



**Neptune Township ~ Zoning Board of Adjustment
Regular Meeting Minutes
Wednesday, November 1, 2017 at 7:30 PM
Municipal Complex, 2nd Floor, 25 Neptune Boulevard**

ATTENDANCE:

Present: Dr. James Brown, William Frantz, James Gilligan, Dianna Harris, Thomas Healy, Theopolis Stewart, Paul Dunlap, Monica C. Kowalski, Esq. - Board Attorney, Matt Shafai, PE, PP, CME - Board Engineer, Jennifer Beahm, PP, AICP – Board Planner, and Torro Reporting, LLC

Absent: Barbara Bascom, Frances Keel, and Joe Sears

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: None.

EXECUTIVE SESSION: Motion is made by Mr. Frantz at 7:36 PM to enter into executive session to discuss ongoing legal matters seconded by Mr. Healy, all in favor. The Board returns at 7:42 PM a motion is made by Mr. Gilligan to return to regular meeting and seconded by Mr. Frantz, all in favor. Roll call is taken and all members still present.

DISCUSSIONS:

ZB17/09 (Bulk Variance for Side Yard Setback) – Leontina Newman – Block 806, Lot 11 – 1715 Olden Avenue – Applicant is seeking a Bulk Variance for side yard setback to construct a deck in the front yard area with the possibility of adding a roof over same at a later date to convert deck into a covered porch.

Mr. Gilligan recuses himself from this application.

Ms. Leontina Newman is sworn in. It is indicated that the proposed deck/porch addition will not be any closer to the side yard property line than the current principal structure is now. This addition will essentially square off the front of the home. Ms. Newman indicates the Magnolia tree in the photos will stay.

The Board and its professionals take no exception to the requested deck/porch addition.

Public open – seeing none – public portion is closed, no questions, no comments.

Based upon the application submitted and the testimony provided to the Board, Thomas Healy made a motion to approve the application as submitted and discussed, moved and seconded by William Frantz.

Those who voted YES: Dr. James Brown, Theopolis Stewart, William Frantz, Dianna Harris, Thomas Healy, and Paul Dunlap

Those who voted NO: None.

Those who ABSTAINED: None.

Those ABSENT: Barbara Bascom, Joe Sears, Frances Keel, and James Gilligan (Recused)

****James Gilligan returns to the dais at 7:50 PM.****

ZB17/08 (Bulk Variance for Fence Height) – Joseph Sikora – Block 217, Lot 11 – 97 Embury Avenue (Ocean Grove) – Applicant is seeking a variance for a fence height of 6 feet along the rear property line where 5 foot is permitted and 6 feet along portions of the side property lines where 4 foot is permitted.

Monica Kowalski, Esq. indicates notice has been reviewed and is accepted and the Board has jurisdiction to hear this matter.

Joseph Sikora – sworn in – resides at 74 ½ Embury. Indicates he just wants to put a fence up. Mr. Sikora is requesting a 6 foot fence in the rear and sides of his property located at 97 Embury Ave. Chair Dunlap asks why and Mr. Sikora indicates for privacy. Chair Dunlap asks if 1 foot is going to make the yard considerably more private? Mr. Sikora believes so. He would like to eventually put a small patio with a table and chairs in the rear.

Mr. Sikora indicates he will agree to a board-on-board fence vs. stockade or whatever is preferred by the Township if the Board should approve.

William Frantz would you be amenable to put up a 5 foot fence with a 1 foot lattice on the top? Mr. Sikora indicates sure, yeah.

Concrete curb and concrete walks discussed as they are indicated on the plans. Mr. Sikora indicates the concrete lip in the back will probably come up as it is all broken anyway. Matt Shafai indicates he is trying to determine the elevation and questions Mr. Sikora if his property is higher than the property in the rear or lower than the property in the rear or is it level? Mr. Sikora indicates if anything maybe slightly higher than the property to the rear. Matt Shafai indicates just trying to figure out if they are lower than you why the 6 feet is needed for privacy.

No actual elevations are available at this time.

House on the west side currently has a 4 foot fence. Mr. Sikora wants to place a 6 foot fence against the existing 4 foot fence.

Amenable to whatever the Board wants, just wants privacy.

Matt Shafai asks if there are any neighbors within this block with a 6 foot high fence. It is indicated unknown.

Meeting is open to the public

Jack Bredin – 94 ½ Heck Avenue, Ocean Grove – indicates he is located on the same block (217) and questions if any houses on the block are in excess of 5 feet in this block? Mr. Sikora is unaware. Mr. Bredin questions the size of the property. It is indicated the size of the property is 31 x 60. Are there any conditions preventing improvements or is this flat? Mr. Sikora indicates basically flat. What Zone? It is indicated a single-family zone. If the Board denies this application could you still build a single family house on this property? The Board indicates...he is not here to build a house, this is strictly an application for the fence. Discussion takes place between Ms. Beahm and Mr. Bredin with regard to bulk variances.

Deborah Osepchuk – 88 Heck Avenue, Ocean Grove – How far from the property line is rear neighbor's house from your property line? Mr. Sikora said he can only guess. Do you feel it would be a detriment to that property owner to have a 6 foot fence bordering his home? Monica objects to that question; however, back to previous question you can approximate a foot from the rear property line to the house. Mr. Sikora indicates approximately 4'8" between neighbor's house and property line. How about the side yards? How far forward are you intending the 6 foot fence to project towards the street/front? Mr. Sikora indicates when looking at the house on the left side about a distance of 8 feet and on the right hand side approximately 5 feet from the rear property line extending forward. Where is most of your usable yard space? Mr. Sikora indicates in the front. Just the rear requires privacy? Yes. Do you feel that person sitting in a chair would not have adequate privacy with a 5 foot fence? Monica objects that is speculative.

John Baehr – 98 ½ Heck Avenue – lives at property in the rear of Mr. Sikora. With 3 ½ of usable space in that corner, how would a 5 ft fence not suffice for privacy? Mr. Sikora questions 3 ½ feet? Mr. Sikora indicates it is 4 ft. 8 according to the drawing and in the back corner where the patio would be we have 6 foot on one side and 8 foot on the other side. If you indicate the property would be protected by a 5 foot fence why are you asking for a 6 foot? Mr. Sikora asks Mr. Baehr how tall he is. Mr. Baehr indicates 6' 2 ½". Mr. Sikora indicates he can see over a 5 foot fence very easily, not rocket science. Paul Dunlap suggests we keep to questions at this point. Mr. Sikora indicates a 5 foot fence can be viewed over, a 6 foot fence is harder to look over.

Dianna Harris questions room in the back of the house? It is indicated it is the kitchen and dining room.

Monica Kowalski, Esq. questions if there is currently a fence back there? Mr. Sikora indicates there are pieces of 4 foot fence. What type of fence are the pieces? Mr. Sikora calls it an open picket across the back no fence coming up the sides of the property with the exception of the neighbor's 4 ft. picket fence. No gates proposed to enter backyard area. Is there room for plantings in the back such as arborvitae? Mr. Sikora indicates yes. Was there any there before? Mr. Sikora indicates bushes or weeds that were approximately 3-4 feet high not maintained.

Open to public for comment:

Jack Bredin – 94 ½ Heck Avenue – questions the need for a 6 foot fence versus the permitted 5 foot fence. These are mostly 30 x 60 foot lots. You are not entitled to privacy in your yard. No fences exceed 4 feet in this block. If you construct a 6 foot high fence on some of these properties your neighbor can't even paint or maintain the side of their house. Please don't start this or set a precedent for 6 foot high fences in Ocean Grove.

Deborah Osepchuk – 88 Heck Avenue – discusses the history of Ocean Grove the sense of community and place and why the fence heights are what they are. Fences were meant to delineate property lines not to create walls between neighbors. Indicates she feels 6 feet is excessive.

John Baehr – 98 ½ Heck Avenue - read prepared statement on the record and objects to the requested 6 foot fence along his rear property line.

Anthony La Banca – 402 N. Riverside – no objection to the height of the fence but it should appeal to the architecture around it.

James Gilligan – questions health and safety and that a 6 foot fence may be a burden to emergency services.

Thomas Healy – feels 6 foot board-on-board fence is excessive.

Paul Dunlap – indicates he can't find a good reason for the additional 1 foot and to go outside what the regulations are. Does not feel 1 foot is going to make that much of a difference. Whatever you do back there it should not be stockade. Does not see a compelling reason to grant the additional 1 foot height, terrible feeling it will look wallish.

Based upon the application submitted and the testimony provided as well as the comments received from the HPC to the Board, Dianna Harris made a motion to DENY the application as submitted and discussed, moved and seconded by William Frantz.

Those who voted YES to deny: Dr. James Brown, Theopolis Stewart, William Frantz, James Gilligan, Dianna Harris, Thomas Healy, and Paul Dunlap

Those who voted NO: None.

Those who ABSTAINED: None.

Those ABSENT: Barbara Bascom, Joe Sears, and Frances Keel

****THE BOARD TAKES A SHORT RECESS at 8:34 PM – BOARD RETURNS ROLL CALL TAKEN AND ALL MEMBERS STILL PRESENT****

ZB12/21 & ZB13/14 (Use Variance, Preliminary Major Site Plan, & Minor Subdivision) – Hovsons, Inc.(Victoria Gardens) – Hovchild Blvd – Block 4001, Lots 1, 2, 3, & 8 and Block 4101, Lots 13 & 14 (formerly Block 1500, Lots 1, 2, 5, 20, 21, & 22). Plans had been revised to eliminate the proposed commercial space and reduce the number of proposed apartment units from 312 to 272; therefore, the project now involves only Block 4001, Lots 1, 2, 3, & 8 (formerly Block 1500, Lots 5, 20, 21, & 22).

It is noted for the record that Mr. Stewart has signed the necessary certification forms.

Andrew Janiw PP, AICP – sworn in and accepted as an Expert Planner by the Board.

Exhibit A-63 discussed. Mr. Janiw describes the changes to the plans since the original submission. The Waverly apartment complex is discussed.

Exhibit A-64 Chart entitled Transition Zone Analysis prepared by Andrew Janiw, PP, AICP is discussed.

Mr. Gilligan questions density – It is testified there is approximately 40 acres and approximately 50% of the lot is constrained; therefore Mr. Janiw believes it is 12.6 dwelling units per acre.

There are 200 1-bedroom units proposed, 64 2-bedroom units proposed, and 8 3-bedroom units proposed. There is no traffic proposed onto Oakcrest. All traffic is proposed on Hovchild Boulevard which is a collector road – conducive to transition area and in keep with the area. A commercial development would have a more negative impact.

Mr. Janiw discusses each variance requested. Permitted uses are discussed.

Exhibit A-76 – Master Plan (9/2011) & Resolution (adopted 2/8/12)

Discussions take place between attorneys as to whether or not resolution is admissible.

Mr. Janiw discusses what permitted uses are and feels that residential development is much more suitable for this property.

Exhibit A-65 is marked and discussed – this parcel is not representative of a C-1 District comparison.

****THE BOARD TAKES A SHORT RECESS AND RETURNS AT 10:11 PM – ROLL CALL TAKEN AND ALL MEMBERS STILL PRESENT****

Mr. Janiw reviews c1 bulk variances associated with this application as well as the c2 variances associated.

Sign variances are discussed – Jennifer Beahm, Board Planner, does not agree they are necessary nor does she agree with the justification for same.

Comparison to The Waverly is brought up again.

****AT THIS TIME IT IS AGREED TO BY THE APPLICANT AND THE BOARD TO CARRY THIS MATTER TO THE JANUARY 17, 2018 SPECIAL MEETING DATE WITH NO FURTHER NOTICE BEING REQUIRED****

ADJOURNMENT:

With no further business before the Board this evening, a motion was made by James Gilligan and seconded by William Frantz to adjourn at 10:52 PM. The next meeting of the Zoning Board of Adjustment will be a regular meeting on Wednesday, December 6, 2017 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.