



BOARD OF ZONING APPEALS
Wednesday, April 14, 2021
5:30 PM

EFFECTIVE 04/01/2021: SPECIAL NOTICE: All Board and Commission Meetings will be held in-person with NO public in attendance and will be streamed live on Facebook for viewing only.

Meeting packets will be posted by 5:00 p.m. on the Friday before the meeting.

- Advance questions will be accepted until 12:00 PM/NOON on the day of the meeting. Submit to:
 - Email: info@berlinmd.gov; please use Meeting Questions as your subject
 - Fax: 410-641-2316
 - Mail: Berlin Town Hall, Attn: Meeting Questions, 10 William St., Berlin, MD 21811. Mail should be posted no later close of business on the Friday before the meeting to help ensure delivery.
 - Drop boxes Town Hall – one is at the rear of the building on the parking lot, and the other is at the corner of Bay and Williams Street on the building.
- Questions and Comments during the meeting:
 - Unless a Public Hearing is being held, questions and comments will NOT be taken via Facebook.

Meeting attendance will be limited to Board and Commission members, authorized personnel, and presenters as appropriate.

To watch the Meeting on Facebook, please click on the blue Facebook icon at the top of any page on the Town website, www.berlinmd.gov, or type @berlinmd in the Facebook search bar.

Your patience and understanding as we work to meet the restrictions on gatherings while still conducting Town business is truly appreciated.

To receive future meeting notifications directly to your email, please sign-up at the bottom of any page on [our website](#).



Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811

Phone 410-641-2770 Fax 410-641-2316

www.berlinmd.gov

NOTICE OF PUBLIC HEARING

Town of Berlin

Board of Appeals

Pursuant to the requirements of §108-191 of the Code of the Town of Berlin, notice is hereby given that a public hearing will be conducted by the Berlin Board of Zoning Appeals in the Mayor and Council Chambers of Berlin Town Hall, 10 William Street, Berlin, Maryland on

WEDNESDAY, April 14, 2021

5:30 PM

1. Approval of Minutes – February 3rd, 2021
2. Continuation of Case # 02-03-21-02, Giovanni Pino Tomasello requesting special exception for a conditional use to hold outdoor tented events.

Any questions regarding the above agenda items shall be directed to the Berlin Department of Planning and Zoning at 410-641-4143.

Any persons having questions about the above-referenced meeting or any persons needing special accommodations should contact Dave Engelhart at 410-641-4143. Written materials in alternate formats for persons with disabilities are made available upon request. TTY users dial 7-1-1 in the State of Maryland or 1-800-735-2258 outside Maryland.

Town of Berlin
Board of Zoning Appeals
February 3, 2021

Chairman Joe Moore called the February 3rd, 2021 Board of Zoning Appeals meeting to order at 5:35PM. Members present on zoom were Joe Moore, Woody Bunting, John Apple, Robert Palladino and Doug Parks participated by phoning into the meeting. Staff present on zoom were Planning Director Dave Engelhart and Permit Coordinator Carolyn Duffy.

Chairman Joe Moore called for a motion to approve the minutes from the September 2, 2020. Mr. Robert Palladino made the motion to approve the minutes from September 2, 2020 meeting. Mr. Woody Bunting seconded the motion, and it was unanimously accepted by the commission.

Chairman Joe Moore called the next item on the agenda the Election of Chairman and Vice Chairman. Mr. Woody Bunting nominated Mr. Joe Moore to be the chairman. Chairman Joe Moore asked if there were any more nominations. There were none. Chairman Joe Moore nominated Mr. Woody Bunting for Vice Chairman. He then asked if there were any other nominations. Chairman Joe Moore stated he nominated the motions to be closed. Mr. Robert Palladino made the motion that the nominations be closed. Mr. Woody Bunting seconded the motion. Chairman Joe Moore asked if anyone opposed and thanked the members.

Chairman Joe Moore stated the next item on the agenda was an appeal requesting a variance from the rear setback requirements specified on lot # 3 tax map 300 parcel 1231. The applicants were Donald & Helen Ferguson. Chairman Joe Moore asked Planning Director Dave Engelhart to give a summary of the case that was before the board. Mr. Engelhart stated that they had a similar case in September with Ms. Patsy Bell's lot. The lots were oddly shaped, and they meet a major street set back deeper off Broad Street because it is a state highway. The houses must be pushed back further. The building restrictive line are specified on the plat do not allow for deep enough construction. So, the board granted the variance to Ms. Bell to extend a deck off the back of the house. The Fergusons are asking for a similar thing a screened porch on the back of the house. It is the same type of encroachment over the building restricted line of 9 feet that they would like to build soon. Chairman Moore stated the exhibits have been on the town web page. What we are viewing is the lot that belongs to the Fergusons. Mr. Woody Bunting wanted to mention to the board that he had prepared the site plan for the Fergusons. He stated he was compensated for his work but felt he should let the board know. He stated if anyone had an issue with him on the board, he would recuse himself. Chairman Joe Moore asked the board members, and no one objected to Mr. Bunting remaining and hearing the case. Chairman Moore swore Mr. & Mrs. Ferguson in at the same time. Chairman Moore stated they were looking at the home they want to build and thought it was very attractive and it gave the impression of a historic house. The plat was prepared by Mr. Bunting for Mount Pleasant. Chairman Moore told Mrs. Ferguson whatever she wanted to tell the board she could.

Mrs. Ferguson thanked the board members for their time and consideration. She stated they were in their thought process and were making plans for lot #3. She stated a lot of care had gone into how they wanted their home to set on the lot. Mrs. Ferguson stated the shape of the lot would not allow them to build the house without the rear screened porch being outside of the

BRL restriction. She stated they were asking for the 9 feet from the platted 40-foot rear BRL. Mrs. Ferguson stated the home they picked was from a 1920 replica of a bungalow. She thought it fit in with the architecture of Berlin. Thought it would enhance the neighborhood and the property value. She thought it added to the view of the houses already there. She stated they are trying to leave enough space between the neighbor's house and the new home they will build so they would both have privacy. She stated they also would like to save a pecan tree that is in the left rear corner of their lot. She stated she felt the tree enhanced the air quality. They are trying to secure the tree through an arborist in hopes of having it for landscaping and shade for the future. Mrs. Ferguson stated they had shown in the packets that the neighbors agreed to the variance they were requesting. Chairman Joe Moore stated the lot was irregularly shaped on the east side. Chairman Joe Moore explained that due to the circumstances this would be a special exception and would not have an effect on the surrounding properties. Chairman Moore asked if there were any questions from the board members. Mr. John Apple asked if the area was considered historic. Planning Director Dave Engelhart replied it is not in the Historic District. Mr. Engelhart stated the house would be considered period architecture and if it were in the Historic District, they would accept it.

Chairman Joe Moore asked if anyone else would like to be sworn in to speak about the application. No one else had questions. Chairman Moore commended Mrs. Ferguson on her presentation to the board. He asked if she had anything else to say to the board. Mrs. Ferguson thanked the members for their time and consideration. Chairman Moore asked if there were any more comments or a motion. Mr. Palladino stated the area looks very nice and he made the motion to approve. Mr. John Apple seconded the motion, and it was unanimously accepted by all board members.

Chairman Joe Moore called the next application requesting a special exception for a conditional use to hold outdoor events for up to 100 guests and a request to modify a previously authorized conditional use to allow for increased guest capacity at 15 Harrison Avenue. The applicant being Giovanni Pino Tomasello. Chairman Moore welcomed Mr. & Mrs. Tomasello. Then Chairman Moore asked Mr. Engelhart to give a review of the case. Mr. Engelhart stated the previous owner had gotten approval to have 30 guests that could be on the property that were not residing at the Bed & Breakfast that condition use continues. The Tomasello's would like to increase the number of dinner guests allowed. He had originally put it in for 50 guest and then changed to 75 guests. With the 75 guests that meets the requirements for the Worcester County Liquor Board. Also, he would like to on special event basis in a case of a wedding reception or graduation place tents on the lawn for up to a hundred guests for those events. The idea is behind the building would be a mobile restroom station for those events. Chairman Moore stated and that is shown of the exhibit. He also had a letter that when the Library was closed, he could use for overflow parking. Chairman Joe Moore swore in the applicants Mr. & Mrs. Tomasello. Chairman Moore stated this is a Bed & Breakfast, so it is a conditional use putting additional conditions on that the board considers appropriate. Mr. Engelhart stated just expanding conditional uses that are in place. Chairman Moore stated in the packets are the paperwork from Worcester County with the utilization of the parking lot at the Library. The condition is that the Tomasello's are required to give three-week notice of the event that is coming. Chairman Moore asked if they had agreed to that. They replied yes. Chairman stated in the packet was the signed agreement from Mr. Joe Hill.

Chairman Moore told the Tomasello's to tell the board whatever they wanted them to know. He asked if they do now own the property. They replied yes. Mrs. Tomasello stated they do own the property and they are leasing it to their daughter and son. She stated her daughter in law would be doing the daily running of the 10 room Inn. The Bed & Breakfast would be the focus of the business. They have had people approach them about having tented events on the property. What they are proposing is one thing or the other. They would show the front lawn area to potential guests depending on the occasion or the back section for 100 guests it would be given as a choice to them. Plan A or Plan B they would have an option. She stated it may not be 100 people at an event could be 50 do not want to overwhelm the property. They intend to keep it manicured just felt a 100 people would be a good number with the extra parking option.

The second request would be if they were allowed 75 seats interior, they could ask for a Beer Wine and Liquor License. She thought that was important because they would like to offer that to the guests. She stated with a little maneuvering they could have 75 seats. She also stated this is nothing they want to do on a nightly basis. But it would assure them the Liquor License. Chairman Moore stated with that layout that would have to have the approval of the Worcester County Fire Marshal for life safety and the capacity allowed. They replied yes, they knew that. Chairman Moore asked if they had anything else, they would like to bring before the board. Mr. Tomasello reiterated they would like to have the Liquor License. Mrs. Tomasello stated whatever the minimum is that is all they want. Chairman Moore stated 70 seats inside and as many as you wanted outside. Chairman Moore asked if any board member had questions. Mr. Robert Palladino asked what the difference between an Inn & a Bed & Breakfast. He asked is it for a weekend or a longer period of time. Mrs. Tomasello stated they are very much the same they plan to run the five rooms as a Bed & Breakfast and providing breakfast for the guests. The Inn she said is one in the same in this case. They do not foresee a problem getting a liquor license she stated. Mr. Wood Bunting asked about parking for a hundred he stated he had not seen a site plan or anything on how you would park besides what you have at the Library. Mr. Tomasello stated they were rearranging where the dumpster is. He stated between the two trees they could have some parking they could have about twenty-five. He stated by rearranging they could have parking better than what they have now.

Mr. Woody Bunting asked if a site plan had to be approved by Planning Commission that addresses these issues regarding parking. Do you have to prepare a site plan for this use? Mr. Engelhart stated that was a good point even though they are expanding the use that was approved. He stated he would have to investigate that. He stated you could make it a condition of approval. Mr. Woody Bunting stated he was not against the proposed uses just wanted to know how this issue would be addressed. Chairman Moore stated any approval would be subject to the review of the Planning Commission. Chairman Moore asked if there were any more questions or comments from the board. Mr. John Apple asked if the Fire Marshall assessed the occupancy for the tents would they inspect for each event. Mr. Engelhart stated they would want to know the tent set up for entering and leaving. Mr. Apple asked if the tents were removable, They replied yes. Mr. Engelhart stated typically you would have the layout of the tent and the tables that are under it and that is what the Fire Marshall would review not on each date that there was an event. Mr. Apple stated he would like to have approval from the Fire Marshall prior. He said make the approval subject to the Fire Marshall approval.

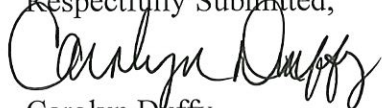
Mr. Apple stated the use of the property was for an Inn. The events that would be taking place would be for profit. Mrs. Tomasello replied yes. He stated the surrounding properties are residential except for the Library itself. He also stated on the property with a large event the music could go on later at night especially with alcohol and loud music. He stated they can hear the events that go on at the Brewery and in town. He asked was this a code issue with granting these events. Mr. Engelhart replied no. Mr. Engelhart stated we do have a noise ordinance any commercial operation or crowd that is controlled by the police department. Mr. Apple stated they are looking for approval for events outside for this property the second exception for this property. Chairman Moore asked Mr. & Mrs. Tomasello if there was anything they wanted to add. Mrs. Tomasello stated any stipulation you put on this they would abide by it. But they would need to know in order to tell the guest what the rules are. They would have to sign a contract that they would abide by the rules. They would have someone on site at every event to make sure they are not violating any rules. She stated they have held licenses from the county for the past 40 years and have never had a violation. She stated they are very responsible people and do not want to disrupt the neighborhood.

Mr. Tomasello stated this is not going to be everyday or every week. Maybe once a month or every other month in the summer not in the winter. They do not want to create a problem with anyone. They love the property think it is in a beautiful spot here in Berlin. Chairman Joe Moore asked if a 10PM music stop would satisfy the residents in Austin Circle. Mr. Apple stated that still would be hard to swallow due to the zoning location. He stated there are more little neighborhoods Brittany Lane and the residents on Main Street. He stated sound travels far in Berlin. He stated it is a beautiful property and it would be sought after. He stated knowing how weddings could go he did not know if a time restraint made a difference. Mrs. Tomasello stated dusk changes in the summertime verses the winter. Mr. Woody Bunting stated he was not against what they wanted to do but thought Mr. Apple made good points on how much of the property should change. He stated if they had more information like how many events, the size, the parking. He stated he was interested in how many people would be allowed for inside events and how many for an outside event still a major question for him. He asked the chairman if it could be tabled until they have more information from the planning commission. Chairman Moore stated the property has been under utilized and he knows it is in a residential area. Chairman Moore stated if there is a way to satisfy the board members by tabling or going to Planning Commission. Ms. Mary Bolhen stated she had two questions from the public. Ms. Mallary Ricks submitted one question. Her question was is this an application for a restaurant. Mrs. Tomasello stated no they have approval for breakfast, lunch and dinner. Her next comment was they already have issues with parking and as a neighbor she does not want to hear partying music from 100 guests. Mrs. Tomasello stated they would not be having a 100 people each weekend. They do not plan to have a partying type atmosphere. They will be interviewing the people and it would be for intimate events. Whatever you allow us we will abide by that she stated.

Chairman Moore stated no more public comments. Mr. Woody agreed with the comments that Chairman Joe Moore said about the Tomasello's. Mr. Bunting stated the Tomasello's are well respected but thought they needed to know more information may be beneficial to them to see how the property is utilized. Mr. John Apple asked if the conditional use was for the property owner. Mr. Engelhart stated unless it ceases in use for a year. He stated they have requested to

expand the conditional use. Mr. Bunting made the motion to table the application until Mr. Engelhart could get back with them about the large number of guests, details for the parking, whether a site plan should be approved by planning commission and maximum number events that would be held. Mr. John Apple seconded. All members in favor to table application until Mr. Engelhart reviews and talks with planning commission and schedules them for another meeting. Chairman Moore made motion to adjourn. Mr. Woody Bunting seconded the motion. Meeting adjourned at 6:35PM.

Respectfully Submitted,


Carolyn Duffy



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Mayor & Council Of Berlin

10 William Street Berlin, Maryland 21811

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BOARD OF ZONING APPEALS APPLICATION

LEGAL DESCRIPTION: BROAD ST (OPPOSITE HENRY'S MILL DR)
MOUNT PLEASANT SURVEY
Property Location: LOT 3 18,120.9 SQ FT N/S BROAD ST Date: 11/6/20
Lot #: 3 Lot Size: 18,120 SF Zoning: R1 Map#: 0300 Parcel#: 1231

Please check (✓) one of the following option requests:

Variance ☒ Conditional Use ☐ Special Exception ☐

Description of Request:

- We are requesting a variance of approximately 9 feet from the platted 40 foot rear BRL.
This equates to 4 feet from the currently coded 35 foot Berlin BRL.
Doing so, will permit our house to be built as designed with a 10 foot covered rear porch.
This will provide us the greatest distance (and privacy) from the neighbors house at 211 Broad Street, the highest likelihood of saving the 70-100 year old pecan tree in our lot's back left corner, and will create an aesthetically pleasing, and balanced, appearance of our home, and the two neighboring homes, when viewed from the street.

Has the property in question ever been the subject of a previous appeal? NO
If you answered yes, what is the appeal number and date? _____

Property Owner: DONALD S. & HELEN T. FERGUSON

Address: 326 WILLIAM ST #102, BERLIN, MD 21811

Phone: 443-605-2151 Owner's Signature: Donald Ferguson Date: 11/6/20

ACCT. ID# 2403131548 Helen T. Ferguson fergees@comcast.net

OFFICE USE ONLY. PLEASE DO NOT MARK BELOW.

CASE #: 02-03-21-01

DATE RECEIVED: 11-6-2020

HEARING DATE: 02/03/2021

LAND POSTED: 1/25/2021

DECISION: _____



