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DONALD L. BEEKMAN (1949-2017)

October 20, 2020

Ms. Roseann Weeden
315 Twelfth Avenue
Belmar, New Jersey 07719

April Claudio, RMC, CMC, CMR
Municipal Clerk/Registrar
Planning, Zoning & Construction
Borough of Belmar, NJ
601 Main Street
Belmar, New Jersey 07719

Re: Application of Roseann Weeden
Borough of Belmar Board of Adjustment
P/Q: 315 Twelfth Avenue, Belmar, NJ 07719
Block 122, Lot 7, Borough of Belmar

Dear Ms. Weeden & Ms. Claudio:

Please be advised that I have been retained by Therese Fernandez, who is the owner of 311 Twelfth Avenue, Belmar, New Jersey, and neighbor directly to the east of Ms. Weeden's property. My client intends to object to the application made by Ms. Weeden, though I would ask if Ms. Weeden would adjourn the matter so that we can have a discussion of my client's concerns and objections. In essence, and there is not need not to be up-front about the application so as not to waste anyone's time, money and opportunity to discuss, my client's objections are relative to the following issues:

1. The portion of the paver driveway and the asphalt driveway were not constructed according to the Borough's Driveway Ordinance, as they were not constructed at least one foot (1') from the east side property line in common with my client. What has been constructed requires a variance, but this variance was not referenced in the Notice, though it is a variance that should have been requested. If there was compliance with the setback, it would result in a decrease of impervious coverage by nearly 138 square feet, or nearly two percent (2%).
2. The application does not mention the fact that the driveway was constructed beyond the common side property line, into my client's property. At some points it is constructed over the property line by more than one foot (1'). Not only does the Applicant's survey show this, but we are also submitting my client's recent Survey, which my client will rely upon. There is a discrepancy of 0.3' in how much of an encroachment there is. Not only should that issue be rectified with the assistance of our client's respective surveyors prior to any determination made by the Board of

Adjustment, but also, the Board does not have any jurisdiction to give relief for an encroachment without consent. We would like to have an opportunity to discuss the same in advance of any review by the Board of Adjustment, because the Board of Adjustment will need resolution of the property line discrepancy before it can realistically determine how much relief the Applicant is requesting, and where the 1' setback is located, even if there is consideration of a variance to be granted for the from the side yard setback requirement. Notwithstanding the Board's power to grant a variance, my client does object and request compliance with the one foot (1') setback requirement.

3. The Applicant's "plan" (Survey) relied upon is deficient in that it does not provide enough detail about the setback from the property line. In addition, being that this driveway was constructed without approvals, there has been no submission by the Applicant of her prior survey. My client advises the old driveway had two (2) stone strips leading to the rear yard. Having a substantially similar layout—even with a hard surface of 2 strips—would have significantly reduced the impervious coverage variance requirements, but that is not what was constructed and now not considered according to the application. Again, conversation with the neighbor might assist in the application process.
4. Though not referenced in the Application, a new fence was also installed at some time between June 2019 and September 2019 along the Applicant's rear property line without any Zoning Approvals. That fence was not existent and does not appear on my client's survey, but it does show on the Applicant's survey. The rear fence, as constructed, also encroaches into my client's property without authorization. The applicant should be required to submit a Zoning Permit application for the fence, and also be sure that the fence conforms and it installed solely within the Applicant's property. This should be corrected, but it too may have a similar issue related to the extent of the encroachment because of the survey discrepancies that must be resolved.

Normally I would communicate directly with the Applicant or Applicant's attorney well in advance to discuss these concerns raised by my client, but now that it is Tuesday, and the meeting is scheduled for Thursday this same week, we did not want to lose our right to submit the objection and the documents our client will rely upon to support those objections, particularly in a virtual meeting environment.

We would, however, welcome an adjournment by Ms. Weeden, or by the Board based upon a faulty notice for lack of providing all detailed variances in questions. We think this will give me and my client an opportunity to discuss the Application with Ms. Weeden to see if we can address the Survey discrepancies and also to come to a reasonable solution regarding the hardship variances requested. I do think it will benefit the parties, and the Board, if the Application is carried for these reasons.

Thank you for your concern in this matter, and again, I am attaching my client's survey. I also enclose the Borough's Driveway Ordinance for the record. We also reserve the right to submit photos in advance of the hearing if it will still take place on Thursday, but my client needs to get them scanned in color for a better visual than faxed copies that I received in black and white.

Very truly yours,



Jeffrey P. Beekman

JPB
Attachments

§ 40-7.31. Driveways. [Ord. No. 2009-16 § I]

- a. All driveways which are constructed of stones, pebbles, gravel and like materials ("stones") shall have a border of wood, block, metal or similar material to prevent the stones from migrating off of the driveway. All driveways shall also comply with all other provisions of this Chapter relating to driveways, curb cuts, and driveway aprons, specifically, Subsection 40-8.4i.
- b. Each property shall have only one driveway and one curb cut, except for circular driveways as provided herein. Any driveway or curb cut not in use, including driveways and curb cuts in existence as of the effective date of this section*, shall be removed and in the case of a curb cut, the curb shall be reconstructed to the appropriate Borough standard.
- c. All driveways shall be setback a minimum of one foot from the property line. Driveways shall not be more than 10 feet wide, except at the driveway apron at the street which shall be no greater than provided by Borough regulations, and if the driveway terminates at a garage the driveway at a point no greater than 20 feet from the garage may flair out to accommodate the width of the garage door(s) plus two feet on each side of the driveway.
- d. Circular driveways are driveways which are generally semi-circular in shape and may create two curb cuts on a property. Any circular driveway existing as of the effective date of this section, may continue to exist, however any modification of said driveway which does not comply with this section and all other provisions of this Chapter relating to driveways, curb cuts, and driveway aprons, shall require variance relief from the appropriate land use board. A new circular driveway shall be permitted provided the following requirements, and all requirements for driveways, are met:¹
 1. The property has a minimum frontage of 80 linear feet along the roadway frontage where the circular driveway is proposed.
 2. The distance from the roadway frontage where the circular driveway is proposed to point of the structure on the property closest to the roadway shall be a minimum of 60 feet.

1. Editor's Note: Ordinance No. 2009-10, codified herein, was adopted August 26, 2009.

3. If the circular driveway has two curb cuts, both curb cuts shall be on the same frontage of the property and cannot create a through driveway where the driveway connects from one street, or frontage, to another.
4. All driveways shall be set back a minimum of five feet from the property line.

(60' WIDE RIGHT OF WAY)
TWELFTH AVENUE

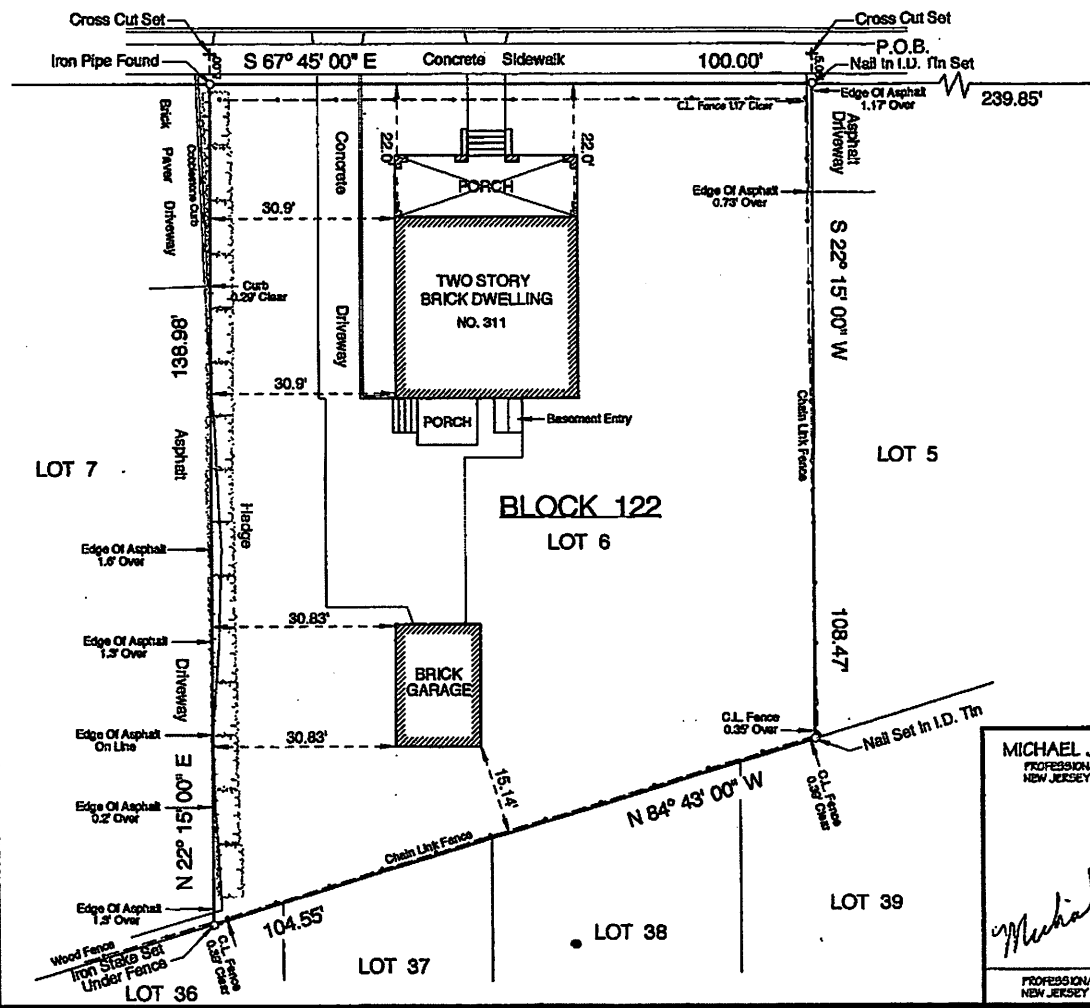
TO: THERESE FERNANDEZ

I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS MAP IS THE RESULT OF A FIELD SURVEY MADE ON JUNE 11, 2019, BY ME OR UNDER MY DIRECT SUPERVISION, IN ACCORDANCE WITH THE RULES AND REGULATIONS PROMULGATED BY THE "STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS".

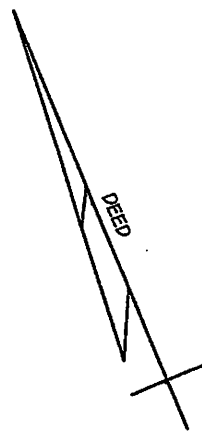
THE INFORMATION SHOWN HEREON CORRECTLY REPRESENTS THE CONDITIONS FOUND AT, AND AS OF THE DATE OF THE FIELD SURVEY, EXCEPT SUCH IMPROVEMENTS, OR EASEMENTS, IF ANY, BELOW THE SURFACE AND NOT VISIBLE.

THIS CERTIFICATION IS GIVEN SOLELY TO THE ABOVE NAMED PARTIES.

CAUTION: IF THIS DOCUMENT DOES NOT CONTAIN A RAISED IMPRESSION SEAL OF THE PROFESSIONAL, IT IS NOT AN AUTHORIZED ORIGINAL DOCUMENT AND MAY HAVE BEEN ALTERED.



"B" STREET



PREMISES BEING ALSO KNOWN AND DESIGNATED AS LOT 6 IN BLOCK 122 AS SHOWN ON THE TAX MAP OF THE BOROUGH OF BELMAR.

TOTAL LOT AREA: 12,372 SQUARE FEET.

MICHAEL J. WILLIAMS PROFESSIONAL LAND SURVEYOR NEW JERSEY LICENSE NO. 25000		SURVEY OF PROPERTY	
DRAWN BY: M.J.W.	FIELD SURVEY BY: M.J.W. & T.M.F.	311 TWELFTH AVENUE BOROUGH OF BELMAR MONMOUTH COUNTY NEW JERSEY	
REVISIONS NO. DATE		MICHAEL J. WILLIAMS LAND SURVEYING, LLC CERTIFICATE OF AUTHORIZATION #24QA25150500 55 MAIN AVENUE OCBAN GROVE NEW JERSEY 07756 Tel: (732) 988-6440 Fax: (732) 502-0669	
PROFESSIONAL PLANNER NEW JERSEY LICENSE NO. 25916	SCALE: 1" = 20'	DATE: JUNE 12, 2019	FIELD BOOK: In File
			OLD: S-290
			DRAWING NO.: A-7798

Michael J. Williams