

**LOPATCONG TOWNSHIP ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
OCTOBER 12, 2022**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

SILENT PRAYER

OPEN PUBLIC MEETINGS STATEMENT: "Adequate notice of this meeting has been provided indicating the time and place in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star-Ledger and The Express-Times and by posting a copy on the bulletin board in the Municipal Building."

ROLL CALL

Present: Chairman Fred Gary, Vice-Chairman Rutledge, Member Doug Mace, Member Andrew Horun and Member Jose Valente

Absent: Member Greg Troxell and Member Michael Unangst

OLD BUSINESS

- Minutes - Approve Minutes from March 9, 2022

Chairman Gary: Old business. Is there a motion to approve the minutes from March 9, 2022?

Member Horun: So moved.

Chairman Gary: Is there a second?

Vice-Chairman Rutledge: Second.

Motion by: Member Horun

Seconded by: Vice-Chairman Rutledge

ROLL CALL

AYES: Chairman Gary, Vice-Chairman Rutledge, Member Mace, Member Horun, and Member Valente

NAYS: None

ABSTAIN: None

NEW BUSINESS:

- Nand Garh Holdings, Inc. - Paul Sandhu, Block 87, Lot 1.39 - Variance for the construction of a single family home with garage.

Chairman Gary: Alright. Moving to New Business. Please forgive me because if I don't pronounce this correctly. Nand Garh Holdings?

Paul Sandhu: Yes.

Chairman Gary: Pretty good?

Mr. Sandhu: Pretty good.

Chairman Gary: Okay. Incorporated. Paul Sandhu.

Mr. Sandhu: Yes.

Chairman Gary: Block 87, Lot 1.39. Variance for the construction of a single family home with garage.

Mr. Sandhu: Yes.

Attorney William R. Edleston: Hello Chairman, Bill Edleston representing the corporate applicant this evening and with me, of course, is Paul Sandhu who just identified himself and also Greg Vanderydt who is going to give some testimony in support of this application which essentially seeks bulk or dimensional variance which is from minimum lot size. This is a long existing lot and it is our position that all other bulk variances can be adhered to as far as setbacks. George Ritter did do a thorough review report and perhaps without further ado I can have both Mr. Sandhu and Mr. Vanderydt sworn and they can give some brief testimony.

Attorney Bryce: Counsel, I'll be happy to do that but we do have some business up here. Mr. Rutledge, I believe you would have to step down from this application.

Vice-Chairman Rutledge: I'm aware of that.

Attorney Bryce: Okay. So you should probably take ... come off the dais actually.

Vice-Chairman Rutledge: I should what?

Attorney Bryce: Go off the dais and have a seat in the audience.

Vice-Chairman Rutledge: Okay.

Attorney Bryce: Alright counsel, if you want to bring up your witnesses, I'll be happy to swear em.

Attorney Edleston: Yep. (Inaudible) ... sworn in.

Attorney Bryce: Raise your right hands. Alright. Do you swear and affirm that the testimony that you are about to give this Board is the truth, the whole truth and nothing but the truth?

Mr. Sandhu: Yes.

Greg Vanderydt: Yes.

Attorney Bryce: Okay. Very good. In order I'm gonna have you state your names for the record and spell your last names. So we'll start with ...

Mr. Vanderydt: Greg Vanderydt. Last name is spelled V-A-N-D-E-R-Y-D-T and I'm a project manager over at G. Gloede and Associates.

Attorney Bryce: Thank you.

Mr. Sandhu: I'm Pritpal Sandhu. My legal name is Pritpal P-R-I-T-P-A-L last name Sandhu S-A-N-D-H-U and I'm the President of Nand Garh Holdings, Inc.

Attorney Bryce: Thank you very much.

Attorney Edleston: Alright Greg if you want to stand up. Do you have an exhibit to ...

Mr. Vanderydt: Sure.

Attorney Edleston: ... mark and then also if you can give your professional qualifications since you are going to offer your testimony as expert testimony in support of the application.

Mr. Vanderydt: Okay so we are ... again I'm a project manager for G. Gloede and Associates and we're here to present the plan for a variance relief for a substandard lot. The lot ... the zoning requires 1.5 acres and we're ... the existing lot has 0.889 acres. We're just going ... if you guys just want to go through the review letter by item or ...

Attorney Edleston: Just give your qualifications with the applicant first.

Mr. Vanderydt: Sure. I've been a project ... I've been with Nelly Consulting Engineers for 15 years as a project manager and other private development. I have now been a project manager with G. Gloede and Associates and also a consultant on my own for the last 10 years. My experience has been doing civil engineering, design and land development for the last 30 plus years.

Attorney Edleston: You ever been accepted or qualified as an expert witness in connection with any of your testimony?

Mr. Vanderydt: Yes. I have ... certainly have been.

Attorney Edleston: Okay. And your educational background Greg.

Mr. Vanderydt: Associates degree in civil engineering and technology. I'm not a professional engineer. Never proposed to or pretended to be. So, I am just a ... again project manager for 30 plus years doing this. I've worked with, ya know, Doug Mace. I worked with Adam before as far as presenting in front of this Board.

Attorney Edleston: So, I offer his qualifications and ask if the Board accept any testimony, he gives from an engineering standpoint as expert testimony in connection with this straightforward application.

Attorney Bryce: He's not licensed to ... I think that the Board can receive his testimony. I don't know if you can qualify him as an expert in engineering.

Mr. Vanderydt: That is fine.

Attorney Edleston: We'll just proceed on that basis then

Adam Wisniewski: Mr. Vanderydt has presented other applications before the Planning Board and the Zoning Board in terms of ... I don't know how that was ... procedure.

Attorney Bryce: Okay. But as a project manager we can accept him.

Mr. Vanderydt: Okay.

Attorney Edleston: Okay. You want to mark that as A1 and then go through. Then we can take a look at the planner's review report and comment accordingly.

Mr. Vanderydt: Alright. So, just going through review comments. Just start off ... I should just start off by saying we're going to comply with all of the reviewed comments. That we don't take exception to any of them but we'll go through them one by one here. Number one is the Wetlands and the Wetlands Transition Areas. Based on being out in the field via NJDEP GeoWeb, we don't have any problems with certifying that no wetlands are within 150 feet of the subject parcel or of the disturbed area. Riparian Zone. We had an off to the side meeting prior to the meeting starting here saying that we will comply with this. We do ... we show a 300 foot buffer line in association with the C1 watercourse. This happens to be taken from New Jersey DEP's GeoWeb website. Here's the C1 watercourse. The 300 foot buffer clips the corner which is kinda represented by this red line. I understand that the Highlands mapping show a little different riparian buffering clips the corner of the septic. We're gonna do a little bit more investigative work into that. Worse case scenario is we're going for the Permit-by-Rule 10 if we are permitted to install septic. Permit-by-Rule 10 allows us to construct a septic field within the riparian buffer so either way, whether the DEP GeoWeb is accurate or if we wind up going to the Highlands Riparian Buffer, we will apply for the Permit-by-Rule 10. So, what's the next.

Chairman Gary: Excuse me. Is there any reason to believe that will be denied ... that Rule 10 application?

Mr. Vanderydt: No.

Member Mace: Could I ask a quick question?

Mr. Vanderydt: Sure.

Member Mace: Which of the lines on the drawing that's before us is ...

Mr. Vanderydt: We had a buffer ... we have ... I have it. We just received this letter a day ago so we already addressed the comments in the letter but we haven't had a chance to ...

Adam Wisniewski: It wasn't mapped on the original plan.

Mr. Vanderydt: It was not mapped on the original.

Member Mace: I was trying to tell which one it was.

Mr. Vanderydt: Just for your reference as well, we have already submitted this to the Warren County Health Department. They have approved the septic so their approval is contingent upon Mr. Singh getting his approval from the Board and from the grade plan from Paul Sterbenz. We will have to ... again the outside agency approvals while we're on that ... Upper Delaware Soil Conservation District ... We have not submitted there but we will. We'll obtain that. Comment number four, township zoning requiring about the 100 feet ... within 100 feet of the one-hundred-year flood plain of a stream. The closest hundred-year-flood plain to this property is about 2000 feet away. So, comment number four is not going to pertain to this application. Number five is the calculation of ultimate disturbance. George, you have on here 31,000 square feet. The entire lot's only 30,000 square feet. We had calculated the 11,000 ...

George Ritter: The 11,500.

Mr. Vanderydt: Yeah 11,500 square feet is represented by this line around of perimeter of our disturbance. Mr. Singh doesn't want to disturb any of the woods that are on either side so ...

Planner Ritter: No it's alright. The only purpose for doing it obviously ... somehow, I managed to make a mistake. The key is just so you don't disturb more than an acre.

Mr. Vanderydt: Right.

Planner Ritter: That's the only point. As I said later, whatever the correct calculation is, just put it on the drawing. You are exempt from the Highlands.

Mr. Vanderydt: Number six, the required yards. We had a front setback line labeled as rear setback line. That's already been modified on the plan that's on the chair there. We don't have any ... obviously we're gonna have to submit to Adam's office the Lot Development and Grading Plan which we'll do. And then again, outside agency approvals we already touched on. We

have the conditional approval from Warren County Health Department and will submit to the Upper Delaware Soil Conservation District. And I believe that covers everything.

Chairman Gary: Questions from the Board?

Member Mace: Yes. This is ... Currently I see an acre and a half settlement and my sense of this is that was not always the case? Do you happen to know what the zoning was when this lot was created? Just looking at the lot numbers it's gotta be an ancient lot.

Planner Ritter: It is.

Mr. Vanderydt: Yeah, it is. I'm not aware.

Mr. Rutledge: The only thing that I ever saw is what's there now.

Member Mace: I guess what concerns me is this ... this idea that we re-zone and re-zone at times to make larger lot sizes and we relegate existing lots to nonconformity somehow to me is important ... to me as a member of the Board at least. I'd like to know somehow that this is conforming ... that the day it was created it was conforming.

Engineer Wisniewski: I think I can help that.

(Inaudible) Many speaking at once.

Planner Ritter: Go ahead, I could talk about the (inaudible)

Engineer Wisniewski: Yeah. Oh yeah well you can talk ... just to give you an idea to the members of the Board and to Doug with the question. The adjacent properties on this stretch of Belview Road are all the same lot size so when they were developed in the eighties, they likely were conforming at the time as part of the subdivision that created these lots. And this is the last lot that was never developed.

Mr. Rutledge: (Inaudible) percentage smaller.

Engineer Wisniewski: So might have been like 3/4 acre lots at the time and this is the last lot in that stretch of lots. Maybe in the ariel that Mr. Vanderydt has you could see those.

Chairman Gary: You're saying the eighties?

Engineer Wisniewski: I've ... Nineties? I don't know when they were developed.

Member Mace: I mean I was the engineer from 72 to 88 and I don't remember any of these lots.

Engineer Wisniewski: So it's before that.

Member Mace: I think it's before even my era.

Engineer Wisniewski: That's quite possible so I guess if you look at the path there you can see that they're cookie-cuttered along there.

Member Mace: And I was just trying to establish some place in the record that ...

Engineer Wisniewski: And maybe George knows the day the code was changed.

Planner Ritter: What I was gonna say is that there is a grandfather clause in our ordinance that basically would grandfather this lot. It meets all the setbacks for the district it's in and therefore, it is a permitted building lot in the town. So the only variance that's being considered tonight is a C variance simply because it doesn't have enough acreage to justify the on-site septic ...cause the code has two lot sizes. One for if you have sewer and one if you don't. And so that he's violating is technically ... his lot was laid out as if it was going to be sewered originally. Obviously, it hasn't been and he has to put a septic field on it. And the variance tonight is a C variance to permit the field.

Attorney Bryce: And that was going to be my question. There's no sewer available, correct?

Mr. Vanderydt: Yeah, there's no sewer on Belview Road.

Attorney Bryce: That's the hardship, right?

Member Mace: And that's fine. Thank you.

Chairman Gary: Any other questions from the Board? Comments? Anyone? Is there anyone from the public that has any comments? Any questions? Alright. So, I would entertain a motion.

Member Mace: So moved.

Chairman Gary: Motion to?

Member Mace: I make a motion to grant the C variance on Block 87, Lot 1.39 on Belview Road.

Chairman Gary: Is there a second?

Member Horun: I'll second.

Chairman Gary: Roll call please.

Motion by: Member Mace

Seconded by: Member Horun

ROLL CALL

AYES: Chairman Gary, Member Mace, Member Horun and Member Valente

NAYS: None

ABSTAIN: Vice-Chairman Rutledge

Attorney Edleston: Thank you Board. Thank you very much.

Mr. Vanderydt: Good seeing you again.

Attorney Bryce: Good luck.

PUBLIC COMMENT

Chairman Gary: Now we move out to the public comment. Is there anyone here from the public that would like to comment here. Any comments from the public. Seeing none. Is there any other comments from the Board?

Member Mace: Yeah. I just had a comment. George I was not aware of the provision you illuminated me in the ordinance and I just have to say when situations like this occur and I got caught in one of these when I put an addition on my house and I ... taking it out to the original side yard and for some reason the zoning got changed in my entire zone which was entirely built out and I had to come to this Board and I think they were teasing me ya know. They gave me a hard time but it just really said to me, we got to be careful when we fiddle with zoning on existing ... when we got masses of existing property.

Planner Ritter: It's something we've been aware about for quite a few years. In fact, one of our reviews pointed that out. There were some zoning changes and I don't have to take the blame for it. It was before me. It actually set up a lot of standards that are inconsistent with the existing lots. A really high percentage of them require variances if they (inaudible). It doesn't change in the ordinance.

Member Mace: You have to do what the zoning was under what they were built under.

Planner Ritter: Now, we do have that grandfather clause. That probably gets most of them out of trouble but not all.

Member Mace. Good. I'm glad you cleared that. Thank you. Sorry, I just had to make that comment. It's been bothering me for twenty years ... not every night.

Engineer Wisniewski: I get it.

Chairman Gary: Finally got it off your chest. I would entertain a motion to adjourn.

Member Mace: So moved.

Chairman Gary: Is there a second?

Member Valente: Second.

Chairman Gary: All in favor?

Everyone: Aye.

Chairman Gary: Opposed? We are adjourned.

MOTION TO ADJOURN:

Motion by: Member Mace

Seconded by: Member Valente

ALL IN FAVOR: Ayes

NAYS: None

Respectfully submitted by:

Patricia A. Segeda
Secretary, Zoning Board of Adjustment