

Unified Planning/Zoning Board of Adjustments Meeting  
May 4, 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. Buccellato, Ms. Clifton, Mr. Cassidy, Mr. Dolan, Mr. Montfort, Mr. Gallego, and Mr. Shea. The alternates present were: Ms. Malanga and Ms. Rinear.

Ms. Rinear took the board oath as an alternate member and it was executed before the meeting started.

Mr. Montfort made a motion to approve the minutes of the April 6, 2009 meeting with one correction and Mr. Cassidy second. The board voted with all eligible members in favor.

Resolution:

Anfuso Resolution- Mr. Montfort made a motion to approve the resolution and Mr. Gallego second. The following roll call vote was taken: Mr. Cassidy-yes, Mr. Dolan-yes, Mr. Montfort-yes, Mr. Shea-yes, Mr. Gallego-yes and Ms. Malanga-yes.

The first application was Mr. and Mrs. Murphy 13 Lakeside Dr Block 115, Lot 30  
Mr. Buccellato stepped down due to complaints brought before the council previously regarding this application. The notices were a problem before but are now approved. Mr. Schwarz is the applicant's attorney. He stated that there was a question regarding the lot coverage and should the deck be included in the lot coverage. He said the construction official's calculations included the deck, but if decks are not to be a part of the calculations then the applicant is below the lot coverage and does not need a variance. He cited the Sept 2008 planning board minutes with a reference to a Harding Blvd. residence where it was stated that the ordinance was unclear and confusing and the board granted that application. He stated that Mr. Irene was on record saying that his understanding of the ordinance was that the definition of a structure included decks. Mr. Irene pulled the resolution and the board did consider and grant a lot coverage variance for the above referenced property.

Mr. Venezia, the board engineer, stated that he had called the construction official and decks are considered in lot coverage calculations and that the deck was calculated in this application tonight.

Mr. Montfort made a motion to state that decks are to be considered part of the calculation according to said definition and Mr. Cassidy second. The board voted with all members in favor except for Mr. Shea who voted no.

Mr. Schwarz made opening remarks on what the applicant was looking to accomplish and what they need approved. They have some non-conforming issues, some pre-existing issues and lot coverage is low.

Mr. Peck, the applicant's engineer, was sworn in. He reviewed the 2 drawings with changes and they were marked for exhibit. In the backyard there will be a pool, deck, and retaining wall.

Mr. Venezia stated that they need the plan to show the grading plan and also the newest architectural plan. Mr. Irene stated there were differences between the 2 drawings. Mr. Peck said the property coverage is accurate on the architectural plan. Mr. Peck said what was on the architectural plan is what will be built. Mr. Irene stated that the architectural plan is not drawn on there and the board needs to see an existing plan and a proposed plan to be able to differentiate. Mr. Venezia added that if the board could see some of the topography and grading that might help them also. Mr. Peck said they were waiting for a variance approval first and then they will bring a more detailed plan. Mr. Cassidy said that he himself is confused with 2 different plans, it should be on one. Mr. Peck stated that some of the items have been built since the original plan under a building permit so it was allowed, but that may be some of the differences the board is speaking of.

The 2002 survey was then marked as exhibit.

Ms. Clifton asked if the deck had been expanded without a permit and Mr. Dolan asked if the changes were done without a variance. Mr. Peck said that the changes were done. Mr. Irene said the plan needs to be updated. The board needs a plan with existing and then with proposed all on one plan with distinguishing marks so the board can see what it is.

Mr. Murphy, the applicant, 13 Lakeside Dr was sworn in. He said he purchased the house in 2002 and he wanted to change the deck so he redid the angle of it and was told he did not need a permit. Then the building official fined him and told him he needed a variance because it was beyond the 100' setback. He also wants to put in a new stone retaining wall because the old one is gone. This new one is higher and at a different angle so he needs a variance. His lot coverage includes the existing concrete patio. He wants to put pavers on top of the existing patio and walkway but did not know it was part of the lot coverage. He stated that the plans were old because he had them done last year and has been working on this since then.

Mr. Cassidy said it was too confusing the way it is now on the plans. Mr. Irene suggested that we have plans with the existing, proposed and with setback lines on it. Mr. Dolan said they needed to vote on how much was affected by the 100' setback. Mr. Venezia asked if a BBQ/gazebo is what is being proposed also. The applicant said yes. Mr. Venezia said that the grading plan needs to show that. Mr. Irene told the applicant's attorney that what they need are plans that show what was existing and what was altered, what is proposed and they need to see the previous encroachment. He also stated that a C of O just states that a dwelling is habitable and is not a zoning permit. Mr. Schwarz said they would like to carry the application to another meeting and will have the new plans to submit then.

#### Public Questions:

Mr. Lane, 15 Lakeside Dr, stated he has knowledge of what is needed for the application. Mr. Irene stated that right now they need to see the new plans and then will proceed from there. Mr. Lane stated the applicant needs a variance for everything new except the pool and that he should go by the 2002 survey. Mr. Irene stated that is why the board needs the new plans to show the existing, proposed and current needs and will use the 2002 survey.

Mr. Montfort made a motion to carry the application to the June 1, 2009 meeting with an extension of time granted and no re-notice needed unless there is additional variance relief needed and then they would have to re-notice and Mr. Cassidy second. The board voted with all members in favor.

Other business:

Mr. Shea asked who is to enforce the signs being put up by the BBQ business by the train station and Mr. Cassidy said Mr. Quinn.

Omnipoint letter- They want to come before the board for the 123 Main Street location because they cannot find another spot. Ms. Clifton said they came before the council looking for a sight and she believes it will be resolved shortly. The board should give them a date in August.

Mr. Montfort made a motion to put Omnipoint on the August 3, 2009 agenda and Mr. Cassidy second. The board voted with all members in favor.

Theresa Barr, 20 Eisenhower Ct, came to the podium to ask about the application she put in to the board and to find out what the process is. Mr. Venezia explained he has her application and she should be getting a letter soon on what is needed regarding paperwork and fees. He briefly explained the process to the applicant.

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

The meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Diane Cannon  
Board Recording Secretary