

**MINUTES OF THE  
SPRING LAKE PLANNING BOARD  
MAY 9, 2012**

The regular meeting of the Spring Lake Planning Board was held on the above date at 7:00 PM in the Municipal Building, 423 Warren Avenue, Spring Lake, NJ.

Chairman Nicholas Sapnar called the meeting to order, led everyone in the Pledge of Allegiance to the Flag and announced that this meeting is being held in accordance with the Open Public Meetings Act and adequate notice has been published and posted per Chapter 231 P.L. 1975.

The Board Secretary called the roll for attendance. Present were Joseph Rizzo, Michael Burke, Ph.D., Walter Judge, Melissa Smith Goldstein, Matt Sagui and Chairman Sapnar.

Chairman Sapnar called for a motion to approve the minutes of the April 11, 2012 meeting.

Chairman Sapnar mentioned a few corrections to be changed in the minutes.

Mr. McGill also mentioned a correction to be changed in the minutes.

Motion by Judge, seconded by Burke, that the minutes of the April 11, 2012 meeting be adopted. On roll call Board Members Burke, Judge, Goldstein and Sagui voted Aye. None No. Motion carried.

Board Attorney McGill read the resolutions to be adopted.

**Resolution #13-2012 KELLY**

Motion by Judge, seconded by Burke, that Resolution #13-2012 paragraph five be adopted. On roll call Board Members Burke, Judge, Goldstein, and Sagui voted Aye. None No. Motion carried.

Motion by Sagui, seconded by Burke, that Resolution #13-2012 paragraph six be adopted. On roll call Board Members Burke, Goldstein, and Sagui voted Aye. None No. Motion carried.

Motion by Judge, seconded by Burke, that Resolution #13-2012 paragraph seven be adopted. On roll call Board Members Burke, Judge, Goldstein, and Sagui voted Aye. None No. Motion carried.

Motion by Sagui, seconded by Judge, that Resolution #13-2012 paragraph eight be adopted. On roll call Board Members Judge, Goldstein, and Sagui voted Aye. None No. Motion carried.

Motion by Burke, seconded by Goldstein, that Resolution #13-2012 paragraph nine be adopted. On roll call Board Members Burke, Goldstein, and Sagui voted Aye. None No. Motion carried.

Motion by Judge, seconded by Goldstein, that Resolution #13-2012 paragraph ten be adopted. On roll call Board Members Judge, Goldstein, and Sagui voted Aye. None No. Motion carried.

**Resolution #14-2012 SWIATEK**

Motion by Judge, seconded by Burke, that Resolution #14-2012 paragraph five be adopted. On roll call Board Members Burke, Judge, Goldstein, and Sagui voted Aye. None No. Motion carried.

Motion by Judge, seconded by Burke, that Resolution #14-2012 paragraph six be adopted. On roll call Board Members Burke, Judge, and Goldstein voted Aye. None No. Motion carried.

**Resolution #15-2012 MLZ Corporation**

Motion by Judge, seconded by Burke, that Resolution #15-2012 be adopted. On roll call Board Members Burke, Judge, Goldstein, and Sagui voted Aye. None No. Motion carried.

**CAL# 1-2012 10 BROWN STREET, LLC**

**1200 THIRD AVENUE**

**BLOCK 75, LOT 4**

Mike Rubino, Esq. applicants' attorney explained that this matter was before the Board last summer, at that time the Board granted approval for a new building with a second story. There are safety issues that have risen, they cannot take down the existing building and put up a two story building. The applicant decided to keep the existing building, renovate it and an addition to the building.

Mike Rubino, Esq. applicants' attorney had the exhibits marked into evidence.

Frank Salvato was sworn in and questioned by Mr. Rubino; he purchased the property a year and a half ago, he also owns other properties along Third Avenue and he renovates the buildings then rents them out to different companies. Mr. Salvato came into a lot of complex building problems with the first project. He would have to restore both his building and the adjacent owners. He decided not to take on the first project. He explained that he would like to restore and renovate the first floor; there could be one or two tenants. In speaking with his architects and the adjacent owner's architect, he decided not to take on the project that was originally proposed.

Mr. Salvato was questioned by the Board.

There were no questions from the audience.

Mr. Rubino called Verity Frizzell; Professional Architect was sworn in and accepted by Board as an expert. Mr. Rubino questioned her; Ms. Frizzell stated she worked on both projects. Ms. Frizzell stated one of the reasons the previous project has not built is because of the storage location, Mr. Salvato would have had to reframe the entire roof of the adjacent owner. Ms. Frizzell explained that another problem is that the adjacent owner has a partial basement and it encroaches on the back of Mr. Salvato's building, which they did not realize at first, but once the floor was taken out to level, they could not have taken the building down without exposing his basement to the elements. Ms. Frizzell explained the existing renovations and what is proposed. The existing square footage is approximately 3,900 the new area is approximately 2,176 with a

total foot print of 6,076 square feet. She added that the previous application had two floors and was a little over 8,000 square feet total. Ms. Frizzell stated that technically a parking spot could be placed in the back of the property however there is no way to get in or out without running into the building, the existing building encroaches over the property line, so they decided to not add any parking.

Ms. Frizzell was questioned by the Board.

Mr. Burke would like to know why they could not make an extra parking space like the previous application. She explained to obtain two parking spaces they have to build it up to the edge of the property line and the soffit would overhang the property line. He also asked if garbage refuse in the original application was behind the building. Ms. Frizzell explained that they garbage refuse is now in the front.

Mike Rubino, Esq. applicants' attorney had additional exhibits marked into evidence.

Chairman Sapnar asked what the stores did with their garbage before. Ms. Frizzell explained that there was a fenced in dumpster area on the side.

Mr. Hilla asked if the the applicant could have a store facing Third Avenue and one facing Morris Avenue and have the stores be more square rectangles compared to two long narrow rectangles. Ms. Frizzell explained that they talked about that and Mr. Salvato's they decided against it. Mr. Hilla stated that it is more in keeping with what is across the street and what is proposed is just a long wall.

Mr. Rizzo asked about the distance from the curb to the actual building in the previous approval. He added that the space was minimal to begin with and now on this plan it is much smaller. Ms. Frizzell explained that it was approximately ten feet to the main building from the curb and nine feet to the bumped out windows. Mr. Rizzo stated that there was some concern about that distance but there were planters and there was not a big blank wall and maybe some windows should be added.

Mr. Judge asked if Ms. Frizzell believes that the canopy is in character with the Third Avenue block. Ms. Frizzell answered potentially not but the idea of the canopy was to provide a shaded area for people to sit. She added that it would be fine to remove the canopy.

Mr. Rubino stated that based on the comments the applicant is receiving that maybe they should come back with revised plans.

It was decided that another hearing would be necessary and that hearing will take place at the August 8, 2012 meeting at 7:00 in this room, no further notice is required. Mr. Rubino waived the time.

**CAL# 4-2012 RIGNEY  
701 THIRD AVENUE  
BLOCK 46, LOT 19**

Brian Rigney, Megan Rigney, homeowners and Richard Furey were sworn in.

Richard Furey had the exhibits marked into evidence.

Mr. Rigney stated that they are here to request a variance associated with eliminating three small dormers on their top floor and replacing them with one larger dormer. The height and elevation does not change from the existing dormers, however a variance is required because it is above the 35' foot limit. He added that the existing increase in square footage to the living area is forty feet, which conforms to the half story requirement.

There were no questions from the Board.

There were no questions or comments from the audience.


Motion by Burke, seconded by Rizzo, that the Board go into caucus. On roll call all Board Members voted Aye. Motion carried.

Motion by Judge, seconded by Burke, that the Board come out of caucus. On roll call all Board Members voted Aye. None No. Motion carried.

Motion by Sapnar, seconded by Judge, that the variance for the height for the dormer alteration be approved. On roll call Board Members Rizzo, Burke, Judge, Goldstein, Sagui, and Sapnar voted Aye. Motion carried.

Motion by Rizzo, seconded by Sapner, that the meeting adjourn. On roll call all Board Members voted Aye. None No. Motion carried. Time: 8:15 P.M.

Respectfully submitted:

  
Board Secretary

**RESOLUTION NO. 13 - 2012  
(Cal 8 - 2011)**

**RESOLUTION OF THE PLANNING BOARD OF THE  
BOROUGH OF SPRING LAKE, COUNTY OF  
MONMOUTH, STATE OF NEW JERSEY.**

**WHEREAS**, Brian Kelly (hereinafter referred to as the "applicant") has applied to the Planning Board of the Borough of Spring Lake for variance relief pursuant to N.J.S.A. 40:55D-70(c), from the provisions of the Spring Lake Zoning Ordinances, for permission to retain on the property a front yard parking area, front yard pillars and front yard gates at property located at 1111 Ocean Avenue, Spring Lake, New Jersey, and known as Block 66, Lot 4 on the Spring Lake Tax Map, and

**WHEREAS**, a public hearing was held at the regularly scheduled meeting of April 11, 2012, in the Municipal Building, and testimony having been presented on behalf of the applicant and objectors to the application having been given an opportunity to be heard; and,

**WHEREAS**, such proof of service as may be required by New Jersey Statutes and Municipal Ordinances has been furnished; and,

**WHEREAS**, the Board, having considered the application, testimony, and exhibits submitted, makes the following findings:

1. The property is located in an R-1 Zone.
2. The property in question is located on the southwest corner of Ocean and Morris Avenues. It has 22, 500 square feet of area, 150 feet of frontage on Ocean Avenue and 150 feet of frontage on Morris Avenue. Presently the property contains a 2-story frame dwelling, slate patio, an in-ground pool, an attached garage with gated driveway with access to Morris Avenue, and walkway with gated access to Morris Avenue and an internal gate located in the southeast corner of the property.
3. The applicant was cited by the Borough of Spring Lake for zoning violations through correspondence dated April 14, 2011. The applicant responded to the citation by making application to the Planning Board for variance relief. At the time

of the hearing the applicant amended his application to add additional relief to allow gated pedestrian access to the property. The variance relief sought by the applicant was as follows:

A. Variance relief from Borough Ordinance 225-34.F to permit the configuration of the driveway in the front yard area of the lot to remain as constructed and now exists.

B. Variance relief from Borough Ordinance 225- 18 to permit the gate associated with the driveway to remain.

C. Variance relief from Borough ordinance 225- 30.D to permit pillars to remain in the front yard.

D. Variance relief from Borough ordinance 225- 18 to permit the gate associated with the pedestrian access to Morris Avenue to remain as constructed and now exists.

E. Variance relief for the internal gate located in the southeast corner of the property.

4. The Board finds that the relief requested may be granted in part but also must be denied in part.

5. The Board initially addresses the applicant's request for an interpretation as to need for a variance as to the driveway configuration. The applicant proffered that the configuration was constructed to permit the applicant to perform a maneuver so as to allow his vehicles to exit the driveway facing forward. The applicant proposed that given the busy nature of the area in the summer months that such a maneuver was necessary to promote the safe egress from the property. The applicant proposed that since the purpose of the area was to permit this maneuver primarily that the design did not violate the ordinance that precluded parking in the front yard. The Board finds that under Borough ordinance 225- 35.F that parking in the front yard is prohibited and such structures are not permitted accordingly. The Board finds that driveway structures leading to parking areas at the side or rear of the lot, or to a garage, are exempt from the prohibition of the ordinance. The Board finds that the area in question is not of such a design so to fall under the exception to the ordinance and is of such a design so as to invite the parking of motor vehicles. The Board further finds that while the area may serve as an area that would permit the execution of a turn-around maneuver for

the applicant's motor vehicles, the area will likely also serve as a parking area from time to time. Because this parking area is in the property's front yard, and because the ordinances do not allow for such parking areas in the property's front yard, the Board finds that a variance is necessary to permit said areas to remain.

6. As to the request for variance relief to permit the configuration of the driveway to remain as constructed, the Board finds that to the extent that the area may provide for additional space for the applicant to perform a maneuver so as to exit the property facing forward, the Board finds that such a design promotes the safety of the general public and the applicant. The Board is well aware that the area in question is very busy in the summer months and finds that by allowing the additional area in the front yard that people occupying the applicant's property may exit the property in a more safe manner. The Board finds that the area in question will be screened by the row of hedges surrounding the property and therefore will be out of view of the public. The Board finds that the applicant is located across Morris Avenue from the Spring Lake Bath and Tennis Club and therefore will not present any type of unsightly or unusual condition to any residential neighbor should the hedges ever be removed. The Board finds therefore that there will be no detriment to the public good. The Board finds that there will be no substantial impact to the zone plan. The relief granted represents only a small portion of the front yard of the property and is an area that is adjacent to and attached to driveway area that is exempt from the ordinance. As such the Board finds that the benefit that the area provides outweighs the detriments that may be presented by same and therefore this variance relief may be granted accordingly.

7. The Board finds that the gate that is designed to close off the driveway access must be denied. The Board finds that the testimony that the gate was needed for safety purposes was unavailing. The Board heard that the property was prone to be used by persons in motor vehicles who desired to make U-Turns. The Board finds that the reasoning is not persuasive because it finds that such vehicles are not likely to travel so far into the applicant's property so as to make such gates necessary from a safety point of view. The Board also finds that the gate would substantially impair the zone plan because the applicant cannot point to any other such gate in the area and the Board finds that such gates are not common. The Board therefore finds that such a

gate would not be conforming to the area and would not support any common scheme in the area. The Board finds accordingly that the benefits provided from a zoning perspective do not outweigh the detriments and that the variance must be denied.

8 The Board finds that the variance relief in reference to the pillars may be granted. The Board finds that the proposed pillars are an aesthetic benefit and promote a common scheme that presently exists in the area. The Board finds that the pillars will be part and parcel of a perimeter hedge and will provide a visual marker for the driveway. The Board finds that the pillars will not be detriment to the public good as same will not obstruct any views or sight lines, nor look out of place. The Board finds that there will be no impairment to the zone plan because while structures in the front yards of properties are prohibited, these structures conform nicely to an existing neighborhood scheme.

9. As to the gate that exists across the applicant's front walkway providing pedestrian access to the site, the variance relief must be denied. The applicant offered testimony of an aesthetic nature primarily to support the relief requested. The Board finds that such gates are not common in the area or in the Borough and that such gates are directly referenced in the ordinance as structures that are not permitted in the zone. The aesthetic and other reasons presented are not sufficient to outweigh the substantial impairment of the zone plan that such a structure would represent therefore the variance relief must be denied.

10. The Board finds that it may grant relief to allow the gate located in the southeast corner of the property. The Board finds that the gate provides a separation between the neighboring properties while providing necessary access to the property. The Board finds that the gate is internal and not noticeable to public view. The Board finds that there will be no detriment to the public good accordingly. The Board finds that the location of this gate causes said gate to present little or no impact to the zone plan. The Board finds that the relief requested is not extreme or even very significant and therefore finds that on a whole the benefits provided, however slight, outweigh any detriments, nonexistent as same may be.

**WHEREAS,** The Board has made the above determinations and findings of fact.



**NOW THEREFORE BE IT RESOLVED**, by the of the Planning Board of the Borough of Spring Lake on this 9<sup>th</sup> day of May, 2012 that the application is hereby denied in reference to the relief sought to allow the gate across the driveway, and to allow the gate across the walkway providing pedestrian access, to remain.

**NOW THEREFORE BE IT FURTHER RESOLVED**, by the Planning Board of the Borough of Spring Lake on this 9<sup>th</sup> day of May, 2012, that the application be and is hereby granted as to the driveway configuration, front yard pillars at the entrance to the driveway, and the pedestrian access gate located in the southeast corner of the lot subject to the following conditions.

1. That all existing taxes, water and sewer assessments be paid current prior to the issuance of a certificate of occupancy.
2. That all construction be completed in accordance with Borough Ordinances, the Building Codes, and Uniform Construction Codes.
3. That all legal fees, engineering fees, inspection fees, or performance bonds set by the Board Engineer be paid by the applicant prior to the issuance of a building permit.
4. That a copy of this Resolution be given to any subsequent owner of this property.

**CERTIFICATION**

I, Dina Partusch, Secretary of the Planning Board of the Borough of Spring Lake, in the County of Monmouth, State of New Jersey, do hereby CERTIFY that the foregoing is a true copy of a resolution adopted by the Planning Board at its regular meeting held on May 9, 2012.



DINA PARTUSCH

**RESOLUTION NO. 14 - 2012****RESOLUTION OF THE PLANNING BOARD OF THE  
BOROUGH OF SPRING LAKE, COUNTY OF  
MONMOUTH, STATE OF NEW JERSEY.**

**WHEREAS**, Jason and Shannon Swiatek (hereinafter referred to as the "applicants") have applied to the Planning Board of the Borough of Spring Lake for variance relief pursuant to N.J.S.A. 40:55D-70(c), from the provisions of the Spring Lake Zoning Ordinances, for permission to demolish an existing dwelling and construct a new dwelling with relief from the front yard setback and for rear yard setback relief for a garage that is to remain at property located at 300 Monmouth Avenue, Spring Lake, New Jersey, and known as Block 39, Lot 20 on the Spring Lake Tax Map, and

**WHEREAS**, a public hearing was held at the regularly scheduled meeting of April 11, 2012, in the Municipal Building, and testimony having been presented on behalf of the applicant and objectors to the application having been given an opportunity to be heard; and,

**WHEREAS**, such proof of service as may be required by New Jersey Statutes and Municipal Ordinances has been furnished; and,

**WHEREAS**, the Board, having considered the application, testimony, and exhibits submitted, makes the following findings:

1. The property is located in an R-1 Zone.
2. The property consists of an rectangular-shaped lot that has 11, 250 square feet of area, 75 feet of frontage on Monmouth Avenue and 150 feet of frontage on Third Avenue. Presently the property contains a 3 -story frame dwelling, asphalt pad, garage and gravel driveway with access to Third Avenue.
3. The applicant proposes to demolish the existing structure and to construct a new dwelling structure on the lot. The proposal is more fully described in the plans presented by the applicant prepared by JMI Architects, LLC., dated December 15, 2011, signed by Jason S. Lusardi.

4. The applicant is seeking the following variance relief:

A. Front yard setback relief along Third Avenue where 25 feet is required and 13.75 feet is proposed.

B. Rear yard setback relief for the garage which is to remain where 6 feet is required and approximately 3.3 feet exists and is proposed.

5. The Board finds that the relief requested may be granted. The Board finds that the principal dwelling structure on the property presently encroaches into both the front yards of Monmouth and Third Avenue. The Board finds that by granting the relief requested that the Board may eliminate the nonconforming encroachment into the Monmouth Avenue front yard. The Board further finds that the existing dwelling structure provides a 5.5 foot setback along Third Avenue. The Board finds that by granting the relief herein that the Board may significantly decrease that nonconformity. The Board finds that the existing structure would be generally difficult to renovate given its present condition and that the new dwelling would be an aesthetic improvement over the existing structure. The Board finds that the setback proposed along Third Avenue may be granted because same is general agreement with existing setbacks and as such will be conforming to the neighborhood and not present any encroachment on existing sight lines. Overall the Board finds that the benefits of granting the relief outweighs any detriments.

6. The Board finds that the variance to allow the garage to remain may be granted. The Board finds that the garage has architectural and design merit that is worth saving. The Board finds that the garage placement generally comports with the placement of garages on other surrounding properties. The Board finds that the existing nature of the variance weighs in favor of finding that no detriment to the public good nor impairment to the zone plan may be caused by allowing the garage to remain.

7. The application as proposed is in keeping with sound planning and zoning and does not present any detriment to the public good nor does it impair the intent and purpose of the zoning plan. The variance relief may be granted because the aesthetic benefits and other benefits to be gained by the community substantially outweigh any detriments and the new structure will advance the purpose of Zoning.

**WHEREAS**, The Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without

substantially impairing the intent and purpose of the Master Plan and Zoning Ordinances of the Borough of Spring Lake and the benefits of this application do substantially outweigh the detriments and that certain hardships exist.

**NOW THEREFORE, BE IT RESOLVED**, by the Planning Board of the Borough of Spring Lake on this 9<sup>th</sup> day of May, 2012, that the application be and is hereby granted subject to the following conditions.

1. That all existing taxes, water and sewer assessments be paid current prior to the issuance of a certificate of occupancy.
2. That all construction be completed in accordance with Borough Ordinances, the Building Codes, and Uniform Construction Codes.
3. That all legal fees, engineering fees, inspection fees, or performance bonds set by the Board Engineer be paid by the applicant prior to the issuance of a building permit.
4. That a copy of this Resolution be given to any subsequent owner of this property.
5. That the applicant shall conform the driveway opening to no more than 12 feet.

**CERTIFICATION**

I, Dina Partusch, Secretary of the Planning Board of the Borough of Spring Lake, in the County of Monmouth, State of New Jersey, do hereby CERTIFY that the foregoing is a true copy of a resolution adopted by the Planning Board at its regular meeting held on May 9, 2012.



DINA PARTUSCH

**RESOLUTION NO. 15-2012****RESOLUTION OF THE PLANNING BOARD OF THE  
BOROUGH OF SPRING LAKE, COUNTY OF  
MONMOUTH, STATE OF NEW JERSEY.**

**WHEREAS**, MLZ Corporation LLC., (hereinafter referred to as the "applicant") has applied to the Planning Board of the Borough of Spring Lake for minor subdivision approval in accordance with the Municipal Land Use Law, N.J.S.A. 40:55D-37, regarding property located at 401 Monmouth Avenue, Spring Lake, New Jersey, and known as Block 36, Lots 1 and 2 on the Spring Lake Tax Map, and

**WHEREAS**, a public hearing was held at the regularly scheduled meeting of April 11, 2012, in the Municipal Building, and testimony having been presented on behalf of the applicant and objectors to the application having been given an opportunity to be heard; and,

**WHEREAS**, such proof of service as may be required by New Jersey Statutes and Municipal Ordinances has been furnished; and,

**WHEREAS**, the Board, having considered the application, testimony, and exhibits submitted, makes the following findings:

1. The property is located in the R-2 Zone. The property has 100 feet of frontage on Monmouth Avenue and has 150 feet of frontage on Fourth Avenue. The property contains 15,000 square feet in total area. The applicant is proposing to subdivide the property into two lots to be known as New Lot 1.01 and New Lot 2.01. Both lots are to contain 7,500 square feet in total area with 50 feet of frontage on Monmouth. New Lot 1.01 will have also 150 feet of frontage on Fourth Avenue. The applicant is proposing to raze and remove all existing structures and walkways. The lots as proposed appear to be conforming with the Borough's ordinances. No variances have been requested by the applicant and none are granted herein by the Board.

2. The applicant has provided plans entitled "Minor Subdivision Plan" dated January 25, 2012 signed by Robert C. Burdick, P.E. These plans more specifically detail the proposal and were relied upon by the applicant and the Board.

3. The Board finds that the subdivision approval may be granted subject to the conditions found herein. The applicant shall be required to demolish and remove all structures and walkways prior to perfecting the subdivision because the subdivision is granted on the presumption that the land shall be devoid of structures. The proposal otherwise appears to be in conformity with the bulk requirements of the Borough's zoning ordinances.

4. The application as proposed is in keeping with sound planning and zoning and does not present any detriment to the public good nor does it impair the intent and purpose of the zoning plan.

**WHEREAS**, The Board has determined that the approval requested by the Applicant can be granted.

**NOW THEREFORE, BE IT RESOLVED**, by the Planning Board of the Borough of Spring Lake on this 9<sup>th</sup> day of May, 2012, that the application be and is hereby granted subject to the following conditions.

1. That all existing taxes, water and sewer assessments be paid current as a condition of perfecting the subdivision.

2. That all legal fees or engineering fees, inspection fees, or performance bond set by the Borough Engineer be paid by the applicant prior to the issuance of a building permit.

3. That a copy of this Resolution be given to any subsequent owner of this property.

4. That all structures on the property shall be demolished and removed as a condition of perfecting the subdivision.

**CERTIFICATION**

I, Dina Partusch, Secretary of the Planning Board of the Borough of Spring Lake, in the County of Monmouth, State of New Jersey, do hereby CERTIFY that the foregoing is a true copy of a resolution adopted by the Planning Board at its regular meeting held on May 9, 2012.

A handwritten signature in black ink, appearing to read "Dina Partusch", written over a horizontal line.

DINA PARTUSCH