

WILDWOOD CREST LAND USE BOARD MEETING
ZONING BOARD OF ADJUSTMENT
Meeting Minutes – 20 August 2019
Borough Hall, 6101 Pacific Avenue

draft

Chairman Alan Seijas called the meeting to order at 5:00 pm, led the Pledge of Allegiance, read the Open Public Meetings Act and announced emergency exits.

Secretary Rogers took roll call: Bumbernick, present; Levy, present; Mettler, present; Rosenfeld, present; Seijas, present; Stuart, absent; Tenaglia, present; Franco, present; Vogdes, present. Acting Solicitor David Stefankiewicz, Esq., present; Zoning Officer Bauer, present; Representative of Board Engineer, present; Secretary Rogers, present. A quorum was declared.

Minutes from the meeting of 9 April were distributed for review and approval or correction. Mr. Tenaglia moved to approve the minutes as distributed; Ms. Levy seconded. Roll call: Bumbernick, abstain; Levy, yes; Rosenfeld, yes; Tenaglia, yes; Vogdes, yes; Mettler, yes; Seijas, yes. Minutes approved as distributed.

There were two applications to come before the Board:

ZB-19-08-01: Vincent Panvini, owner of the property located at 8807 Seaview Ave.; a/k/a blk 154.01, lot 15 in the R-1 zoning district, seeking "c" variance relief to erect a fence at six feet of height in front and side yards where four feet and five are permitted respectively. Represented by Jeffrey P. Barnes, Esq. Mr. Barnes approached the board, told the history of the property and outlined the relief sought. He presented Exhibit A-1, a gross exhibit consisting of twenty-five photographs and distributed same to the board. Jason Sciuillo, Engineer and Planner; Joe Palemino, Landscape Architect; and Vincent Panvini and Nancy Saccomanno, owners of the property were sworn in. Mr. Barnes described the current conditions on the property noting relief is sought from Land Development Ordinance section 85-82 pertaining to fences. Mr. Sciuillo recited his credentials and was qualified as an expert. He showed four color photos (marked as Exhibit A-2) and (marked as Exhibit A-3) two color photos and a site location plan. He described the fence as constructed at 6' in height. Nancy Saccomanno testified she had talked to neighbors about the construction, including the location of the air conditioning units. Vince Panvini spoke to the history of the family and need for a house capable of accommodating everyone. He showed the location of the air conditioning units and pool equipment, saying the adjacent fence masks the units and buffers noise. Mr. Panvini said on the Pittsburgh Ave side of the property (easterly lot line) shrubbery was added at the neighbors' request to mitigate the appearance of the fence. He spoke to the concern of neighbors about back-to-back saying he would accept responsibility for weed removal between the fences. Solicitor Stefankiewicz clarified saying on one side it appears the fence was erected to serve as a sight and sound buffer, and on the other it is a continuance of the neighbors' fence. He asked Mr. Panvini if he had consulted the Construction Office about the height of the fence. Mr. Panvini said no, his general contractor handled those details. Mr. Panvini expressed concern about safety both for his family and passersby and concern about pool hoppers, therefore, trying to design respectfully. In response to a query from Mr. Barnes, Mr. Panvini said if the fence were at 4' in height they would have a "fishbowl" issue with people watching them. Joe Palemino, Landscape Architect, recited his credentials and was qualified as an expert. Mr. Palemino said he was hired to develop the outside spaces, fit the pool in the available space and accommodate outdoor dining and lounge space. He said this is an interactive process with the property owners, and the wood fence was chosen because it is more esthetically pleasing and in keeping with the style of the house; it will absorb sound and create privacy. In answer to Mr. Barnes he said any weeds between the fences can be treated and should not grow aggressively for lack of sunlight. Mr. Sciuillo qualified the variance relief as "c"1 (hardship) as having two front yards in an area where there is heavy foot traffic to the beach, a visibility issue, and creating a distraction to drivers. He opined the height at 6' is mitigated by landscaping, creates a feeling of security, and shields the air conditioning units from view. Under the "c"2 criteria he opined granting relief would not be a detriment to the zone plan; advances the purposes of zoning; has no negative impact on light, air and open space as the corner of the

property has been “opened up”; and it promotes a desirable visual element. He noted case law regarding the preservation of the neighborhood character and esthetics. He said he perceives no negative impact and granting relief would promote the general welfare of the community. Mr. Sciallo added granting relief would have no impact on the Master Plan, Zoning Plan or Zoning Ordinance, and it is better to grant variance than change the ordinance. He said he felt the burden of proof had been met.

Vice Chairman Fred Mettler asked if the pool and fence were included in the original design to which Mr. Panvini answered the pool as built was designed later. He testified as to the sequence of events leading to the installation of the fence saying the contractor pointed out other 6’ fences in town, and he was aware of the issue with the Pittsburgh side of the fence. Mr. Mettler asked if he felt it was ok because of other 6’ fences to which there was no response.

Solicitor Stefankiewicz read highlights of the engineer’s report (which had been distributed to board members and the applicant and is attached hereto and made part hereof) noting conditions outlined therein.

Zoning Officer Alex Bauer said he had reviewed the application and the plans as originally submitted saying prior approvals (granted by former Zoning Officer Patrick Malia) were for a compliant fence.

In the public portion Judy Riviezzo resident of 8901 Seaview Ave was sworn in and said she sees this as a beautiful improvement and a fence at 4’ would be a hazard and safety issue as someone could scale the fence.

Joe Iurato resident of 8905 Seaview Ave was sworn in and said the new house is “way better” than what was there and has a beautiful appearance.

Joyce Gould resident of 8801 Seaview Ave was sworn in and said the house is beautiful and they are satisfied with the weed issue as a condition of approval. She then “put on her other hat” as a Borough Commissioner and read portions of Land Development Ordinance section 85-82 into the record opining that the applicant chose to seek forgiveness instead of permission and should have played by the rules.

Alan Gould resident of 8801 Seaview Ave was sworn in and said the fence is ok as it is, but he wants assurances the weeds between the fences will be handled.

Mr. Barnes agreed with Mr. Stefankiewicz to making Panvini responsible for weed removal a condition of approval.

In deliberation Mr. Vogdes said he is in favor of higher fences and vegetation around 4’ fences is problematic. Mr. Mettler said he appreciated the public testimony but took issue with the “after the fact” application and expressed disappointment the builder acted improperly. He said he has difficulty approving something after construction. Mr. Bumbernick said he felt the board should look at this application as if the fence did not exist – would it be approved then? He noted the neighbors’ testimony in favor. Ms. Levy said there are rules regarding corner lots for a reason adding she lives on a corner lot and erected a 4’ fence. Mr. Seijas said it is a unique situation citing the issue of safety and asking if the code requirement of 4’ in height is sufficient especially on a corner lot. He said he supports granting the relief adding he felt the “c”2 criteria had been met. Mr. Tenaglia asked why fence height was not addressed when FEMA standards changed. Solicitor Stefankiewicz read the findings of fact into the record, noting conditions of approval as outlined by Board Engineer DeBlasio, adding conditions that the Panvini are responsible for weed removal in the area adjacent to the fence on the northern boundary of the property and such weed killer will not affect vegetation on the adjoining property.

Mr. Rosenfeld moved to accept the findings and conditions as read, Mr. Mettler provided the second. Roll call: Bumbernick, yes; Levy, yes; Rosenfeld, yes; Tenaglia, yes; Vogdes, yes; Mettler, yes; Seijas, yes. Findings accepted.

Mr. Bumbernick moved to approve the applications with conditions as outlined in the findings, Mr. Vogdes provided the second. Roll call: Bumbernick, yes; Levy, no; Rosenfeld, yes; Tenaglia, yes; Vogdes, yes; Mettler, no; Seijas, yes. Application granted.

ZB-09-08-02: Michael & Summer Zerbe, owners of the property located at 117 W Wisteria Rd, a/k/a blk 40, lots 12 & 13.01 in the R-2 zoning district; seeking “c” variance relief to expand a nonconforming (duplex) structure. Represented by Andrew D. Catanese, Esq. Mr. Catanese described the property and the relief sought saying the two-family use is permitted in the zone,

but the lot undersized with nonsufficient lot area, frontage and width. He said no new nonconforming conditions are proposed; the nature of the lot necessitates variance. Matthew Sprague, Architect, was sworn in and has been previously qualified as an expert. He showed the floor plan saying the second floor currently has three bedrooms, a kitchen, a living area and one bathroom; the applicant proposes to expand the second-floor area by 220 sq. ft., increasing room sizes and adding a bathroom.; open decks are proposed on the rear of the structure. He said the existing access stairs will be retained, and no changes will be made to the front of the structure, adding the roof pitch exceeds Land Development Ordinance requirements at 6 on 12. Mr. Sprague pointed out the setbacks as side yards at 18' (west) and 8.5' (east), proposed rear yard at 23' and front setback exceeding ordinance requirements. Mr. Catanese opined the structure "outperforms code". Mr. Sprague added the building coverage will remain at 22.3% with the proposed decks bringing it to 30.9%, and the height will remain at 22.5' above BFE all of which exceed requirements. He opined the structure is a modest use of the lot.

Solicitor Stefankiewicz read the engineer's report (attached hereto and made part hereof) into the record. In answer to Chairman Seijas Mr. Sprague said the parking will remain as is, although the area is tight for four cars. Mr. Sprague noted the existing stairs are newer and are not intended to be replaced.

Zoning Officer Bauer had nothing further to add.

No members of the public spoke.

Solicitor Stefankiewicz read the findings of fact into the record with no additional conditions attached.

In summation Mr. Catanese said the applicant will retain the relatively small structure making it more comfortable.

Ms. Levy moved to accept the findings of fact, Mr. Mettler provided the second. Roll call: Bumbernick, yes; Levy, yes; Rosenfeld, yes; Tenaglia, yes; Vogdes, yes; Mettler, yes; Seijas, yes. Findings accepted.

Mr. Bumbernick moved to approve the application, Ms. Levy provided the second. Roll call: Bumbernick, yes; Levy, yes; Rosenfeld, yes; Tenaglia, yes; Vogdes, yes; Mettler, yes; Seijas, yes. Application approved.

There were no resolutions.

There were no administrative resolutions.

There was no old business.

There was no new business.

No members of the public spoke. Zoning Officer Bauer addressed the Board outlining procedures and forms he would like to implement in the coming months.

The Board will meet on 17 September. The secretary informed the Board about the Green Team effort to collect recyclable plastics.

On motion of Mr. Rosenfeld, second by Mr. Vogdes, the meeting adjourned by affirmative voice vote at 7:20 p.m.