

Unified Planning/Zoning Board of Adjustments Meeting
November 2, 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. Cassidy, Mr. Dolan, Mr. Montfort, Mr. Shea, Mr. Gallego, and Mr. McKenna. Absent were: Mr. Buccellato, Ms. Clifton, Mr. Saporito and Ms. Malanga.

The first application was: 116 Main Street LLC, 118 Main Street Block 6, Lot 22

Mr. Berman is the applicant's attorney. This application came before the board previously but should include all 3 lots. They need site plan review and need to amend the application. They actually need a new application as the original notices are no longer valid and time has run out. The board decided to dismiss this application without prejudice. Mr. Montfort made the motion and Mr. McKenna second. The board voted with all members in favor.

The second application was: Mr. & Mrs. Murphy 13 Lakeside Dr Block 115, Lot 30

There was a site visit on October 13, 2009. The application picked up where it left off last time which was questioning the engineer, Mr. Peck.

Mr. Lane of 15 Lakeside Dr asked Mr. Peck what was the grade from the pool to the patio and the engineer stated 1.75 grade. Then Mr. Lane questioned the grade of the existing concrete and of the fence. The engineer explained that they put pavers to fill in and match on a sand bed above the new wall. Mr. Lane stated that the piers should not be more than 6'. Mr. Murphy, the applicant, was previously sworn in and he stated the pavers go up to the fence when the grade is complete and it should then be 6' and if it is not, they will correct the height. Mr. Lane asked the engineer if the retaining wall is 47' and the answer was yes. Mr. Lane then said that the burm is greater than 18" and that the grade will be 1 1/2' higher and wanted to know how that would be fixed. Mr. Peck said his crew was there and it was alright. Mr. Lane asked if there was a wall or rail there and the answer was 14' is the highest point at the corner for the rail. Mr. Peck said the wall was replaced with a rail at the end. The existing block is going to be used on the other wall. Mr. Lane asked if the wall is 1' off the property line and Mr. Peck said yes it was and the new wall will not be a concrete foundation but gravel course and the blocks will sit on that. Mr. Lane asked how wide was the gravel course and Mr. Peck said 18" to 2' and 6" off the property line. Mr. Lane asked if the edge of the deck will be moved front and back and the engineer said yes. Mr. Lane asked what the elevation of the deck is from the ground and Mr. Peck said the pool meets the patio at 48'3" elevation. The front edge of the deck is 42'5". Mr. Lane asked if the height of the deck has more than doubled and the engineer said yes he believed it did. Mr. Lane asked about Mr. Zimmer's drawings and Mr. Peck said he is not aware of them. Mr. Lane asked what the setback on the wall was and Mr. Peck said probably about 24". Mr. Lane asked why that is not on the drawings as

part of the lot coverage and Mr. Peck said the lot coverage would not change because the calculations are on the base of the wall. Mr. Lane said it is a 4' wide slope at the base and Mr. Peck said a level area would transition up to the property line between 38 and 37 lines. Mr. Lane asked what the lot coverage was and Mr. Peck said it is not calculated yet. Mr. Lane asked what the difference between top of the two fences was and the engineer said 2.2'.

Board questions:

Mr. Montfort asked if they would make the one side where the wall was high like the other side where it was low and the applicant said yes.

Mr. Montfort asked what exactly the board was voting on and the applicant's attorney listed the variances: retaining wall height, fence on the retaining wall height, slopes, setbacks, lot coverage 37.4.

Mr. Murphy stated that the deck was 3 to 5' closer to the water as they straightened it out and it went out further. The pool got smaller and the walkway got larger.

Mr. Shea asked if the work was done before the variances and Mr. Murphy said they fixed the deck without knowing that needed a variance. They paid the fine and this was awhile ago.

Mr. Lane asked when the deck was done and Mr. Murphy stated in January and the house was done Jan-March of 2008. Mr. Lane asked if the construction office was contacted and Mr. Murphy said when they got their permits for the house is when they found out that the deck needed a permit.

Comments:

Mr. Lane, 15 Lakeside Dr. Matawan was sworn in and stated he wants the application rolled back. He said it is a hindrance to the neighborhood. The retaining walls are too high and obstruct views. It is too high of a slope and the piers are on Borough property. Ms. Giering, 501 First St. Keyport was sworn in and stated why she is against the application and wants it rolled back. They then handed out and reviewed a history of denials and not permitted construction on the property.

The applicant's attorney objected but Mr. Irene stated that the board should mark it as an exhibit and see what it is.

They then handed out and reviewed a proposed roll back of the application.

They then handed out and reviewed pictures and diagrams of objections.

They then handed out and reviewed a history of construction with no variances and permits and other site plan violations.

They then handed out and reviewed a packet of the impact this would have on them and the neighborhood.

They then reviewed the handout of their request which is that they want the board to know the history of this project and want explicit instructions in the future and want to know how things got out of hand on every aspect of this current project. They do not want the setbacks to be allowed, the retaining wall not to be approved and to limit them to less than 4', to deny the patio expansion and require the fence to be 6'.

Mr. Schwartz, the applicant's attorney, asked if Mr. Lane was an engineer and he stated yes a mechanical and electrical. Mr. Schwartz asked if he hired anyone to do the calculations and he stated no. Mr. Schwartz asked if Mr. Lane was there with Mr. Quinn and the Murphys and he stated no but he has the letters. Mr. Schwartz asked if he had a disagreement with Mr. Quinn and Mr. Lane stated they had many conversations about his

letters and Mr. Quinn visited the Murphys and said the fence should be 6'. He asked Mr. Quinn for the denials but he said the planning board deals with fences.

A break in this application was taken so that the 2 other applications could be decided on and the applicants be rescheduled.

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

The notices were reviewed and approved. The application will be carried. Mr. Cassidy made a motion to carry it to the December 7, 2009 meeting without re-notice and extension of time granted and Mr. McKenna second. The board voted with all members in favor.

The fourth application was: Mr. Rahman 131 Main St. Block 9, Lot 27

The notices were reviewed and need to be redone in order to clarify the applicant's requests. The application is to go from 2 residences to 3 residences and commercial uses as well. It is in a general business zone, needs a D variance, needs a new site plan, and needs to address lighting and parking. The application needs to be redone. Mr. Montfort made a motion to dismiss the current application without prejudice and Mr. McKenna second. The board voted with all members in favor.

Back to the Murphy application:

Mr. Schwartz stated that only the deck doesn't comply with Borough ordinance. Mr. Lane stated that he was given a list of 5 denials. Mr. Schwartz asked if he disagreed with their professional for the grading what makes him more qualified than a certified drawing and Mr. Lane stated that he had some experience in surveying and measuring himself. Mr. Schwartz said the drainage would be done with the board engineer's supervision and Mr. Lane stated that he would ask that it not be done because there have been no approvals and he has no confidence in Borough officials.

The board discussed and decided that they would like Mr. Quinn to come to the next meeting so they know what the Borough approved and what it did not. They asked if he could review the entire file and be prepared for their next meeting to discuss it.

Mr. Murphy said that this neighbor complains constantly. He did this work in the winter so as not to disturb the neighbors and their lakefront views. He has spent thousands of dollars and done many improvements to the property. This neighbor has contested everything and wanted stop orders on everything he did. He expanded the deck without a permit but that he admitted the mistake and paid his fine. He removed the tree on the property which opened up the view. He did the deck without drawings because they cost so much money. Everyone has a view of the lake outside their backyard unless you turn your head from side to side. He has complied with every step and they fixed whatever they were asked to. They are willing to compromise and just want to be done with this whole thing.

Board questions:

Mr. McKenna asked if an architect designed this and Mr. Murphy said yes and an engineer as well.

Mr. McKenna asked if they knew the ordinances and how long have they lived in town and Mr. Murphy said 7 years and they didn't know but when they realized their mistake they paid the fine. They are now waiting on this application.

Mr. Dolan asked if they had any certified drawings of the retaining walls and Mr. Murphy said architectural yes but not engineer drawings.

Mr. Schwartz asked how many feet were put on the deck and Mr. Murphy said that the size of the deck was because of the look of the whole project.

Mr. Lane asked if the permit was denied to build a retaining wall and decks in the backyard and Mr. Murphy said he didn't know the dates but he knew what was approved and denied and only the deck was denied.

Mr. Lane stated that if Mr. Quinn comes before the board, he would like to see his letter of complaint and Mr. Cassidy said he would bring the entire file.

Mr. Montfort made a motion to carry the application to the December 7, 2009 meeting with Mr. Quinn in attendance and no re-notice and extension of time granted and Mr. McKenna second. The board voted with all members in favor.

Mr. Montfort made a motion to approve the minutes of the September 2, 2009 meeting with one correction on page 2 and Mr. McKenna second. The board voted with all members in favor.

Resolutions:

Fitzpatrick Resolution:

Mr. McKenna made a motion to approve with one change of adding the lot coverage to page 6 and Mr. Cassidy second. The following roll call vote was taken: Mr. Cassidy-yes, Mr. Dolan-yes, Mr. Shea-yes, and Mr. McKenna-yes. Mr. Montfort and Mr. Gallego could not vote.

Mr. Montfort made a motion to adjourn and Mr. McKenna second. The board voted with all members in favor.

The meeting was adjourned at 10:30 pm.

Respectfully submitted,

Diane Cannon
Board Recording Secretary