 12, 2024

Mr. Steib stated that this is a continuation of a hearing for which the Board has already accepted jurisdiction. He noted additional exhibits since the previous hearing.
18. Board of Health report, dated 11.08.23
19. Fire Council report, dated 11.06.23

20. Township Planner's Report, dated 11.09.23
21. Site Improvement Plan, dated 11.06.23
22. Township Engineer's Report, dated 11.10.23
23. Stormwater Management Report, dated 11.01.23
24. Revised Color Rendering of Landscaping Plan, dated 11.06.23

Attorney Martin Pfleger appeared on behalf of the applicant. He stated that, as previously agreed, their engineer and Reverand Brown met with the neighbor.

AJ Garito, P.E. was reminded that he is still under oath with regard to the hearing.

Mr. Garito noted the changes to the plans that had been made since the first hearing. Previously the driveway was at a side setback of 20 feet. They have now pushed it out to 36 feet. They also included an "S" at the end of the driveway where it meets with Route 537, as requested. This puts it farther away from the neighbor to the east, which places the egress at about 10 feet from the church building known as East House. It could not be moved any closer to the building for safety reasons. The drive now includes dedicated right out and a dedicated left out lanes. The addition of the "S" will not interfere with the improved safety features for emergency vehicles. They eliminated 4 parking spaces to create the turn. They put additional landscaping with a double row of evergreens along the property line as well as a 6 foot high fence. These changes were brought before two Monmouth County engineers. They believed they were improvements to the plans.

Debra Matitka, the neighbor to the east, sworn. She believes the original driveway is viable and could be made safer with the use of speed bumps and stop signs to slow drivers down. She is concerned the vibrations from the use of heavy equipment near her property during construction will affect the soundness of her home. She is also concerned the lack of a buffer between her property and the driveway will cause drainage issues. Mr. Garito noted the church currently has no drainage system. The plans include adding a drainage system. Ms. Matitka asked if the church would take responsibility for any damage caused to her home during construction. Mr. Pfleger stated that the contractor will have insurance for such things and advised her to document her concerns with before and after pictures or videos, in case any problems arise.

Mr. Garito stated that they are trying to accommodate the neighbor the best they can.

Mr. Steib asked if they are required to abide by stormwater management rules. Mr. Garito stated that because the project does not increase the imperviousness by more than 10,000 square feet, they are not obligated to abide by the rules. He noted that the project actually decreases the impervious surface rather than increasing it. Even still, they are providing stormwater management as part of the project.

Mr. Phleger called the director of the early learning center that operates at the church, Stacy Savage. Ms. Savage was sworn. She stated they currently have 2½ to 7-year-olds enrolled, with a capacity of 88. She supports the driveway revisions for the safety of the children. There is a lot of activity in the area during drop off and pick up times. Drivers

go fast through the parking lot as a direct short cut from Route 537 to Village Lane, putting the children in danger. On multiple occasions they have had to call the police for traffic control. There have been a number of "near misses" over the years. She wears a yellow vest when outside directing traffic. They also employ 12 cones and 6 plastic signs to get drivers to slow down. It hasn't deterred the speeders.

During inclement winter weather Ms. Savage notifies parents that the Route 537 entrance is closed due to the steep grade. Emergency vehicles are unable to access that entrance.

Andrew Janiw, P.P., with Beacon Planning and Consulting was sworn. He presented Exhibit #25, an aerial image from a Monmouth County website from 2022. He testified that the plan being presented makes no significant changes to the property other than to improve the safe operation of the property and to keep the children safe. Mr. Anfuso's report as well as the report of the fire official say that the improvements would create an access for emergency vehicles which now have to route around Village Drive to enter the property. He addressed Ms. Matitka's concerns about the heavy equipment, stating that the vehicles rubber tires tend not to create a lot of vibrations. Contractors monitor the adjacent properties during construction to make sure there is no damage done. He noted that variances aren't granted for the sole benefit of the applicant. They also promote the health and welfare of the community. There are limited areas on the site to make changes that improve safety. He believes the plans have mitigated the impact of the project to the best of their ability.

Ms. Matitka said she tested the necessity of creating better access for emergency vehicles. She road tested the current route firetrucks would have to take from the station around Village Lane to the church. It was less than one minute. Board member and firefighter Mahoney stated that one minute can make a difference in an emergency. Ms. Matitka made other suggestions which would keep the current configuration of driveways, to which Mr. Garito countered with explanations as to why they would not work.

Rev. Brown testified that on Sundays children cross the driveway from the sanctuary to the ministry center and are exposed to the same dangers as the preschoolers are during the week.

Mr. Anfuso was sworn. He confirmed there were delays on this application over several years. During the gap between the initial submission, which was deemed incomplete, and the subsequent submission, the institutional conditional use provisions were adopted. Therefore, they are subject to the time of submission rule rather than the time of decision rule.

Mr. Mahoney addressed Ms. Matitka's previous concerns about vibrations from the trucks. He questioned Mr. Garito that if they kept the current driveway configuration, and instead corrected the grading, the equipment needed to do that work would be far heavier and cause more impact from vibrations than the trucks needed to achieve the proposed plan. Mr. Garito agreed.

Ms. Matitka wished to acknowledge that obviously safety comes first, but she was hoping there could be alternative ways to address the traffic problems. She stated that she appreciated that they moved the driveway.

Susan Clark, an employee of the early learning center, was sworn. She stated that she has witnessed drivers using the lot as a thruway and has seen children nearly get hit because of this.

Jamie Brodsky was sworn. She stated that her two children attend the nursery school. She has witnessed how drivers cutting through cause dangerous situations.

Ginna Turnamian was sworn. Her daughter was a student at the school and was almost hit by a car. Drivers are dismissive of Ms. Savage in her reflective vest as well as the children.

Dianna Hnat was sworn. She lives behind the church and has also witnessed the unsafe conditions. She is in favor of the plan as it would improve safety.

The Chairman opened the meeting for discussion amongst the Board. Board members were sympathetic to Ms. Matitka's concerns but agreed the church has done its best to accommodate them while still moving ahead with the project. Safety concerns were paramount in their discussion. The pros of improved safety leaned in favor of the application. They reiterated the recommendation for Ms. Matitka to document for any potential damage with before and after photos.

Mr. Anfuso presented the following conditions for approval.

1. They must address the Health Official's concerns about relocating the driveway over the well.
2. They must address all comments listed in Mr. Gerken's and Mr. Anfuso's reports.

Motion to Approve the Application:

OFFER:	Farrell
SECOND:	Nicoletta
AFFIRMATIVE:	Reisinger, Farrell, Buzzetta, Mahoney, Nicoletta, and Maguire
NEGATIVE:	

APPLICATIONS: New Business:

1 **ZB2021 Racioppo – Block 35.03, Lot 14 – 21 Beaver Dam Road**
Application to extend the size of the kitchen in the A-1 Zone. A variance is required for the proposed setback of 85' where 95' is required. Time to February 8, 2024

Mr. Steib advised the Board that there were defects in the applicant's notice, so the application will be carried to the December 14th meeting. The applicant is required to notify the two neighbors which were missed in the initial mailing and to place the appropriate notice in the newspaper.

Mr. Steib announced to those properly Noticed that this application will be carried to December 14, 2023, in this room at 7:00 PM without further Notice.

2 **<u>ZB2022 Tawfik</u> – Block 16, Lot 53.28 – 6 Old Stable Way**
Application to expand patio and to construct a pavilion in the A-1 Zone. Variances are required to allow a lot coverage of 28.2% where 20% is allowed, and a side setback of 25.23 where 40' is required. Time to February 8, 2024

Mr. Steib listed the following exhibits in support of the application.

1. Zoning Review by the Township Planner, 06.02.23
2. Application dated, 09.15.23
3. Variance Plan, dated 09.08.23
4. Pavilion Construction Plans, dated 05.19.23
5. Board of Health Report, dated 10.11.23
6. Fire Council Report, dated 11.02.23
7. Aerial Photo, undated

Attorney Sal Alfieri appeared on behalf of the applicant. The application is for the installation of a pavilion. A coverage variance is needed for the patio.

Mr. AJ Garito, P. E., project engineer, was sworn. He presented additional exhibits.

8. A color rendering of the Variance Plans, dated 09.08.23
9. A board with 6 mounted color photos of the property as it exists today

The applicant is looking for a coverage variance. There is a greenway at the rear of the property. Construction of the 20' x 30' open air pavilion started without a permit. It was stopped pending the outcome of the hearing. They wish to relocate the pavilion and restart construction in a new location at the rear of the property. They also wish to expand the pool patio. Lot coverage is currently at 22.9%, the proposal is 28.2% coverage. He is not aware of any drainage issues on the property. The patio will be masonry and the driveway will be asphalt.

Mr. Anfuso asked if the pavilion is going to be demolished or moved. The owner stated that the quoted price was considerably lower to move it with the use of a crane. Mr. Anfuso suggested that if the structure is to be demolished that a condition of approval should be that the current structure is demolished before work on a new cabana can begin, or if it is to be relocated, that the permit indicate that it is to be moved and not reconstructed.

Ms. Buzzetta asked why they are moving the pavilion. She was advised it was to comply with the rear and side setbacks and to move it away from the septic field.

The Board sentiment was that they were not comfortable with the additional lot coverage. Rather than risk the chance of being denied, Mr. Alfieri asked to carry the application to December 14th and give them the opportunity to alter the plans.

The Board agreed to carry the application.

The application was carried to December 14, 2023 without further Notice.

3 **ZB2000A Santos – Block 13, Lot 16 – 253 Heyers Mill Road**
Application to reconstruct a single family dwelling in the A-1 Zone. Variances are required to permit a front setback of 11' where 75' is required, side setback of 19' where 24' is required, and 6.85% building coverage where 6.6% is the maximum permitted. Time to February 15, 2024

Mr. Steib noted the following 5 items were marked as exhibited.

1. Variance Application, dated 10.18.23
2. Zoning Review from the Township Planner, dated 10.18.23
3. Architectural Plans, dated 07.29.22 and revised 10.16.23
4. Health Officer Report, dated 10.19.23
5. Fire Council Report dated, 11.02.23

Property owners, Joseph and Valeria Santos, appearing on their own behalf, were sworn.

The applicants were previously approved for a house addition/renovation. Their architect advised them to bring the house to bare studs so it can be anchored to the foundation. The house then collapsed during the renovation. They wish to rebuild the house using the same footprint because some of the new foundation had already been started.

Mr. Anfuso clarified that it is basically the same project, except now it has gone from an addition/renovation to new construction.

There were no public comments.

As there were no substantive changes to the project, the Board was pleased to support the application.

Motion to Approve the Application:

OFFER:	Buzzetta
SECOND:	Farrell
AFFIRMATIVE:	Reisinger, Farrell, Buzzetta, Mahoney, Nicoletta, Maguire
NEGATIVE:	None

DISCUSSION

Zoning Board Annual Report

Mr. Anfuso asked the Board to review the Annual Report which had been distributed to them. It will be discussed at the December 14th meeting.

Volunteer Handbook

Mr. Anfuso reminded Board members to submit their Volunteer Handbook Receipt Acknowledgement Form. Mr. Farrell noted the handbook referred to the volunteers as employees. He wished to encourage administrators to rewrite the handbook appropriately referring to volunteers as volunteers.

Board members discussed concerns regarding personal emails being accessed by OPRA requests. Mr. Anfuso advised them not to discuss anything via email, only in person at a public meeting. The discussion will be continued next month.

MOTION TO ADJOURN

A motion was made at 9:30 p.m. to adjourn the meeting and unanimously carried.

I hereby certify that the above is a true and exact copy of the meeting minutes for the meeting conducted on November 16, 2023 adopted by the Board of Adjustment of the Township of Colts Neck at its meeting held on December 14, 2023.

Joni VanNest

Joni VanNest, Secretary
Zoning Board of Adjustment of the
Township of Colts Neck