

Minutes of the Zoning Board of Adjustment Public Meeting of Wednesday,
September 10, 2014

Present are Mr. Bucco, Mrs. Friedman, Mr. Phillips, Mr. Phelps and Mr. Byock

Also present are Marc Leckstein, Esq., Leckstein & Leckstein, and Tim Gillen, CME Associates. Note that Anthony Rodriguez is present, but since the application he reviewed is being carried, he leaves the meeting.

Absent are Mrs. Anderson, Mr. Falco and Mrs. Gotell for personal reasons.

New Business, **V14-105/Jaffrey, Applicant and Property Owner: Ferkhanda Jaffrey, 477 Angel Street, Block 225, Lot 2, Use Variance** request to convert single family home into a two family home with the addition of a second story, on property located in the R 100 single family residential zone.

Mr. Leckstein accepts jurisdiction on this application.

Fred Kalma, Esq., attorney for the applicant, asks that this application be carried to the October 22,, 2014 meeting, with no further notice.

Mr. Phillips moves to carry, seconded by Mr. Byock, and on voice vote this application will be carried to October 22.

New Business, **V14-109/Santapaola, Applicant and Property Owner: Ernest Santapaola, 100 Idlewild Lane, Block 58, Lot 6,** Variance request to maintain 224 sq. ft. children's playhouse in rear yard where playhouses are not a permitted use, and existing 10 ft. x 12 ft. shed less than 3 ft. to side property line where 3 ft. minimum is required, on property located in the R75/PC zone.

Mr. Leckstein marks as Exhibit A-1 a survey prepared by Leo Kalieta dated July 18, 2000, on which is drawn the proposed playhouse location.

Marked as Exhibit B-1 is a letter from Robert Brady, Director of Public Works, that the department has no objections to placing the playhouse on the easement, however, if the easement has to be excavated, the playhouse would have to be moved at the applicant's expense. .

Marked as Exhibit A-2 is a series of nine photographs taken by the applicant showing the playhouse under construction, and an existing shed.

Mr. Leckstein swears in the Board's professionals.

The applicant, Ernest Santapaola, is sworn in by Mr. Leckstein and states he is building a playhouse for his daughter in his backyard. He started building the playhouse, but then found out he needed a permit., He did not realize that something that was not permanent had to have a permit. The shed was on his property when he purchased the house. There was never any approval for it, he was told, and we are just asking for it to remain in that location.

He is building the playhouse for his daughter, Angelina, because of difficulties as a family they are currently going thru, he and his wife wanted to create something special for her that she can enjoy safely and they can watch her easily. The yard is fenced in, she is 7 years old, and she likes to be outside.

They are caring for his mother, who has been ill a long time and is currently in rehab at Bayshore, however, her medical condition recently changed in that she will need 24 hour care.

At the same time, his wife's sister is also hospitalized, undergoing a third surgery. When she comes home she also may need 24 hour care.

His wife is home by herself caring for both mother and sister. She will be burdened with this responsibility, although they are looking into having someone come in to help. His wife is also pregnant, due in February.

The playhouse will provide a safe and nice place for his daughter to play. She can be seen thru the windows and they can hear her when the windows are open. It will provide a safe and happy place for her to play and not have to deal with the medical issues going on.

He is asking to allow him to keep the playhouse on his property. He does not feel it will be an eyesore, but will match his house exactly, with the same colored vinyl siding, same roof, which is an architectural shingle. He may run electric to it, and he knows he needs a permit for that. There will be no plumbing, although his daughter asked about it. She actually drew up the plans, which the applicant presents to the Board for their review, and which is marked as Exhibit A-3; the playhouse will be in an "L" shape.

The applicant says inside he will put in one divider, because his daughter has a spot where she will park her Barbie car, which will be like her garage. She has a place for her garage, her kitchen set, it will have windows, so they made it a reality. The playhouse is one floor.

Answering Mr. Leckstein's question, since his daughter is 7, what are the plans for the playhouse when she no longer finds the playhouse attractive to her needs. Mr. Santapaola says his wife is pregnant and due in February, so there will be another one to use the playhouse when his daughter no longer wants it.

Answering Mr. Byock about the easement and possibly having to remove or tear down the playhouse in the event of a problem with the easement, Mr. Santapaola says he could move the playhouse but he understands the conditions if it is built on the easement. He is willing to sign the letter from Public Works. Mr Gillen says it is only 1 ft. Answering Mr Bucco, Mr. Santapaola says the playhouse is sitting on 4 x 4's.

Mr. Leckstein says for the purposes of the application, we are going to consider it in the easement, because that is where it is, that is where you are applying for it to be. We will say in the application if approved that that is where the playhouse is located, as shown on the survey. A condition of approval if the application is approved will be the applicant sign the easement agreement; the applicant agrees.

Mr. Leckstein says, in addition to the easement, there will be no plumbing, the siding will match the existing home.

Tyler Lombardo, 8 Imbrook Lane, Aberdeen, is sworn in by Mr, Leckstein, and he states he is next door to the applicant's house on Lot 7. His backyard faces the back of the shed. He has not said anything to the applicant until he got the notice in the mail. It seems the structure is a little large, and that is his concern. He doesn't want him to have to tear it

down, but hopes there is something else that can be done to make it more pleasurable to look at than the back of the roof from his backyard.

Mr Santapaola replies that it is going to look exactly like his house, with siding and windows and a door in the back. It is not going to look like a shed but will look real pretty. He is also talking to people about having landscaping done.

Mr. Phillips asks Mr. Lombardo if he is saying because the roof is above the fencing...Mr. Lombardo says it seems a little high from his side of the fence.

The applicant says he has to have someone come in because he wants to redo the grass and make the playhouse look nice all around it because it is part of the home.

Mr Bucco confirms Mr. Lombardo would be looking at the back of the playhouse; Mr. Lombardo says standing in the front of his house, looking into the backyard..... Mr. Phelps points to a picture and Mr. Lombardo confirms that is his house.

Mr. Bucco asks if the height of the wall is a standard 8 ft. Mr. Santapaola says he made it as low as he could to put a door in; they make one standard 77-1/2 inch door, so he made it enough to clear that door. He put the peak on it because that won't bear any snow, it will just run off. He drew up the plans based on his daughter's drawings. He did not have a professional draw up his plans. He is also building it himself.

Mr. Bucco asks if the height of the walls are actually shorter than walls for a house; Mr. Santapaola says they are. The pitch of the roof is 45 because he wanted to make sure there was no problem with weight bearing with the snow. It is 6 pitch, so it will slide right off.

Mr. Lombardo says he feels if there were some sort of landscaping in between for himself or anyone walking by it would not be such a big eyesore, which he is sure it isn't since it will match his house, but...It can also be seen from the Imbrook side, not just from his backyard. The applicant's side yard comes up on the Imbrook side.

Mr. Bucco says the 24 ft. length runs parallel with the fence, which is Mr Lombardo's backyard, which Mr.. Lombardo agrees is correct. Mr. Bucco says that is a distance. Mr. Lombardo says not just from his backyard but from Imbrook looking back to his house, you can see into the backyard, not over the fence.

Mrs. Friedman asks how much taller is the playhouse from the shed; Mr. Santapaola is not sure because he has not measured that, but he thinks it might be a couple of feet taller.

Mr. Gillen says an accessory structure rear yard set back is 3 ft What they are saying is when you stand on Imbrook looking down is the side yard of the other house. Mr. Gillen says you are looking at the end of the shed, the 12 ft. dimension with a peak roof, so he is looking down and sees a wall with a peak roof. Mr. Lombardo is asking for some type of screening, possibly arbor vitae or other type of shrub that would be tall enough to soften the view. Mr. Lombardo agrees on the back and side. Mr. Gillen says from the back of the playhouse to the fence is approximately 6-1/2 ft. , and there are trees there. Mr. Lombardo wants the playhouse to be brought in more, so it is not as noticeable from the street. Mr. Santapaola says there is still an issue with the easement no matter where he plants. Mr. Leckstein says he cannot plant on the easement.

Mrs. Friedman asks if the playhouse roof were green, would that make an aesthetic difference to Mr. Lombardo, who replies something should be done to make it more visually appealing. The applicant again says the playhouse will duplicate the house in colors and materials.

Answering Mr. Phelps about changing the location of the playhouse on the property, Mr. Santapaola says he prefers it where he is locating it since it faces out the back of the house where he can see his daughter and watch her, otherwise he would have put it more to the back.

The suggestion is to put arbor vitae at the property line, 6 ft. at planting, and have it grow from there and become a buffer, pending the approval of the plantings from Public Works on the easement. Mr. Leckstein says if he has to remove it to repair the easement, he would probably destroy the landscaping and have to replace it at his expense. Mr. Gillen says removing the playhouse vs. removing the arbor vitae are not the same thing.

Mr. Santapaola says he always wanted to plant something in that area; Mr. Gillen says drainage from the street goes along the line and dumps into the ravine. There is a clean out by his out, not where the playhouse is going.

Mr. Phelps suggests the two neighbors get together to discuss what can be done and talk to Mr. Brady in Public Works to see if he can plant on the easement. The Board will carry the application to the October 22 meeting. Mr. Leckstein explains that the applicant cannot finish the playhouse in the meantime, but Mr. Santapaola is trying to keep it dry, especially in the one open area that he has a tarp over, but he hopes he can put the plywood over it to really keep it dry. Mr. Leckstein says until the application is approved, the Board cannot tell him to proceed; if he does so it is at his own risk. The applicant and objector agree to meet.

Mr. Byock moves to carry the application to the October 22, 2014 Public Meeting, seconded by Mrs. Friedman, and on voice vote all members agree.

Memorialization of Resolution V14-107/Gephardt, Applicant and Property Owner: Margaret and Michael Gephardt, 893 Brookside Avenue, Block 350, Lot 2, Variance request to maintain 12 ft. round above ground pool 6 ft. and 7 ft. to side property lines where 10 ft. minimum is required, and 6 ft. to rear property line where 10 ft. minimum is required, and reaffirm variance condition of 1.1 ft. +/- to side property line of existing home, where 7 ft. minimum required, and Lot Area of 2,500 sq. ft. where 5,000 sq. ft. minimum required, on property located in the R 50 single family residential zone, is summarized into the record by Mr. Leckstein. Mr. Byock moves to memorialize, seconded by Mr., Phillips.

Yes: Mr. Phillips, Mr. Phelps, Mr. Byock

No: None

Abstain: None

Memorialization of Resolution, V14-101/Calvary Community Church, (formerly Missions Beyond Borders Corp.), Applicant: Calvary Community Church, Property Owner: Pamela Faber and Andrew Piscatelli, 111 Highway 35 at County Road, Block 227, Lot 1, Block 231, Lot 1, Use Variance application to permit Calvary Community Church to occupy two units in a retail shopping center in the "LI" (Light Industrial) Zone, where churches or houses of worship are not a permitted use,

is summarized into the record by Mr. Leckstein.. Mr. Byock moves to memorialize, seconded by Mr. Phillips.

Yes: Mr. Phillips, Mr. Phelps, Mr. Byock

No: None

Abstain: None

Memorialization of Resolution, **V14-108/Piscatelli, Applicant: Andrew Piscatelli, Property Owner: Pamela Faber and Andrew Piscatelli, 111 Highway 35 at County Road, Block 227, Lot 1, Block 2321, Lot 1, Interpretation** to determine if the former use of the property, commonly known as Commerce Plaza, can be applied to the proposed business (Air + Company) seeking to occupy a large portion of the vacant units formerly occupied by Fun Time America, which was an amusement arcade, as a Conditional Use, since abandoned. If the interpretation is denied, the applicant is applying at the same time for a **Use Variance**. Existing signage to be refaced, is summarized into the record by Mr. Leckstein. Mr. Byock moves to memorialize, seconded by Mr. Phillips.

Yes: Mr. Phillips, Mr. Phelps, Mr. Byock

No: None

Abstain: None

Meeting adjourned.

