

Unified Planning/Zoning Board of Adjustments Meeting
December 7, 2009

The meeting was called to order by chairman, Ken Cassidy, and the pledge of allegiance was recited.

Roll call was taken with the following members present: Mr. Dolan, Mr. Cassidy, Mr. Montfort, Mr. McKenna, Mr. Gallego-late, and Ms. Malanga.
Absent were: Mr. Buccellato, Ms. Clifton, Mr. Saporito, and Mr. Shea.

Mr. Montfort made a motion to approve the minutes from the November 2, 2009 meeting and Mr. McKenna second. The board voted with all eligible members in favor.

The first application was Omnipoint 123 Main St Block 9, Lot 22

Mr. Irene stated that the Borough Administrator made a request to carry this application to the March meeting so there is time to request bids for alternate sights. The notices were approved and a request for extension of time given. Mr. Montfort made a motion to carry it and Mr. McKenna second. The board voted with all members in favor.

The second application was Ms. Milazzo 197 Main St Block 35, Lot 14

The applicant requested to carry this application to the January meeting. The notices were approved and extension of time granted. Mr. Montfort made a motion to carry it and Mr. McKenna second. The board voted with all members in favor.

Resolutions

116 & 118 Main St-This resolution is to dismiss this application. Mr. Montfort made a motion and Mr. McKenna second. The following roll call vote was taken: Mr. Cassidy-yes, Mr. Montfort-yes, Mr. McKenna-yes, and Mr. Dolan-yes.

Rahman, 131 Main St- This resolution is to dismiss this application. Mr. Montfort made a motion and Mr. McKenna second. The following roll call vote was taken: Mr. Cassidy-yes, Mr. Montfort-yes, Mr. McKenna-yes, and Mr. Dolan-yes.

The Board took a 5 minute break

Roll Call after the break: Roll call was taken with the following members present: Mr. Dolan, Mr. Cassidy, Mr. Montfort, Mr. McKenna, Mr. Gallego-late, and Ms. Malanga.

The third application was Murphy, 13 Lakeside Dr Block 115, Lot 30

Mr. Irene stated that there was no need to re-notice as it was carried from the November 2 meeting to have the board question Mr. Quinn, the construction official.

Board questions:

Mr. Montfort asked if the pool, deck, and retaining wall were inspected. Mr. Quinn stated there was a violation in building the pool without a permit and then the Murphys applied to rebuild the pool. The zoning to rebuild the pool was approved and then they applied for a construction permit. There has been no final inspection on the pool to date but inspections have happened all along. They did not apply for a construction permit for the patio and they were given violations because there was no zoning first. They did apply for the deck and that is why they are before the board. They were not approved because the zoning was not applied for first before the construction. They did the zoning for the walls at the same time as the deck because they needed variances. This was denied because they needed prior zoning approval before getting the construction permits.

Mr. Gallego asked what the process was and Mr. Quinn stated that you need to get zoning approval first and then construction permits. They have been compliant with the pool but are here for the deck now.

Mr. Montfort asked if all the variances were approved, would there be a problem meeting all the guidelines. Mr. Quinn stated he did not see a problem as the applicants are being compliant on all issues now.

Mr. Dolan asked if he had the dates of the denials and Mr. Quinn said no, they would be in the file.

Mr. McKenna asked if the applicant has been compliant and Mr. Quinn said yes all along.

Public Questions:

Mr. Lane 15 Lakeside Dr, previously sworn in, handed out a paper with a history of denials for unpermitted construction and reviewed them with Mr. Quinn.

Mr. Quinn asked what this had to do with variance relief.

Mr. Lane asked if there were any permits for the deck, retaining walls, and fence. He also asked if Mr. Quinn had a chance to review his handout of the objector's list of denials.

Mr. Quinn said all were denied and no he did not review the objector's list.

Mr. Lane asked if the fence height was denied and Mr. Quinn said yes but the applicants revised the application for the fence to be 6' or less and are now before the board. He stated that the application for the fence for the pool not on the steep slope did not come to the board but the one on the slope is here now however they built a temporary fence until they came before the board.

Mr. Lane asked if he had inspected the fence and Mr. Quinn said no because the job is not complete.

Mr. Irene asked Mr. Lane if he was asking if the piers needed to be approved and he said yes. Mr. Irene then asked Mr. Quinn if height or location is what needs to be approved.

Mr. Quinn said the piers are outside the property and he can only answer to the applicant's application.

Mr. Lane went on to say that the piers were constructed without permission and they add to total lot coverage.

Mr. Venezia, the board engineer, stated that if they are not on the property then they are not part of lot coverage.

Mr. Lane stated they are a safety issue but they are not before this board so he will excuse that issue.

Mr. Lane then went on to ask that last meeting Mr. Peck stated the whole project moved forward 5' and he wanted to know when that happened. He also wanted the board to

know that the applicant did not build what he stated but something very massive. He wanted the board to review all his documentation he has provided and he wanted the board to know he objects to this application.

Ms. Wyshynski 17 Lakeside Dr was sworn in and stated she was a 25 year resident and her view is obstructed of the lake. She stated the applicant did not follow the construction rules and she does not understand why construction happens and then approvals follow. She stated the lighting will add to the height and the lot coverage is too high.

Mr. Venezia stated that the lot coverage will be 38.5% proposed.

Ms. Geiring 15 Lakeside Dr, previously sworn in asked why there were 5 variances and if this was a hardship. She stated her view is obstructed and her house value will decline. This project was started 2 years ago and they still have not seen a final project picture. He was just supposed to rebuild what was there and now the applicant needs 5 variances. She wants the board to deny the variances, have the gazebo removed, the retaining walls taken down where they should be and no setbacks.

Mr. Schwartz, the applicant's attorney, questioned when and how the pictures were taken; straight forward or turned to the side. He also asked about some stumps of wood in the objector's pictures from where a tree was taken down.

Ms. Geiring said there was no tree but that it was fire wood and also the pictures were taken in March/April. Mr. Schwartz said that no leaves on the trees have an impact of the view of the construction but Ms. Geiring said the leaves are off for 6 months.

Mr. Schwartz asked if some of the boards were taken down would she be happy and Mr. Lane said no we told the board what we wanted. If the applicant moves the deck back where it was then the boards don't matter.

Mr. Schwartz said he disagreed as the height was measured and is no higher.

Ms. Geiring said the boards are a problem because they are part of the deck.

Mr. Murphy, the applicant, said he tried to follow the process. He replaced the deck that was always there and just made it nicer. The views are still beautiful; it's just that the leaves are bare. He said he is trying to work with the neighbors and does not want to upset anyone. He asked the board to please use reasoning and he will compromise with the board if needed.

Mr. Venezia asked if they would consider keeping it the way it was because when they have it on this angle is when it extends the height.

Mr. Murphy said there were always retaining walls there and a fence, it was collapsing so they had to replace it. This construction is part of a bigger picture but they are trying to be compliant and work with Mr. Quinn.

Mr. Montfort asked if they thought of not keeping the deck level with the pool because if the 6' fence was stepped and not graded to the pool area it may be alright.

Mr. Murphy said only part of it is higher because the grading was not complete there but with pavers it should be alright. He will try to keep it 6' across and will work with the engineer to do what has to be done.

Mr. Irene said not talking engineering plans, but if the board approves then you will have to conform.

Mr. Murphy said the plans are set as given to the board.

Mr. Dolan said the board needs to focus on the 5 variances before them. He said the board should go through each one and give the applicant guidelines to build by. They should approve them and put caps on the numbers.

Mr. Irene said this is not a negotiation but the board should look at the application and deny as is or approve with conditions. He said he was just clarifying what would happen and suggested the board go over the variances.

Mr. Schwartz reviewed the variances needed: the deck was built but they will work with the retaining walls and fences. They need variances for the steep slope restriction as per the plan, 100' setback relief as per the plan, lot coverage of 38.5 when 30 is required, the height of the walls 10' when 4' is required, the fence height 14' total 4' on top of 10'.

Mr. Lane stated the wall is 11' at one point but if the grade is raised it will be different.

Mr. Irene said if that happened then the applicant would have to come back to the board.

Mr. Murphy stated they would stick with the plan and keep it as is.

The board then discussed the variances and the plan and their opinions.

They want the applicant to come back with a drawing on the walls and fence. They would not have to re-notice and extension of time was granted. They would vote on the approval of the setback on the deck with the plan.

Mr. McKenna made a motion to approve the setback on the deck and Mr. Montfort second. The board voted with 3 members for and 2 members against.

Mr. Montfort made a motion for the application to carry to February and Mr. McKenna second. The board voted with all members in favor.

The fourth application was Atrium 36-40 Freneau Ave Block 119, Lots 39.02, 40, 41

The notices were approved. Mr. Vena was the applicant attorney. They are here for a concrete pad for oxygen tanks and need site plan approval, but no variances.

Ms. Nolan, RN and Administrator, of Wayne NJ was sworn in. She stated they are implementing a pulmonary program for patients who cannot breathe on their own and not many facilities offer this service. This is special care and mainly paid by Medicaid. The state wants this program open as soon as possible due to the need; there are already 8 on a waiting list.

Mr. Montfort asked if there is an oxygen distribution service and she said yes.

Mr. Zelina, the applicant's engineer, was sworn in. He reviewed the site plan with the concrete pad, chain link fence and landscaping. He said they will work with the board to comply.

Mr. Squance of Connecticut was sworn in. He is the project manager for the oxygen equipment company-Techgas Producers. He assesses, installs and inspects the gas. He is in charge of safety and reviews the size of the equipment. He went on to explain how big the tanks would be and what they would fulfill in terms of needs.

Mr. Venezia asked how the oxygen gets in the building and Mr. Squance said by underground pipes.

Mr. Venezia asked about drainage and Mr. Squance said that is not a problem as it is part of the installation.

Mr. Gallego asked who certified the tanks and Mr. Squance said his company does and he then explained the inspections. He also said they train the local fire department.

Mr. Zelina was recalled and spoke about the surrounding neighborhood.

Mr. Gallego said they are close to the Henry Hudson trail and if there was any precautions taken and Mr. Zelina said there is a 6' fence and the facility is 24/7 and lighted.

Mr. Montfort made a motion to approve the site plan with standards and to comply with the board engineer's letter and Mr. McKenna second. The board approved with all members in favor.

The meeting was adjourned at 9:50 PM

Respectfully submitted,

Diane Cannon
Board Recording Secretary