

Meeting called to order by Chairman Martinelly @ 7:30 pm

All saluted the flag & the Presiding Officers Statement was read.

Roll Call:

Present: Martinelly, Doran-Eulner, Walter-Reger, Carroll, Poling, Daly
Attorney: Kennedy
Engineer: not in attendance
Absent: Anderson, Cherbini, Barnett, Hemel, Colella,

Minutes:

A motion was made by Ms. Walter-Reger, seconded by Ms. Poling to adopt the minutes for The October 6, 2021 meeting as submitted. All approved.

Land Use Business:

Unfinished Business: none

New Business:

M/M Mark Marasco

17 Robinson Place
Bl: 44, Lot: 5

Bulk variances 2nd story addition

Ms. Tracey and her husband have owned this s/f/h @ 17 Robinson Place, for 7 years. The house is a converted cape, part of the 2nd floor was bumped out in the front but they will be Putting on a whole new 2nd floor.

No concerns with the Notice, board has jurisdiction to hear this matter
Mr. Marasco will be contacting NJDOT as it was missed in the notice and forward to Board Secretary.

Mr. Kennedy marked the following:

- A-1; Zoning Permit Application Package –
- A-2: Zoning Permit Worksheet
- A-3- Architectural Plan Anthony Condouris, 10/8/21-3 sheets
- A-4 a & b- Photos of property

Ms. Marasco explained that the new 2nd floor will be on the current first floor, this will allow them to have a 4 bedrooms and 2 ½ bathrooms where they currently have 3 bedrooms and 2 baths with renovations on the 1st floor.

Ms Marasco explained that they will also be putting a portico over the front door which will only cover the top portion of the steps not changing any of the steps.

WHEREAS, the Public Hearing commenced on or about November 6, 2019, and was continued on or about March 4, 2020; and

WHEREAS, the said Public Hearings were attended by a number of individuals in the community who were interested in the Application; and

WHEREAS, because the Hearing process had not yet been completed, the Public Hearing was again adjourned, to a date certain; and

WHEREAS, in the aforesaid adjournment period, the Applicant's representatives expressed a desire to potentially reconsider some aspects of the proposal; and

WHEREAS, with the consent of the Applicant's representatives, the Public Hearing was adjourned on a number of occasions; and

WHEREAS, during the adjournment period, the COVID-19 Pandemic outbreak occurred; and

WHEREAS, with the onset of the Pandemic, a number of Emergency Restrictions were put in place, which compromised the ability of the Shrewsbury Zoning Board of Adjustment to meet / convene and / or meet / convene in a live setting; and

WHEREAS, although the Shrewsbury Zoning Board of Adjustment did ultimately convene in a remote fashion on a number of occasions, it was thought that, given the nature / extent of public involvement in the case, that the within Application would be more appropriately continued in a live setting (as opposed to a remote setting); and

WHEREAS, with the consent of the Applicant's representatives, the Public Hearing was adjourned on a number of further occasions; and

WHEREAS, in the midst of the adjournment process, the Borough of Shrewsbury adopted an Ordinance which, essentially, combined the Shrewsbury Zoning Board of Adjustment

with the Shrewsbury Planning Board, resulting in one entity, called the Shrewsbury Land Use Board; and

WHEREAS, the Ordinance creating the Land Use Board essentially provided that once the Land Use Board was officially created, the Zoning Board of Adjustment would only retain jurisdiction over then pending matters; and

WHEREAS, it would appear that the intent of the aforesaid Ordinance Provision was to allow for an efficient and orderly transition between the technical elimination of the Zoning Board of Adjustment and the simultaneous creation of the Land Use Board; and

WHEREAS, The Applicant's representatives have advised that, after further review, notwithstanding prior considerations to the contrary, the Applicant's representatives are no longer considering the possibility of revising the previously submitted Plans; and

WHEREAS, as such, the Applicant's representatives have made it clear that they wish to continue or resurrect the Public Hearing process associated with the Application as initially submitted on or about June 24, 2019; and

WHEREAS, the said decision has generated a number of interesting and unique procedural questions (given the nature of the Application, the nature of the relief sought, the nature of the Pandemic Restrictions, and the nature of the newly formed / created Land Use Board); and

WHEREAS, the interesting and unique procedural questions associated with the matter include, but are not limited to, the following:

- a. Per the specific terms and language of the authorizing Ordinance, in that the initial Martelli Application was commenced before the Zoning Board, should the continued Hearing occur before the Zoning Board of Adjustment or the Land Use Board?
- b. Can / should the Zoning Board of Adjustment (which, because of the aforesaid Ordinance change, has not convened in approximately 11-

months) be reconvened so as to hear and continue the Martelli Application?

- c. If the matter is returned to the Zoning Board of Adjustment, will the Zoning Board of Adjustment need to officially reconvene / reorganize and, will the Zoning Board representatives need to be re-appointed / re-sworn, particularly as calendar year 2022 approaches?
- d. Would reconvening the Zoning Board to continue the Martelli Application (after approximately 11-months of Zoning Board of Adjustment inactivity) violate the spirit / intent of the Borough Ordinance creating the Combined Land Use Board?
- e. How would one reasonably schedule / advertise / publicize the Continued / Resurrected Zoning Board of Adjustment Hearings in a fashion which would satisfy all Prevailing Open Public Meetings Act Requirements?
- f. Will the procedural nuances and procedural irregularities associated with the Continued / Resurrected Hearing Process compromise / taint any decision the Zoning Board of Adjustment or the Land Use Board may ultimately make?

WHEREAS, it is feared that such procedural issues / irregularities could potentially compromise, perhaps fatally, any ultimate action the Zoning Board of Adjustment or Land Use Board may take; and

WHEREAS, it is also feared that the existence of such procedural issues / irregularities could likely generate litigation, regardless of which body takes the action, and regardless of the actual decision; and

WHEREAS, the Land Use Board is cognizant of the cost, stress, delay, and frustration which can be associated with the typical litigation process; and

WHEREAS, generally speaking, litigation, or engaging in actions which could knowingly contribute to, or otherwise invite, potential litigation would not advance the interests of the Borough of Shrewsbury, the Shrewsbury Zoning Board of Adjustment, the Shrewsbury Land Use Board, the Applicant, and / or the interested Members of the Shrewsbury community; and

WHEREAS, in light of the above, and because of the above, the Applicant's Attorney and the Board Attorney have jointly recommended that the subject Martelli Application be withdrawn / dismissed, without prejudice; and

WHEREAS, such a withdraw / dismissal, without prejudice, will allow the subject Application to be officially dismissed / withdrawn; and

WHEREAS, because there would have been no substantive decision associated with the Application, the subject Application can lawfully be resubmitted (for substantive determination); and

WHEREAS, such an administrative dismissal / withdraw, without prejudice, will allow, and even facilitate, the ability of the Application to be re-submitted, re-processed, and officially adjudicated; and

WHEREAS, any such resubmission will, per the terms of the Ordinance creating the Land Use Board, be officially adjudicated by the Shrewsbury Land Use Board; and

WHEREAS, such a withdraw / dismissal, without prejudice will satisfactorily address / resolve the aforesaid procedural issues / irregularities; and

WHEREAS, such a withdrawal / dismissal, without prejudice should likely help eliminate the possibility of litigation associated with the aforesaid procedural aspects of the case; and

WHEREAS, such a withdrawal / dismissal, without prejudice should likely eliminate procedural issues which a reviewing court could ultimately construe as being potentially arbitrary, capricious, and / or unreasonable; and

WHEREAS, such a withdrawal / dismissal, without prejudice, will resolve the aforesaid procedural issues / irregularities in a logical, fair, and efficient manner; and

WHEREAS, such a withdrawal / dismissal, without prejudice, will not compromise the interests of the Land Use Board, the Applicant, interested members of the public, and / or any other residents of the Shrewsbury Community; and

WHEREAS, the withdrawal / dismissal of the subject Application, without prejudice, will allow the to-be-resubmitted Application to be fully reviewed / vetted / adjudicated by the Shrewsbury Land Use Board, with the full, knowing, and active participation of the Applicant, any Objectors, and any other interested members of the community;

NOW, THEREFORE, BE IT RESOLVED, by the Members of the Shrewsbury Land Use Board (as technical successor to the Shrewsbury Zoning Board of Adjustment) as follows:

1. That the Martelli Development Group, LLC Application, as referenced above, is hereby dismissed / withdrawn, without prejudice.
2. The withdrawal / dismissal, without prejudice, is subject to the following:
 - a. The Applicant's representatives shall submit a written letter officially requesting such a withdrawal / dismissal of the Application, without prejudice (expressing an intent to immediately re-submit the Application);
 - b. The Applicant's representatives shall submit 13 sets of Application materials / Plans to the Board Secretary (for ultimate distribution to the Land Use Board Members and other Borough representatives);
 - c. The Applicant's representatives shall submit electronic copies of the Application materials / Plans to the Board Secretary as well;
 - d. The Applicant's representatives shall obtain an updated Property Owner's List from the Borough's Tax Office;
 - e. The Applicant's representatives shall provide new Notice (for the to-be-resurrected Hearing) once a Hearing date has been officially established;
 - f. The Applicant's representatives shall submit any necessary escrow fees (in accordance with Prevailing Borough Requirements / custom). (Under the circumstances, the Board recognizes that no new Application fees are required.);

- g. The Applicant's representatives shall provide written consent to further extend the timeframe within which the Board has to act on the matter;
- h. The Applicant's representatives shall affirmatively waive, in writing, any and all claims, or potential claims, for any potential automatic approval of the Application (which have accrued prior to the adoption of the within Resolution) (relative to the Borough of Shrewsbury, the Shrewsbury Zoning Board of Adjustment, the Shrewsbury Land Use Board, etc.).

3. That once the aforesaid Application materials / plans are submitted, the Board Secretary shall attempt to schedule a Public Hearing on the matter as soon as practical.

4. The Board Chair, the Secretary, Zoning Officer, Board Attorney, and other authorized representatives are hereby authorized to sign any and all documents necessary to effectuate the intentions of the within Resolution.

FOR THE DISMISSAL: Martinelly, Carroll, Doran-Eulner, Walter-Reger, Poling, Daly


AGAINST THE DISMISSAL: none

ABSTENTIONS: none

FOR THE RESOLUTION: Martinelly, Carroll, Doran-Eulner, Walter-Reger, Poling, Daly

AGAINST THE RESOLUTION: none

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Shrewsbury Land Use Board on this 3rd day of November , 2021.



Lorraine Kelleher, Board Secretary
Shrewsbury Land Use Board

RESOLUTION

**SHREWSBURY LAND USE BOARD
MARK AND TRACEY MARASCO
17 ROBINSON PLACE
SHREWSBURY, NEW JERSEY
BLOCK 44, LOT 5
APPLICATION NO.: 2021-197**

INTRODUCTION

WHEREAS, Mark and Tracey Marasco have made application to the Shrewsbury Land Use Board for the property designated as Block 44, Lot 5, located at 17 Robinson Place, Shrewsbury, New Jersey, within the Borough's R-4 Zone, for the following approval: Bulk Variance Approval associated with a request to construct an addition to an existing single-family dwelling; and

PUBLIC HEARING

WHEREAS, the Board held a Public Hearing on November 3, 2021, Applicants having filed proper proof of service and publication in accordance with Statutory and Ordinance Requirements;

EVIDENCE / EXHIBITS

WHEREAS, at the said Hearing, the Board reviewed, considered, and analyzed the following:

- *Development Application Package, dated October 14, 2021, introduced into Evidence as A-1;*
- *Zoning Permit Worksheet, introduced into Evidence as A-2;*
- *Architectural Plans and Elevations, prepared by Anthony M. Condouris, AIA, dated October 8, 2021, consisting of 3 sheets, introduced into Evidence as A-3;*

- *Affidavit of Service; and*
- *Affidavit of Publication.*

WITNESSES

WHEREAS, sworn testimony in support of the application was presented by the following:

- Tracey Marasco, Applicant, appearing pro se;

TESTIMONY AND OTHER EVIDENCE SUBMITTED ON BEHALF OF THE APPLICANTS

WHEREAS, testimony and other evidence presented on behalf of the Applicants revealed the following:

- The Applicants are the Owners of the subject property.
- The Applicants have owned the subject property for approximately 7 years.
- There is an existing single-family home at the site.
- The Applicants live at the site.
- In order to increase living space at the site and improve the functionality of the home, the Applicants are proposing to construct an addition.
- Details pertaining to the proposed addition include the following:

Size:	Per Plans
Location:	1 st Floor Addition (Per Plans) and 2 nd Floor Addition (Per Plans)
Materials:	Per testimony

- Upon completion of the renovation process, the single-family home will include the following:

First Floor

Family Room
Kitchen
Living Room
Dining Room
Mud Room
Bathroom
Covered Porch
Garage

Second Floor

Master Bedroom
Master Bathroom
Bedroom #2
Bedroom #3
Bedroom #4
Laundry Room
Bathroom

- The Applicants will be utilizing licensed contractors in connection with the construction / renovation process.
- The Applicants anticipate having the construction / renovation process completed in the near future.

VARIANCES

WHEREAS, the Application as proposed requires approval for the following

Variances:

FRONT YARD SETBACK: 35 ft. required; whereas 30 ft. proposed.

SIDE YARD SETBACK: 10 ft. required; whereas 9.6 ft. proposed.

PUBLIC COMMENTS

WHEREAS, no members of the public expressed any questions, comments, statements, or objections in connection with the request; and

FINDINGS OF FACT

NOW, THEREFORE, BE IT RESOLVED, by the Land Use Board of the Borough of Shrewsbury, after having considered the aforementioned Application, Plans, Evidence, Testimony, and comments from the Public, that the Application is hereby **granted / approved with conditions**.

In support of its decision, the Land Use Board makes the following Findings of Fact and Conclusions of Law:

1. The Shrewsbury Land Use Board has proper jurisdiction to hear the within matter.
2. The subject property is located at 17 Robinson Place, Shrewsbury, NJ, within the Borough's R-4 Zone.
3. There is an existing single-family home at the site.
4. Single-family use is a permitted use in the R-4 Zone.
5. Per the testimony and evidence presented, there is a need for increased living space at the site.
6. As a result, the Applicants have submitted a request to expand the existing structure.
7. The details of the expansion were set forth on the submitted plans, and were discussed, at length, during the Public Hearing process.
8. Such a proposal requires Bulk Variance relief.
9. The Shrewsbury Land Use Board is statutorily authorized to grant such

from adoption of the within Resolution, the Applicants obtain a Building Permit for the renovation approved herein.

BE IT FURTHER RESOLVED, that all representations made under oath by the Applicants and their representatives shall be deemed conditions of the approval granted herein, and any misrepresentations or actions by the Applicants contrary to the representations made before the Board shall be deemed a violation of the within approval.

BE IT FURTHER RESOLVED, that the Application is granted only in conjunction with the conditions noted above - and but for the existence of the same, the within Application would not be approved.

BE IT FURTHER RESOLVED, that the granting of the within Application is expressly made subject to and dependent upon the Applicants' compliance with all other appropriate Rules, Regulations, and/or Ordinances of the Borough of Shrewsbury, County of Monmouth, and State of New Jersey.

BE IT FURTHER RESOLVED, that the action of the Board in approving the within Application shall not relieve the Applicants of responsibility for any damage caused by the subject project/use, nor does the Land Use Board of the Borough of Shrewsbury, the Borough of Shrewsbury, or their agents/representatives accept any responsibility for the structural design of the proposed improvement or for any damage which may be caused by the development/use/renovation.

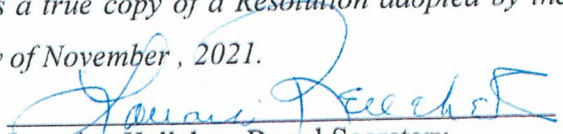
FOR THE APPLICATION: Martinelly, Carroll, Doran-Eulner, Walter-Reger, Poling
AGAINST THE APPLICATION: none

ABSTENTIONS: none

FOR THE RESOLUTION: Martinelly, Carroll, Doran-Eulner, Walter-Reger, Poling

AGAINST THE RESOLUTION: none

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Shrewsbury Land Use Board on this 3rd day of November, 2021.


Lorraine Kelleher, Board Secretary