



**BOROUGH OF SADDLE RIVER
REGULAR SCHEDULED MEETING
ZONING BOARD OF ADJUSTMENT**

AGENDA

**December 20, 2023
7:00 PM**

1. MEETING NOTICE

Chairman Montana: " I have been informed by the Clerk that adequate notice has been provided by mailing a notice to The Herald News and The Record on January 2, 2023 and by posting a notice in the Office of the Borough Clerk and on the Borough website."

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. MEMORIALIZING RESOLUTION

116 East Saddle River Rd A., LLC c/o Tom Wang
116 East Saddle River Rd.
B. 1701 L. 36 & 37

Resolution

5. APPLICATION

(This matter continued from November meeting)

Brandon Broderick
59 Oak Road
B. 1702 L. 15

The application consists of construction of a temporary/seasonal tent structure over the existing basketball court.

6. NEW BUSINESS

Next ZBA meeting - January 17, 2024 at 7 pm

7. ADJOURNMENT

RESOLUTION
OF THE ZONING BOARD OF ADJUSTMENT
BOROUGH OF SADDLE RIVER
Application of 116 East Saddle River Road A, LLC
116 East Saddle River Road, SADDLE RIVER, NJ
BLOCK 1701, LOT 37

WHEREAS, 116 East Saddle River Road A, LLC (the “Applicant”) has made application to the Zoning Board of Adjustment of the Borough of Saddle River (the “Board”) for variance relief from those provisions of the Zoning Ordinance of the Borough of Saddle River (the “Ordinance”) relating to a proposed dormer expansion in an existing structure creating a 2nd story when accessory structures are only permitted to have one story, on the property known as Lot 37 in Block 1701 on the Tax Assessment Map of the Borough of Saddle River with a street address of 116 East Saddle River Road, Saddle River, New Jersey 07458 (the “Property”); and

WHEREAS, the application was heard by the Board at a public hearing held during a duly constituted meeting of the Board held in compliance with the Open Public Meetings Act on November 29, 2023 at which time testimony was offered by Richard Wostbrock, the applicant’s engineer; by John Montoro, the applicant’s architect and oral argument was presented by William Strasser, Esq; the applicant’s attorney; and

WHEREAS, the Board also heard the testimony of Martin K. Spence, PE, the Board’s professional engineer and considered Mr. Spence’s written report dated November 28, 2023 and the testimony of Scott A. Levy, LLA, RLA, PP, ASLA, the Board’s professional landscape architect and considered Mr. Levy’s written report dated November 22, 2023; and

WHEREAS, at the conclusion of the public hearing, the Board approved a motion granting the relief requested by the Applicant subject to certain conditions and directing the Board Attorney to prepare a memorializing resolution, pursuant to N.J.S.A. 40:55D-10(g)(2); and

WHEREAS, the Board makes the following findings of fact:

1. The record in this matter shall consist of:
 1. Denial of application from zoning officer dated 8/7/23
 2. Checklist and Application filed by the applicant on September 21, 2023
 3. Plot plan prepared by Richard Wostbrock & Associates dated 6/21/23 last revised 9/28/23 including a partial topographic survey dated 6/13/22 prepared by William T. Manning PLS
 4. A google earth aerial photograph depicting the distances from the carriage house to various borders of the property

5. Architectural plans by the Montoro Architectural Group dated 5/17/23 pages PB-1-PB-9
6. Building Volume Summary Plan by the Montoro Architectural Group dated 5/17/23 revised to 11/20/23 shown as PB-AD1
7. All testimony taken on November 29, 2023.

2. The Applicant is the owner of the property which is located in the R1 Zone. It should be noted that the address of 116 E Saddle Road covers two separate lots. Lot 37 is the lot upon which the main house and the carriage house exists. Each lot is owned by a separate LLC but the LLC's are under common ownership. Lot 36 is owned by 116 East Saddle River Rd B LLC while lot 37 is owned by 116 East Saddle River Rd A, LLC. The Denial letter lists lot 36 but the Board recognizes the carriage house itself is located on lot 37 although the address is the same for Lots 36 and 37 and the properties share a common driveway.

3. The real property taxes assessed against the property were current at the time of the hearing.

4. Notice of the application was published in the official newspaper of the Borough of Saddle River as called for in NJSA, 40:55D-12(a) and the other notice requirements found in NJSA 40:55D-12 were complied with, and an affidavit of service was filed with the Board Secretary. The notice correctly noted the site as lot 37. Notice was published for the October 18, 2023 hearing. At that time, the attorney for the board announced to the public that the hearing had been carried, at the request of the applicant, to the November 29, 2023 date.

5. The property is located on along the east side of E. Saddle River Road and bounded on the south by Plymouth Lane, a private ROW. The lot is 11.97 acres and improved with a single-family home and multiple accessory structures including stables.

6. The carriage house was the subject of a variance approval in 1988. The resolution of approval notes that the carriage house existing at that time consisted of a 10 -car garage, workshop, storage facilities on the first floor and 2 apartments and an office on the second floor. The applicant desired to improve the existing apartments and add a third unit, the zoning officer denied on the basis that living quarters were not permitted in an accessory building. At that time the board found that the use of the carriage house as living quarters for staff was permitted as a valid subordinate and accessory use to the principal and primary residence. The Board also found that unique and extraordinary circumstances exist involving the large estate and that preservation of the estate would further the purposes of the Master Plan, was consistent with the purposes of municipal land use law, would not interfere with the community but rather represented a benefit to the entire community.

7. Testimony was presented during the hearing that the renovations for which the prior approval had been granted did not appear to have taken place and that there were no plans to permit living quarters in the carriage house by the current owner.

The house is being renovated to be used as private recreational space. Various recreational uses are as noted on the architectural plans. No change in footprint or height of the building is proposed. The variance is triggered because by expanding the existing dormer, the volume of space inside is expanded resulting in a "second" story under the code.

8. The variance thus requested is to permit the expansion of the dormer and create a "second story" where accessory structures are permitted to be only one story.

9. The testimony indicated a "second" story always existed and predated the accessory structure maximum size and height. However to make better use of the space, the plans are to expand the dormers to eliminate "dead" space and be able to use more of the interior space. Testimony was also provided confirming that while an exterior fire pit /BBQ area is proposed, existing macadam that encroached into the non-disturbance zone would be removed.

10. One interested party appeared at the hearing. Gail Atkinson of 19 Westerly Road was sworn in and testified she had concerns of wetlands near her property but then acknowledged the work proposed was not a factor contributing to wetlands.

WHEREAS, the Board makes the following conclusions of law:

1. N.J.S.A. 40:55D-70 (c)(2) authorizes the Board to grant a variance if the application relates to a specific piece of property, the purposes of the MLUL would be advanced by a deviation from the zoning ordinance and the benefits of granting any such variance outweigh any detriments.

The board finds that this accessory structure which is larger than permitted and exceeds the one-story limit existed in much this same state prior to the adoption of the accessory structure ordinances. This is a unique property. While technically expanding the size of the dormers to increase the volume in the space (while not increasing height) may be deemed to be adding a story, this Board finds in essence, that two stories have existed and that the "expansion" is not detrimental in any way to the zone plan or code. In fact the board finds the preservation of this unique property with its structures, the updating of the structure and the removal of macadam that encroaches into the non-disturbance zone are all benefits that outweigh any detriments.

3. N.J.S.A 40:55D-70 also provides that, regardless of the basis upon which a variance is granted, no variance can be granted unless the granting of such variance is without substantial detriment to the public good and the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

The Board has determined that there is no negative impact nor detriment to the public good as it pertains to the granting of a variance in this instance nor is the Master Plan nor intent and purpose of the zoning ordinance substantially impaired. The building is in existence, the renovations will only serve to improve any visual impact, although the building is set back on the property and likely not visible to any neighbors, the Estate-like nature of the property will be maintained and an existing encroachment into the non-disturbance zone will be removed. Preserving the bucolic nature of the Borough and preserving the non-disturbance zone are both in keeping with the master plan of the Borough.

NOW, THEREFORE, BE IT RESOLVED that the application as set forth in the plans referenced above, as modified, be and are hereby approved, and any variances associated with same be and are hereby granted, on the following terms and conditions:

1. Applicant shall comply with Conditions of Mr. Spence's report of November 28, 2023 and Mr. Levy's report of November 22, 2023 and any further recommendations of the Board professionals.
2. Applicant shall submit for any Building Permits required following any ZBA approvals;
3. A copy of the Resolution shall be transmitted to the Zoning Official and Building Department of the Borough of Saddle River;
4. A copy of the Resolution shall be delivered to the Applicant's Attorney within 10 days of the date hereof;
5. Notice of this decision shall be published in the official newspaper of the Borough of Saddle River as required by law;
6. This Resolution shall expire pursuant to Section 37-31 of the Land Use Ordinance of the Borough of Saddle River, subject to the provisions of any Permit Extension Act, or similar law, which may be in effect from time to time;

The foregoing resolution was adopted at a duly constituted meeting of the Board, held in compliance with the provisions of the Open Public Meetings Act on December 20, 2023 by those members who voted in favor of the action taken, and is intended to memorialize and confirm the official action taken by the Board on November 29, 2023.

John Montana, Chairman
Saddle River Zoning Board of Adjustment

Cindy Kirkpatrick, Secretary
Saddle River Zoning Board of Adjustment

I hereby certify that on December 20, 2023, at an official public meeting of the Board, a quorum being present, this Resolution was duly adopted by a unanimous vote of those members of the Board who voted in favor of the action taken by the Board with respect to this application on November 29, 2023.

Cindy Kirkpatrick
Secretary
Zoning Board of Adjustment