Borough of Cresskill
Zoning Board of Adjustment
Public Meeting 7:30 PM
Minutes Jan. 25, 2024

Present in Person: Mr. Bancroft, Mr. Cleary, Mr. McCord, Mr. Sutera, Ms. Westerfeld, Ms. Wehle, Mr. Van Horne Esq.(Board Attorney), Ms. Bauer (recording secretary)
Absent: Mr. Kassis, Mr. Corona
Mr. McCord substituted for Mr. Kassis as Chairman of the Board.
Ms. Bauer handed out the revised copy of the of the Jan.25 , agenda.
At the request of Mark Madaio ESQ. representing the applicant, Docket 1418 2 Merritt Ave., Block 28.01 Lot 4 is carried to the Feb. 22, 2024 ZBOA meeting.
Mr. McCord said Good Evening, we are calling the Jan.25th Zoning Meeting to order.
We have just one application tonight.
Application docket # **1419** ***Assaf Muller of 98 Heather Hill Rd .***
This meeting was published in accordance with NJ Sunshine Law .

1419 Assaf Muller 98 Heather Hill Rd. Bock 1.05 Lot 5

	Required	***Existing***	***Proposed***	***Variance***
Front Yard Set Back	*25 ft.*	*24.7'*	*No change*	
Side Yard Abutting/Lot	***15 ft.***	***17.6'***	***No change***	
Other Side Yard	***20 ft.***	***17.3'***	***No Change***	***ENC***
Combined Side Yards	***35 ft.***	***34.9'***	***No Change***	***ENC***
Rear Yard Set Back	***30 ft.***	***34'***	***No change***	
Max. Livable Fl. Area (FAR)	*34.32% (2574 sf)*	*38.7% (2903 sf)*	*No change*	*ENC*
Lot Frontage	*100 ft.*	*75 ft*		*ENC*
Lot Depth	*100 ft*	*100 ft*		*0*
Bldg. Coverage %	*20% (1500 sf)*	*21.34% (1601sf)*	*No change*	*ENC*
Impervious Coverage variable	***32.4% (2430 sf)***	***38.62% (2897 sf)***	***38.33% (2875 sf)***	***Decreases existing non-conformity***
Height of Bldg./stories	*2.5 sty./ 28.0'*	*2.5 sty./ 28.0'*	*No change*	
Lot Area	*10,000 sq. ft.*	*7,500 sq.ft*		*ENC*
Min. Dist. House to pool	***15'***			
Min. Rear Yard (pool)	*5'*			

The applicant proposed to construct a new Hot Tub.

Mr. Mark Maryanski Esq. introduced himself as representative of the applicants.
Mr. Mark Maryanski Esq. said this is an application for variance of Impervious Coverage to install a spring spa, or a hot tub, on an existing rear patio.
Mr. McCord asked that is an existing patio that you are planning to build on ?
Mr.Muller said yes.

1419 Assaf Muller (cont.) 98 Heather Hill Rd. Bock 1.05 Lot 5

Mr.Muller was sworn in, and asked to speak into the microphone.
Mr. Mark Maryanski Esq asked Mr.Muller you are the owner of the property at 98 Heather Hill Rd ?
Mr.Muller said yes
Mr. Mark Maryanski Esq asked how long have you owned the property ?
Mr.Muller said since December of 2022.
Mr. Mark Maryanski Esq asked this was an *arranged* transaction. You did not know the previous owner ?
Mr. Muller said yes.
Mr. Mark Maryanski Esq asked you are proposing to install spring spa or a hot tub over an existing rear patio. Correct ?
Mr. Muller said yes.
Mr. Mark Maryanski Esq asked when you purchased the property, was that patio existing at that time ?
Mr. Muller said *it was there*.
Mr. Mark Maryanski Esq asked since you bought the property, did you alter it in any way ?
Mr. Muller said no…….
Mr. Mark Maryanski Esq said in fact you have a video, that you showed me, which shows, before you bought the property, the patio…..
Mr. Muller said……shows the Patio as it was..,…*not aware of any Zoning problems*
Mr. Mark Maryanski Esq said you didn't make any changes to it since you bought it
Mr. Muller said no
Mr. Mark Maryanski Esq said at the time when you purchased the property were you aware of any violations in respect to the property. or any zoning issues in respect to that patio or the Impervious Coverage ?
Mr. Muller said no….
Mr. Mark Maryanski Esq said the previous owner would have gotten a C.O from the municipality that the sale was resolved on.
Mr. Muller said yes
Mr. Mark Maryanski Esq said were there any issues with the town at the time
Mr. Muller said yeah. When we were buying the house, we were told by the municipality that they needed to ……. our walkway from the street to our door, because it was a bit wavey. That was the only issue that was the front, not the back. And so we fixed it and got the C.O. (8:57)
Mr. Mark Maryanski Esq said so there was a condition of the C.O basically to repair the front sidewalk/walkway.
Mr. Muller said yes
Mr. Mark Maryanski Esq said but no mention of anything with respect to the patio or the Impervious Coverage.
Mr. Muller agreed.
Mr. Mark Maryanski Esq said just to be clear, when you bought the property a little more than a year ago, you had no idea that there was any issue, from the Zoning stand-point, with respect to the Impervious Coverage or that rear part of it.
Mr. Muller said that's right.
Mr. Mark Maryanski Esq said you are not proposing with this application to increase the size of the patio, or to change it one way or the other, other than to put the hot tub
Mr. Muller said yup
Mr. Mark Maryanski Esq said you've owned the property, you said, for little more than a year. Have you ever had any issues with respect to drainage or run-off from the property onto adjoining properties? Were there any complaints of any neighbors ?

1419 Assaf Muller (cont.) 98 Heather Hill Rd. Bock 1.05 Lot 5

Mr. Muller said no, none at all. We've had pretty serious rain last winter and this winter. And didn't have any chutes in the back-yard. No complaints from the neighbors, or anything like that.

Mr. Mark Maryanski Esq said you first became aware of this when you hired a contractor to install a Hot Tub, and he applied for a permit. And that's when this all came about

Mr. Muller said that's right.

Mr. Mark Maryanski Esq said and that's the first you became aware of it.

Mr. Muller said yup.

Mr. Mark Maryanski Esq said no further questions.

Mr. McCord asked are there any questions ?

Mr. McCord asked just out of curiosity can that be mounted on the ground ?

Mr. Muller said yeah, it can be above, or in the ground.

Mr. McCord asked have you given any consideration given to that ?

Mr. Muller said yeah so the ….. below ground would be the best resolve, long term.

Mr. McCord asked would that reduce the Impervious ?

Mr. Muller said it would make it worse.

Mr. Mark Maryanski Esq said the architect is here to testify also. So let me check the questions about that. We can ask the architect.

Mr. McCord said a general question. About the irregularity, we'll call it. Did you have any communication with the person you bought the property from?

Mr. Muller said not yet. I want to know first the result of the whole process. I guess then we'll be in contact.

Mr. Mark Maryanski Esq called Chris Blake (architect)

Mr. Chris Blake was sworn in and gave his qualifications. (12.00)

Mr. Mark Maryanski Esq said you were retained by the applicant to prepare the site plan and drawings submitted with this application, is that correct ?

Mr. Blake said yes

Mr. Mark Maryanski Esq said and during your work on the project, you familiarized yourself with the subject property and the surrounding area ?

Mr. Blake said yes

Mr. Mark Maryanski Esq said and you are also familiar with the Cresskill Zoning ordinance as it relates to this property ?

Mr. Blake said yes I am

Mr. Mark Maryanski Esq said could you describe to the Board what is existing on this site and what is being proposed.

Mr. Blake said there is a 2 ½ story house right in the middle of the property. So this will be 75' by 100' property. There is a driveway and a sidewalk on the side. The parking lot and the patio in the rear

Mr. Mark Maryanski Esq said the proposal is for this swim spa or hot-tub installed. Referring to the zoning on the house as on the plan, what variance…….there are a number of pre-existing, non-conforming conditions. Correct ?

Mr. Blake said correct. The property is 75' by 100' so it is a little bit under-sized property, little bit narrow property. They have been here before regarding the house. What we are here for is the Impervious Coverage. We are keeping the original patio, but we are slightly re-configuring it. Right now it has a peculiar shape. I don't know what shape or something, if you will. I'm making it a rectangle. What we are actually doing is decreasing it slightly from what the size of the patio is right now. And that with the idea of adding a pool. Therefore the water surface does not cover Impervious coverage, which will decrease a little bit by the size of the pool. So, it's still the same depth from the house. It's still kind of the same location

from the house. It's next to the house in the same way. It still has the same doors…….in and out of the house to this patio. It's just that the shape is a little more squarish, rectangularish……

Mr. Mark Maryanski Esq said so there were a number of pre-existing, non-conforming aspects of the property; but we're not affecting any of that with this proposal.

Mr. Blake said correct.

Mr. Mark Maryanski Esq said The only thing we are impacting is the Impervious Coverage, and actually reducing it slightly from the existing non-conformity.

Mr. Blake said that is correct. I guess we are here because it is over.

Mr. Mark Maryanski Esq said any impact from the proposal on drainage or run-off from the property, in your opinion ?

Mr. Blake said we are decreasing the Impervious Coverage. So we are making things better.

Mr. Mark Maryanski Esq said based on the applicant's testimony, this patio has been there for over a year at least ..

Mr. Blake said as we know of.

Mr. Mark Maryanski Esq said And he's not had any issues in that respect. Any benefit that you see in granting of the variance ?

Mr. Blake said a slight decrease in Impervious Coverage, a little more grass around the property. It's a little bit of an upgrade. The patio is in poor shape. *Rebuilt* obviously it will be brand new . The spa will have will *add valu*e….

Mr. Mark Maryanski Esq said and the proposed pool complies, and does not *interfere* with the set-back ?

Mr. Blake said it does. It's only 12' away from the rear end side, for that matter. And more than 16' away from the house itself .

Mr. Mark Maryanski Esq said and 15' is required, right ?

Mr. Blake said from the house right.

Mr. Mark Maryanski Esq said so it's in compliance as far as that goes. Do you see any detriment in the granting of this variance ?

Mr. Blake said no, I don't see anything.

Mr. McCord said Chris, did you check the final 'as built' with the town.

Mr. Blake said I did not.

Mr. McCord said so we don't know if there was a patio there,.or no patio.

Mr. Blake said I was given a survey at *camp*……my plans show here dated 12/05/22, and it did show, you can barely see, on my left hand, there's little green line, that kind of shows a little bit of a different configuration from the back, of the same patio……

Mr. Mark Maryanski Esq said if the Board would like to see, the applicant, on his phone, has a video, dated Oct. 20, 2022 showing the patio. (17.23)

Discussion among Board members

Mr. Blake said I do not have the survey with me. I have a reference to that plan, survey in 2022 .

Mr. McCord said I do not have any further questions Mr. Blake.

Ms. Westerfeld suggested…. ripping up the patio and putting a new patio,….. making it a little smaller…..
……..to make it compliant (18:18)

Mr. Blake said to make it compliant it would have to be more than 400 sq.ft . It's more than 400 sq.ft…..We're keeping the patio nearest the house, and just re-configuring that back there in the rear . Again, we are trying to *determine* which zoning laws are better, kind of thing.We are trying to keep it 15' away from the house, as required. We only had a little 3' or 4' strip behind the pool . So by keeping that 15' away from the house, we have another 3' to 4' strip that kind of sets up where it is. As you can see it's pretty much the width of the pool. And again, it's a 3' to 4' strip all around the sides. So you can't really can't get any smaller around the pool …..*without being* right on top of the house.

1419 Assaf Muller (cont.) 98 Heather Hill Rd. Bock 1.05 Lot 5

Ms. Westerfeld said can't get on the back, no strip on the back.

Mr. Blake said it's difficult. Again I put in this pool in the ground, it took me a while to figure it out. You kinda have to build a concrete *curtain* and you kinda have to place this pool in there and then what we have shown is a deck. It's almost like a wooden deck around it. It's got to be at least 2' . As I tried to show in my section. The pool is kinda rubbed against the concrete…..not much……kind of 6" here and there kind of thing……..I could get 407 sq.ft off …….it's tough to make it.

Mr. McCord said can I ask a question on the decking. Is it cantilevered or is it on the ground ?

its above the ground, its on the ground but it is supported by concrete…….its got a couple of concrete piers on the corners ……concrete pit in the middle of it so it's a deck, but it is literally inches off the ground.

Mr. McCord said it's not off the ground.

Mr. Blake said it's 3" or 4"off the ground. It will feel like it's on the ground……..

Mr. McCord asked and this is a pre-fab pool ?

Mr. Blake said yes .

Ms. Wehle asked *a question concerning the interpretation of the plan. Decking on the edge of pool ?*

Mr. Blake said **……**decking within 9' of the property line…..

Ms. Wehle said OK. And the extended deck coverage, that's like a canopy ?

Mr. Blake said again, I'm calling it a deck. It's essentially a terrace. It's made out of wood and it's high off the ground.

Ms. Wehle said OK that's fine.

Mr. Blake said a terrace for a patio, just different materials **.**

Mr. McCord said a question . You have, typically when we see pools, there is usually like a pool room, or something whether it is…….I don't see any of that in the drawing.

Mr. Blake said it's all contained in this concrete pellet case. First you make a concrete pit, like a crawl space, if you will,……it takes a while to figure it out…….That's the idea of making this wooden deck kind of thing, cause you can lift it up and take it out…….kind of conceals this machinery.

Mr. McCord asked any further questions ?

Mr. Sutera asked was there any consideration about- I'm looking right where the over-hang, it's step out I guess, was there any consideration to reduce that ?

Mr. Blake said *adjusting paper, airing it……* again pull the pool closer to the house.We were here before the Board, months ago,……..project that had a situation where the pool was too close to the house. We had a long conversation, it should be 15' away in this case we are trying to respect that.

Mr. Sutera said we are expecting more along the lines, the tarp came back. Your access to the space having a contiguous pathway to it or just living space currently understands from the question……not bringing it closer to the house

Mr. Blake said I understand that. Now I understand that. Bring it forward is possible.

Ms. Westerfeld asked do you need to leave that *'L' shape* because the door is coming out on the patio. The existing paver patio. You can't just…… (24:50)

Mr. Blake said it's just because it was there.

Ms. Westerfeld said could you block off the end closer to the center of the house ? Just make clearance for an 'L'.

Mr. Blake said I guess the answer is yes. I'm sure we could .

Ms. Westerfeld said not interfere with the end doorway .

Mr. Blake said…….

Ms. Westerfeld said that doesn't seem to do anything……..

Mr. Blake said I don't know how the clients use that part of……

Discussion among Board members and Mr.Blake

1419 Assaf Muller (cont.) 98 Heather Hill Rd. Bock 1.05 Lot 5

Mr. Blake said not to be greedy but there are outdoor spaces well off the course, not just the house and the pool…….the doors

Ms. Westerfeld said I'm a little confused ……..

Mr. Blake said *……..there was no variance granted when the site plan was approved. Not that we found. Again, the front yard is 3" or something like that ……..Building Coverage is ……..100 sq.ft larger than it should be.*

Mr. McCord said is it conceivable that variances, including variance for the Impervious Coverage, was granted when the site plan was approved ?

Mr. Blake said I assume that it was not, that's why we are here .

Mr. Mark Maryanski Esq said that was the assumption. We got a letter of denial saying we needed a variance. We assumed that there was not a prior variance granted.

Mr. McCord asked do we know when this house was built.

Mr. Blake said it's unclear from the construction.

Mr. Mark Maryanski Esq said the prior deed before my client purchased the property. The previous owner purchased it in 2016 .That's all I know about the history . (27:26)

Mr. McCord asked *was* that the owner ?

Mr. Mark Maryanski Esq said it was a Frank DeCarlo.

Ms. Westerfeld said *did you answer the question about where the door was ……..*

Mr. Blake said yes the door that has "L" shape **,** if you will, that is where the door exits

Ms. Westerfeld said……

Mr. McCord asked no other questions ?

Mr. Van Horne Esq. asked anyone in the audience for or against the application **?**

There was no response from the audience

Mr. McCord said I'll make a motion for …… (28:26)

Mr. Sutera said……..second

Ms. Bauer did the Roll Call. There were six answers of 'yes'. The application was approved.

Mr. McCord said we have one memorialization . (30:09)

Please see next page

Borough of Cresskill
Zoning Board of Adjustment
Public Meeting 7:30 PM
Minutes Jan. 25, 2024

Memorialization

Application of Maximilian Moehlen for variance regarding 17 Cherry Court, Block 28 Lot 20 DOCKET NO. 1416

SUMMARY:
Applicant was granted the following variance in the R-10 Single Family Zone:

Description	***Required***	***Existing***	***Proposed***	***Variance***
Front Yard Set Back	*25'*	*25.1'*	*25.1'*	
Side Yard Abutting/Lot	***15'***	***12.4'***	***12.4'***	***ENC***
Other Side Yard	***15'***	***12.4'***	***12.4'***	***ENC***
Combined Side Yards	***35'***	***28.8'***	***28.8'***	***ENC***
Min. Rear Yard	*30'*	*32.5'*	*32.5'*	
FAR				
Height of Building				
Lot Frontage	*100'*	*75'*	*75'*	*ENC*
Lot Depth	*100'*	*100'*		
Bldg. Coverage %	***20%***			
Impervious Coverage Within 125' lot line	***33.4%***	***36.8%***	***40.4%***	***8.0%***
Lot Area	*10,000 sf*	*7,500 sf*	*7,500*	*ENC*

a) *Applicant owns17 Cherry Court, Cresskill, New Jersey;*
b) *Applicant wants approval to widen the driveway at the above referenced premises.*
c) *Applicant needs to expand the driveway so he can fit two cars on it and not park one car in the street which will not be allowed in town starting in October.*
d) *Applicant wants to widen the driveway by 8 feet;*
e) *Applicant was willing to amend his application to provide for a proposed driveway that would be 4 feet from the property line which would reduce the Impervious Coverage issue.*
f) *Applicant was willing to stipulate that the Impervious Coverage after the new driveway is installed shall not exceed an 8 percent variance.*

Meeting adjourned at 8:02 pm