Pursuant to Chapter 231, Public Law 1975 Open Public Meetings Act, adequate notice of this meeting has been provided by:
* Adoption of an annual schedule of meetings.
* Posting a copy of same at Borough Hall.
* Forwarding a copy of same to the Record.
* Mailing a copy to any person requesting same.

FLAG SALUTE, MEETING OPENED AT 8:02 P.M.

Roll Call: Present: Ms. Campanelli, Messrs., Elston, Hetherington, Rose, and Chairman Smid.
Absent: Ms. Fleeson, Messrs. Pereira, Kurz, and Bremer.

Also in attendance were Ms. Sophy Sedarat, Board Attorney, Steve Lydon, Burgis Associates, and John Yakimik, Boswell Engineering.

EXCUSE ABSENCES:

Motioned by Mr. Rose and seconded by Mr. Elston, to excuse the absence of Ms. Fleeson, Messrs. Pereira, Kurz, and Bremer was voted unanimously by the Board.

PROFESSIONALS SWORN:

Mr. John Yakimik from Boswell Engineering and Mr. Steve Lydon from Burgis Associates were sworn in.

PUBLIC MEETING:

1. Kroog- 19 Ramapo Valley Road, Block 2517, Lot 5. Public hearing for a Use variance involves a detached two-car garage and circular driveway.

Mr. Patrick Kroog, owner, and Mr. Anthony Addesso, architect, were back before the Board to continue with the application. Since last month’s meeting was canceled due to inclement weather, Mr. Addesso gave a brief recap of February’s meeting with regards to the use variance application. The application includes improvements to a single-family residence in a B2-Business zone. The applicant proposes to rearrange the interior of the home, relocate the garage to the front and rework the driveway to allow for a turnaround eliminating issues with backing out onto Ramapo Valley Road. Mr. Addesso testified that
the application follows all the requirements for a B2-Business zone except for the fact it is not a business use. The applicant is seeking a C variance for encroachment into steep slope and a D variance for expansion of a non-conforming use.

Mr. Addesso testified that the steep slope encroachment is due to the relocation of the garage and there will be retaining walls added when grading that area. Mr. Addesso testified that the applicant meets the criteria for 2 of the MLUL purposes for granting a D variance; namely, purpose “A” which encourages municipal action to guide the appropriate use or development and promote public health, safety, morals, and general welfare and public safety which the impact of this application is so minimal it improves the function and site lines of the driveway and Purpose “I” which promotes a desirable visible environment through creative development techniques and good civic design and arrangement. Mr. Addesso testified that due to the topography dropping down, and the garage being added to that downgrade, there will be minimal impact of the view. The proposed height of the garage is 17-feet which is well below the maximum requirement. Mr. Addesso testified that all other aspects of this application meet the criteria of the B2-Business zone such as setbacks, coverages of the lot area and that the lot is seven times larger than required. Mr. Addesso testified that impervious surface is 7.2 percent where 55 percent is allowed, building coverage is 4 percent where 30 percent is allowed, building height is 18-feet where 35-feet is allowed. Mr. Addesso gave more detail of the improvements and exhibits were entered. Ms. Sedarat marked all exhibits into evidence.


Mr. Addesso reviewed exhibit A-1 and A-2 comparing changes made and exhibit A-3 which shows characteristics of the zone. He suggested parts of the subject zone would unlikely be developed because of the topography and shared what could be developed on the property. A permitted 10,000 square foot building approximately 35-feet in height with more ingress and egress of vehicles would have more of an impact. He believes the application could be approved due to the low impact, nature and compatibility with the other residential homes in the area.

Chairman Smid indicated that Mr. Addesso’s testimony fulfills the positive criteria but not the negative criteria. Mr. Addesso responded that there would be no negative criteria because the application is so minor and does not register on the impact scale especially with the driveway improvements and the preserved land in the rear yard that will probably never to be touched. Mr. Lydon recommended that preserved land is speculation and that word should not be used to describe the rear portion of the applicant’s property. Mr. Addesso agreed and expressed that the property will be upgraded as well as the ingress and ingress enhancing the area.

Mr. Lydon explained that the purpose of the MLUL is to guide appropriate municipal action and the governing body has done that by adopting a zoning ordinance for the B2-Business zone. He expressed that he does understand the hardship of backing out onto Ramapo Valley Road and suggests that this
action should be characterized as Purpose H of the MLUL which reads to encourage location and design for transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion and blight. Referring to the transportation routes if the mentioned for this application would be the applicant’s private driveway. Mr. Lydon did not concur with the application falling under the purview of Purpose “I” due to the increase of impervious surface and the addition of an accessory structure in the front setback which is not permitted. He suggested that the Board focus on Purpose “H” if the Board is inclined to approve the application.

Mr. Yakimik reviewed the suggested conditions found in his June 6th report which refer to drainage to include a properly working seepage design in the front for ground water and tree removal will need approval from the Shade Tree Commission. He informed the Board that he believes the site is suitable for the intended use from an engineering standpoint.

Chairman Smid questioned if the Board had any more questions and if the Board members accepted the planning testimony of the Mr. Addesso, the architect, pertaining to the negative and positive criteria. The Board responded yes. Ms. Sedarat explained that testimony of Mr. Addesso would be considered layperson testimony since he is not a licensed planner and not qualified in the field of planning. This is acceptable but wants it clear that the testimony was not given by a planner. The D2 variance for the accessory structure and also for expanding a non-conforming use and a C variance for the steep slope. The positive criteria is such that one of the purposes of the MLUL must be advanced; Ms. Sedarat pointed out that here there was testimony as to purpose “A” and “I” and the Board Planner does not agree with that. However, Ms. Sedarat noted, both the applicant and the Board Planner agree and have set forth Purpose “H” as the viable purpose advanced. In addition, Ms. Sedarat indicated that there needs to be a satisfaction of the negative criteria under the statute, which is two parts: that the variance can be granted without substantial detriment to the public good and that the variance will not affect the intent and purpose of the zoning plan and zoning ordinance. Ms. Sedarat directed the Board to the testimony provided for assessment on the negative criteria.

Mr. Rose questioned the location and the characteristics of the neighboring properties. Mr. Addesso explained that there is a hotel and the bar across the street and residential homes on the applicant’s side of the street.

Ms. Sedarat advised the applicant and the architect that a use variance requires at least 5 members voting in the affirmative and this evening, there are only 5 members present so a unanimous vote is needed. No requests to carry the application were made by the Applicant or the Applicant’s architect.

Ms. Campanelli questioned the negatives of the application. Ms. Sedarat explained that pursuant to the statutory requirements there are two prongs that must be satisfied, there is the positive criteria and the negative criteria. The applicant must satisfy both prongs and negative criteria means that the variance can be granted without substantial detriment to public good and that the variance will not affect the intent and purpose of the zoning plan which he gave testimony for. Motioned by Mr. Rose and seconded by Mr. Elston, to open the meeting to the public regarding matters concerning the Kroog application was voted unanimously by the Board. No comments.
Motioned by Ms. Campanelli and seconded by Mr. Elston, to close the meeting to the public regarding matters concerning the Kroog application was voted unanimously by the Board.

Mr. Addesso requested that the Board proceed with a vote. No further questions. Chairman Smid entertained a motion.

Motioned by Mr. Hetherington and seconded by Mr. Elston, to approve the Kroog application for a D-2 variance for an expansion of a use not permitted in the zone and a steep slope variance with the conditions set forth.

Roll Call Vote: Ayes: Ms. Campanelli, Messrs. Hetherington, Elston, and Rose.
Nays: Chairman Smid
Abstain: None
Absent: Ms. Fleeson, Messrs. Pereira, Kurz, and Bremer.

Ms. Sedarat informed that applicant that their application has been denied.


Ms. Campanelli reported that the site is located in a RA-3 Residential zone on a secondary road with no outlet. It is an existing non-conforming lot and a site inspection was conducted by Chairman Smid and herself on April 8th. Messrs. Rose, Hetherington and Elston also conducted a site inspection. Chairman Smid reviewed the comments from the various departments.

The applicant is seeking a left side yard setback of 6.24-feet, a right side yard setback of 5.17 where 15-feet is required for both and a front yard setback of 30.4-feet where 40-feet is required.

Mrs. Maria Pallarino was sworn in. She explained that she is seeking to extend and enclose the rear screened in porch area, raise the garage roof to extend master bedroom and extend the rear shed roof.

Ms. Sedarat reviewed the existing non-conformities. She confirmed that the hardship is due to an exceptionally narrow and shallow lot. None of the variances are being exacerbated except the right side slightly. No further questions. Chairman Smid entertained a motion to open the meeting to the public.

Motioned by Mr. Rose and seconded by Ms. Campanelli, to open the meeting to the public regarding the matters concerning the Pallarino application was voted unanimously.

No comments.

Motioned by Mr. Rose and seconded by Ms. Campanelli, to close the meeting to the public regarding the matters concerning the Pallarino application was voted unanimously.
No further questions. Chairman Smid entertained a motion.

Motioned by Mr. Rose and seconded by Ms. Campanelli, to approve the Pallarino application subject to no adverse drainage to impact the neighboring properties and Shade Tree approval.


Ms. Campanelli reported that the site is located in a RA-3 Residential zone on a secondary road with no outlet. It is an existing non-conforming lot and a site inspection was conducted by Chairman Smid and herself on April 8th. Messrs. Rose, Hetherington and Elston also conducted a site inspection. Chairman Smid reviewed the comments from the various departments.

The applicant is seeking a left side yard setback of 6.17-feet, a right side yard setback of 5.98-feet where 15-feet is required for both and a front yard setback of 27--feet where 40-feet is required.

Mr. Robert Acevedo, homeowner, and Mr. Darrel Foca, general contractor, were sworn in. The testified that the applicant is proposing to extend the footprint of the dwelling approximately 5-feet into the rear and add a level over most of the existing dwelling. In addition, they plan to install a new patio in the rear yard. The house will remain a 3-bedroom dwelling.

Ms. Sedarat explained that none of the existing variances have been exacerbated and confirmed that the hardship is due to an exceptionally narrow and shallow lot. No further discussion. Chairman Smid entertained a motion to open the meeting to the public.

Motioned by Ms. Campanelli and seconded by Mr. Rose, to open the meeting to the public regarding the matters concerning the Pallarino application was voted unanimously.

No comments.

Motioned by Ms. Campanelli and seconded by Mr. Rose, to close the meeting to the public regarding the matters concerning the Pallarino application was voted unanimously.

No further comments. Chairman Smid entertained a motion.

Motioned by Mr. Rose and seconded by Ms. Campanelli, to approve the Acevedo application subject to no adverse drainage to impact the neighboring properties and the home remaining a 3-bedroom home.
MEMORIALIZATION OF BOARD PROFESSIONAL BOARD ATTORNEY:

Motioned by Mr. Rose and seconded by Mr. Elston, to memorialize the firm change of Sophy Sedarat, Esq.


MEMORIALIZATION OF RESOLUTIONS:


PAYMENT OF BILLS:

Motioned by Mr. Rose and seconded by Ms. Campanelli, to approve payment of bills subject to availability of funds was voted unanimously by the Board.

APPROVAL OF MINUTES:

Motioned by Mr. Rose and seconded by Ms. Campanelli, to approve the February 7, 2023 minutes was voted unanimously by the Board.

NEW BUSINESS DISCUSSION:

None
OLD BUSINESS DISCUSSION:

Mr. Hetherington read a statement into the record concerning re-scheduling the meeting that was canceled due to inclement weather. He believes that the meeting should have been rescheduled to the following week as a courtesy to the applicants. Ms. Sedarat explained that this rarely happens but when it does, the applicants are carried to the next scheduled meeting with no further notice required to avoid any costs to the applicant.

MEETING ADJOURNED:

Motioned by Mr. Rose and seconded by Mr. Elston, to adjourn the meeting at 9:11 p.m. was voted unanimously by the Board.

Respectfully submitted by,

Kathlyn Gurney, Board Secretary
*Next meeting is May 9, 2023.