

**Neptune Township ~ Zoning Board of Adjustment
Regular Meeting Minutes
Wednesday February 4, 2015 at 7:30 PM
Municipal Complex, 2nd Floor, 25 Neptune Boulevard**

ATTENDANCE:

Present: Barbara Bascom, Rev. Joseph Calhoun, Paul Dunlap, William Frantz, James Gilligan, Thomas Healy, Carol Rizzo, Joe Sears, Monica Kowalski, Esq. – Board Attorney, Matt Shafai, PE – Board Engineer, Jennifer C. Beahm, PP, AICP – Board Planner, George Waterman – Zoning Officer, and Torro Reporting, LLC

Absent: Dianna Harris, Frances Keel

OPENING:

Meeting called to order by Chairman Paul Dunlap at 7:30 PM. Chairman Dunlap advised the public of fire exits and how the meeting will proceed.

CORRESPONDENCE:

None.

RESOLUTIONS MEMORIALIZED:

ZBA#15-07 – Resolution Granting Certain Waivers Only – GS Realty Corp. – Block 3301, Lots 12 & 8 (formerly known as Block 7019, Lots 2.01 & 7) – 3454 West Bangs Avenue – Use Variance & Preliminary and Final Site Plan application.

*Motion to adopt & memorialize was made by Joe Sears and seconded by Thomas Healy.
Those who voted yes: Barbara Bascom, William Frantz, James Gilligan, Thomas Healy, Joe Sears, and Paul Dunlap.*

DISCUSSIONS:

ZB14/24 – WAIVER HEARING ONLY (Use Variance) Gary Edwards – Block 3808, Lot 19 (formerly known as Block 9017, Lot 9) – 17 Princeton Avenue – Applicant is seeking a Use Variance to retain detached garage with loft which has been “repaired” more than the permitted 50%. This application was deemed Incomplete on December 16, 2014 by Matt Shafai, PE – Board Engineer until it can be determined by the Board whether or not the requested waivers being requested can be granted.

Peter Bass, Esq. had contacted the Zoning Board Office to advise of his conflict this evening and requested his client be able to present his request to the Board.

Gary Edwards is sworn in and a brief discussion takes place on the record with regard to his request for a waiver from providing a Community Impact Statement. It is agreed by the membership to grant a conditional waiver for completeness. Should the need arise for a Community Impact Statement during hearing, the Applicant will be required to provide same.

It is recommended that Architectural Plans and updated Survey be provided and a Professional Planner be retained to provide appropriate testimony for the Use Variance request.

Based upon discussion regarding the waiver, a motion was offered by Barbara Bascom to grant a conditional waiver for the CIS as discussed, moved and seconded by William Frantz.

Those who voted YES: Barbara Bascom, William Frantz, James Gilligan, Thomas Healy, Joe Sears, Carol Rizzo, and Paul Dunlap

Those who voted NO: None.

Those who ABSTAINED: None.

Those ABSENT: Dianna Harris, Frances Keel

ZB14/11 – (Numerous Bulk Variances) Vincent Fera – Block 5412, Lot 13 (formerly known as Block 435, Lot 38) – 223 S. Riverside Drive – Applicant is proposing to construct a detached single family residence and inground swimming pool with a 4 foot high solid and 6 foot high solid fencing. All requiring front, side, and rear yard setbacks as well as variances for fencing height and type.

Vincent Fera – Applicant

Alison Coffin, PP, AICP – Applicant’s Professional Planner – accepted by the Board.

Ms. Coffin proceeds to summarize changes which have been made to the plan. Ms. Coffin states Mr. Fera’s application now conforms to the side yard setback and the changes that have been made have made this application more conforming by eliminating the need for some of the original variances requested.

In addition to the side yard setback no longer being required the Applicant has eliminated the lot coverage variance which had originally been requested.

The height depicted on the Site Plan is the accurate height proposed.

Mark Urgola – Contractor – explains the discrepancy in the height amongst the various plans and no height relief is being sought with this application.

The Architectural Plans will have to be revised to match the Engineering Plans.

Mr. Gilligan suggests change the alignment of the stairs along Prospect.

Jennifer Beahm requests the siding continue down to within 2 feet of grade as required per Township Ordinance.

Discussions take place with regard to rotation of the pool in order to eliminate another requested variance.

The meeting is open to the public to question Ms. Coffin with regard to her testimony. No public appeared.

Ms. Carlson – 225 S. Riverside – concerned with the setbacks adjacent to the corner.

****Recess taken at 8:24 PM – 8:28 PM Board returns, roll call taken, members still present****

Cindy Nelson – 209 Highland – Describes other properties that were available and shown to Mr. Fera before he purchased this home/lot.

Nancy Peterson – 221 S. Riverside – sworn in – views will be destroyed from what they had purchased 18 years ago if the Board allows Mr. Fera to construct his house as close to S. Riverside as he is proposing.

Robert Mezey – 215 S. Riverside Drive – States he believes there was a possible error in 200 ft. notice.

Monica Kowalski, Esq. reviews the list provided by the Tax Assessor and confirms that Mr. Fera provided notice to all of those property owners on the list.

Ms. Carlson – 225 S. Riverside Drive – voiced concerns – not happy.

Vicki Canales – 122 Valley Road – states this house will block her view after 17 years.

Ms. Robinson – 121 Valley – house will block entire view of river.

Aldino – 134 The Plaza – believes the construction should stick with conformity and this house will not blend – pool is not a necessity and Mr. Fera should concentrate on constructing a conforming house first.

A discussion takes place on the record amongst the Board.

****Recess taken at 9:14 PM – 9:21 PM Board returns, roll call taken, members still present****

It is stated on the record that although the public is not happy with this application the house is conforming with regard to setback from S. Riverside Drive and the height of the house being proposed. The variance for setback from the Prospect side is the issue, not S. Riverside.

Based upon the application before the Board, Chairman Dunlap makes a motion to approve the application with the stipulations as discussed (i.e. turning the pool to conform and the 4 foot 50% open fence), moved and seconded by Carol Rizzo.

Those who voted YES: William Frantz, Joe Sears, Carol Rizzo, and Paul Dunlap

Those who voted NO: Barbara Bascom, James Gilligan, Thomas Healy

Those who ABSTAINED: None.

Those ABSENT: Dianna Harris, Frances Keel

ZB14/15 – (Bulk Variances) – Brian Hegarty – Block 5202, Lot 11 (formerly known as Block 439, Lots 28 & 29) – 5 Cliffwood Drive – Applicant is seeking variances for side yard setbacks and height of existing retaining wall.

Monica advises the public that this is a continuation of hearing for Mr. Brian Hegarty.

Since last hearing this application, the Board of Adjustment authorized issuance of a subpoena to Insite Engineering to discuss and cover information contained in their files as Mr. Hegarty referenced at the last hearing.

Jon Ker, PE of Insite Engineering is sworn in.

John Brennan, Esq. representing the Applicant, Brian Hegarty, places his information and objection on the record for the Board.

Monica Kowalski, Esq. examines Mr. Ker with regard to testimony provided by Mr. Hegarty at the last hearing.

Mr. Ker states he was not scheduled to appear at the November 5th meeting nor did he agree to appear at the meeting.

Mr. Ker states a signed and sealed plan was not provided for additional walls other than the wall along the property line nor was one submitted to the Township for approval of same.

Mr. Ker states he did advise Mr. Hegarty that review by the Township and/or variances would be required for the additional wall(s) other than that wall which was to be installed along the property line.

Exhibit B-1 – Specifications for Hegarty Retaining Wall dated October 14, 2013. Per Mr. Ker these were informal calculations intended for construction quantities for the perpendicular wall and the back page is not part of the specifications prepared by Insite. – Monica Kowalski indicates she will get to that.

With regard to the “partial survey” attached to the back of the Specifications submitted by Mr. Hegarty, Mr. Ker states it was not prepared by Insite nor was it attached to his file copy. Mr. Ker states he was not aware of the submission of these documents to the Township.

Mr. Ker states his office was not present on site during construction nor did they perform inspections during construction.

Mr. Ker states his office was retained to design one retaining wall along the property line and foundation support for the existing dwelling during construction. Insite provided a signed and sealed document for the single retaining wall located on the property line.

Exhibit B-2 – Construction Photos (24) from Insite’s File – Mr. Ker believes photos were provided by Mr. Hegarty.

Exhibit B-3 – Copy of Subpoena and service package

Exhibit B-4 – Plot Plan dated August 14, 2014 “Initial Release”

Mr. Ker states he has not seen the structure at 5 Cliffwood and his office cannot certify the wall without having performed inspections during construction. Mr. Ker states his office was never contacted to inspect the wall during construction. Mr. Ker states his firm was contacted to perform soils testing prior to December 12, 2012.

Mr. Brennan objects to Monica’s questions regarding the retaining wall located on the property line and he states it is not the subject of the application.

Exhibit B-5 – Pre-Construction Photos (20) provided by Insite Engineering. CD copy and hard copy provided to Mr. Brennan.

Monica Kowalski asks Mr. Ker what the size and height of the wall he designed was.

Mr. Brennan objects to the questions regarding the wall on the property line. John Brennan Esq. and Brian Hegarty get up and leave room and advise they will see everyone in Superior Court.

Board releases Mr. Ker and thanks him for his services.

Discussions take place with regard to how to move forward without the Applicant being present yet still open case. Board does not have the opportunity to carry this matter due to lack of presence.

Open for Public Comment:

Frank Sanclementi – 214 Highland Ave – elaborated on drainage issue on the corner of Cliffwood and Highland. Concerned with ice in front of his property and liability issues should someone be injured due to same. This drainage issue is preventing Mr. Sanclementi from maintaining his own property at 214 Highland Avenue. Mr. Sanclementi states he has lived in his home for 17 years and never had this water problem until the construction took place at 5 Cliffwood.

Jennifer Hordych – 301 Woodmere Ave – Shares the wall on the property line with Mr. Hegarty. Ms. Hordych states Mr. Hegarty is trying to place the blame of the continuous water flow on the “underground stream” under her house. States Mr. Hegarty removed a lot of trees from the front of his yard which was probably helping with the groundwater issue. Wants to know how the property line wall has been effected since construction and tying in of additional walls.

Monica Kowalski, Esq. requests Ms. Hordych’s background history with regard to the wall along the property line and her participation in the construction of same.

Ms. Hordych purchased her house in January 2011; 8 months later he knocked on her door stating she had to fix a failing wall on the property line. In trying to do research to see who the wall belonged to, Mr. Hegarty asked the Township to issue a citation for the failing wall.

Exhibit B-6 – Email dated January 16, 2013 from Jennifer Hordych to Patrick Ward of Insite Engineering requesting separation of the “walls” on the plans as the shared wall will not have to go before the BOA but the additional walls proposed will. Ms. Hordych states she has another e-mail in which she informed Mr. Hegarty of this request.

Leanne Hoffmann, PE, PP, CME – Township Engineer – advises the Board that the Zoning Office did in fact receive plans/submission on 2 separate occasions showing the walls in Mr. Hegarty’s backyard which were denied zoning for both submissions as they required variances. These denials were sent to Mr. Hegarty. A submission was finally submitted for just the failing wall on the property line which was ultimately approved for zoning and construction.

Ms. Beahm questions whether drainage designed and approved for the property line wall is sufficient to handle the construction of the additional walls as the additional walls were not factored into the drainage calculations at the time of design of the property line wall.

John Hordych – 1204 8th Street, Belmar – part owner of Jen Hordych’s house. Nothing is coming out of the pop up that was installed to remediate the drainage.

Based upon the application before the Board, Thomas Healy makes a motion to deny the application, moved and seconded by William Frantz.

Those who voted YES: Barbara Bascom, William Frantz, James Gilligan, Thomas Healy, Joe Sears, Carol Rizzo, and Paul Dunlap

Those who voted NO: None.

Those who ABSTAINED: None.

Those ABSENT: Dianna Harris, Frances Keel

Announcement is made by the Administrative Officer that the Special Meeting of February 11, 2015 will not be taking place so there is no meeting next week. The matter of Hovson’s has not been rescheduled as of yet. Please keep the information you have been provided.

ADJOURNMENT:

A motion was made by Thomas Healy and seconded by James Gilligan to adjourn at 11:17 PM. The next meeting of the Zoning Board of Adjustment will be our Regular Meeting on Wednesday March 4, 2015 at 7:30 PM which will be held here at the Neptune Township Municipal Building, Township Committee Meeting Room, 2nd Floor.

Minutes submitted by Kristie Armour, Administrative Officer to the Board of Adjustment.