

Unified Planning/Zoning Board of Adjustments Special Meeting
July 19, 2010

The special 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. Gallego, Mr. McKenna, Mr. Montfort, and Mr. Shea.

Absent were: Mr. Buccellato, Mr. Mendes, Mr. Saporito and Ms. Malanga.

The meeting was for the Murphy application 13 Lakeside Dr Block 115, Lot 30

Mr. Gazarowski was the objector's attorney. Ms. Flor, the board engineer, was sworn in. Mr. Lane, the objector, spoke before the board and handed out a fact sheet that was marked for exhibit. He stated the old deck was removed and a new one built with a retaining wall, which increased the elevation, decreased the setback, caused encroachment and increased the lot coverage. He stated the applicant did all this after being denied by the construction office. He stated there was also an email that said the deck was moved and reconstructed. He then reviewed the plan showing that the applicant removed the existing structure and did not follow board instructions to show both the existing and the new structure. He handed out a plan that was marked for exhibit showing the new structure and what would be there if the applicant had started clean with a new structure. He showed the existing conditions and reviewed the ordinances that were involved. He then handed out an elevation plan and marked that for exhibit and reviewed the retaining walls. He then handed out a diagram and marked that for exhibit which reviewed the existing and projected and compared the 2 plans in elevation as well using another plan that was also marked for exhibit. He reviewed the zoning analysis which was handed out and marked for exhibit. Mr. Lane then explained to the board why he feels the application should be denied and where it violates the Municipal Land Use law.

Board questions:

Mr. Gallego asked if Mr. Lane discussed these plans and the project at all with the applicant; if he had asked him these questions and Mr. Lane said no but through the construction office they came in the house and showed him what they meant. Mr. Murphy said they had not discussed it.

Mr. Gallego asked when the alternate plan was conceived and Mr. Lane said in April 2010 when the board overturned the resolution and then he saw how the plan was being drawn.

Mr. Shea asked if after the denial was received, had construction continued and Mr. Lane said yes and the lot coverage was then exceeded.

Mr. Shea asked if the neighbors were aware of the variances for years and Mr. Lane said yes but things changed after that.

Mr. Shea asked if the engineer could tell if the trees and vegetation there would die due to these efforts and Ms. Flor said she could not tell where the trees were on this plan.

Mr. Shea asked if any other neighbors have come in to complain and Mr. Lane said no.

Mr. McKenna asked why the 2 plans have very different decks and Mr. Lane said that it showed if there was a lower 1 story deck that there would be less disturbance.

Mr. Gallego asked the board engineer to review the plan and Ms. Flor did.

Mr. Shea asked if the pool had ever changed and Mr. Murphy said not the elevation just the size got smaller.

Public questions:

Mr. Schwartz, the applicant's attorney, questioned Mr. Lane that he said all the neighbors have steps and encroachments but Mr. Murphy has no steps and Mr. Lane said yes but he has an encroachment with the retaining walls.

Mr. Schwartz stated that the project has been incomplete for 2 years and wouldn't it be better for the neighbors to have it completed and Mr. Lane said no not if the retaining wall is still too high.

Mr. Schwartz said the retaining wall was always there and Mr. Lane said not higher than 5'.

Mr. Murphy, the applicant, was sworn in. He stated the construction was done without permits but only the deck and that Mr. Quinn testified to that as well. He stated that he brought before the board engineering drawings and not guesses. Mr. Lane's were nice pictures, but guesses. He said there was no new testimony and that it had all been clear for 2 years. He stated that there were no trees where the retaining wall will go, they had all been removed by permit and nothing else died. He said he would not make his own property horrible looking. He was upset that Mr. Lane lives in Keyport and is trying to tell people how to live in Matawan. He stated Mr. Lane never wants to compromise, that he would give in but does not know how to reach him.

Mr. Schwartz asked Mr. Murphy if they removed soil and Mr. Murphy said the retaining wall should hold the soil and create things for support.

Mr. Gallego asked to clarify what was done and what has yet to be done and Mr. Murphy stated nothing was done except the deck.

Mr. Shea asked if there was a footprint there and Mr. Murphy said yes and it is secure behind the retaining wall as there is just terracing there now.

Mr. Montfort said that either way there will be a disturbance there and Mr. Murphy said yes to fix it they will have to disturb it or to build it.

Mr. McKenna asked if they had seen this proposal and Mr. Murphy said not before tonight.

Mr. Gazarowski stated to Mr. Murphy that at the last meeting his engineer said he had no plans for a retaining wall and Mr. Murphy said yes that the engineer had it all along but they do not have the retaining wall plan yet.

Mr. Gazarowski stated he felt they never had the plan done.

Mr. Murphy said that if the board approves the application, then they will have construction plans and drawings and will move forward.

Mr. Gazarowski stated that if his client had never complained then they would not have any plans at all.

Mr. Murphy said that he stated before that the house plans were approved; the deck plans were not submitted. He followed the orders and applied for everything and knew the construction official would be out to his house so he was not trying to hide anything.

The attorneys then summed up their cases.

Board comments:

Mr. Gallego said that Mr. Murphy brought on these hardships to himself. He took note of the objections and the board has given the objector plenty of time. In his opinion, he

would approve the application as long as the applicant complies with every mandate going forward.

Mr. McKenna stated that a view is a matter of opinion and he doesn't think it is obstructed. He does not like that the work was done without permits first but Mr. Murphy is now complying and that is not up to the board but the construction official. He thinks that overall the retaining wall is enhancing and he would approve the application.

Mr. Shea said he was concerned the work was done before the board as well and the view was affected. At this point he believes it would be more of a hardship to remove everything and may do more harm so he would approve the application and finish the project.

Mr. Montfort agreed that the view was not affected.

The board voted with all members voting in favor of approval except Mr. Dolan who voted against it.

The meeting was adjourned at 8:30 pm.

Respectfully submitted,

Diane Cannon
Board Recording Secretary