

Minutes of the Zoning Board of Adjustment Public Meeting of Wednesday,  
October 22, 2014

Present are Mr. Bucco, Mrs. Anderson, Mr. Falco, Mrs. Friedman, Mr. Phillips, Mr. Phelps, Mr. Byock

Also present are Marc Leckstein, Esq., Leckstein & Leckstein, Tim Gillen and Anthony Abbonizio, CME Associates, and Martin Truscott, T&M Associates.

Mr. Truscott is replacing Anthony Rodriguez, who has left T&M Associates and relocated to Florida. We thank Anthony for his service to the Zoning Board the past year and welcome Marty to the Board.

Absent is Mrs. Gotell.

Mrs. Friedman moves to accept the minutes of the July 23 and August 27, 2014 Public Meetings, seconded by Mr. Phelps, and on voice vote all members approve.

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. **Jurisdiction was accepted on this application at the September meeting; the application was carried without further notice to the October 22 Public Meeting; the applicant's attorney is requesting this be carried to the November 12 Public Meeting.**

At the request of the applicant's attorney, this application will be carried to the November 12 Public Meeting with no further notice.

Mr. Bucco moves to carry, seconded by Mr. Phillips, and on voice vote all members approve.

New Business, **V14-110/Schwartz, Applicant and Property Owner: Avram Schwartz, 24 Inglewood Lane, Block 110, Lot 54, Variance** request to install a 6 ft. fence in second front yard (Van Brackle Road) within a planting easement as well as a telephone and sanitary sewer easement, in the R75/PC zone, where 6 ft. fences are not permitted in a front yard area.

Mr. Leckstein notes that Mr. Schwartz did not notice the utility companies on the 200 ft. noticing list provided him. As a result, this application will be carried to the November 12 Public Meeting for the additional noticing.

Mr. Bucco moves to carry the application for the utility noticing, seconded by Mr. Phillips, and on voice vote all members approve.

New Business, **V14-111/Rios, Applicant and Property Owner: Ricco and Jocelyn Rios, 102 Irongate Lane, Block 71, Lot 1, Variance** request to construct a 21 ft. x 9 ft. covered front porch; variance required for building coverage 23% proposed, 20% permitted, on single family home in the R75/PC zone.

Mr. Leckstein notes that the applicants did not notice the utility companies on the 200 ft. noticing list provided them. As a result, this application will be carried to the November 12 Public Meeting for the additional noticing.

Mr. Bucco moves to carry the application to the November 12 public meeting with notice to the utility companies, seconded by Mr. Phillips, and on voice vote all members approve.

Continued Business, **V14-109/Santapaola, Applicant and Property Owner: Ernest Santapaola, 100 Idlewild Lane, Block 58, Lot 6, Use 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. **This application is carried from the September meeting for the applicant to meet with a neighbor.**

Mr. Leckstein says we left off that the applicant was going to speak to his neighbor, Mr. Lombardo, who had objections to the playhouse and its view from his property. They were to talk and see if they could come to an agreement regarding landscaping for the children's playhouse.

Mr. Santapaola says he has done that, and presents a landscaping plan, marked as Exhibit A-4, that he and his neighbor agree to. He will be planting a row of arbor vitae.

Mr. Leckstein says to the applicant if the Board approves this application, the arbor vitae must be planted at 6 ft. high, and if at any time one of them dies, it must be replaced with another arbor vitae, and the plantings must be maintained. Mr. Santapaola says he understands the conditions.

Mr. Phelps, addressing the applicant, says there will be no power to this playhouse; Mr. Leckstein says the applicant testified at the last meeting there would be electric but no other utilities. It is up to the Board to approve this as a condition, however.

Mr. Santapaola, answering Mr. Phelps, says he does not know of any neighbors with similar playhouses or any playhouses at all.

Again answering Mr. Phelps, who says it will be too cold for his daughter to play in the playhouse during the winter months, since there will be no heat, it would be empty; Mr. Santapaola says it will have to be empty except for electric so she can have light whenever she wants to go and play in the playhouse.

Mr. Lombardo, previously sworn, agrees to Exhibit A-4, the planting of the arbor vitae. Answering Mr. Leckstein, Mr. Lombardo says it is fine.

Mr. Leckstein, speaking to the Board members, says if the Board is inclined to approve the application, with winter coming, there was an emphasis the applicant wants to be able to winterize it. He has no approval to do that right now. He has drafted a resolution of approval, if that is the Board's inclination, and hands out the proposed resolution for review by the Board. The proposed conditions are as follows:

- (1) The proposed children's playhouse shall be located in the area depicted on the survey, previously marked into evidence as Exhibit A-1.
- (2) The proposed children's playhouse shall be built to the design layout marked into evidence as Exhibit A-3, which is an L-shaped design.
- (3) There shall be only one divider in the playhouse, separating the main area from the playhouse garage.
- (4) The children's playhouse shall only be one story tall.

- (5) The children's playhouse shall have no utilities except for electric. Plumbing is absolutely prohibited.
- (6) The siding and roofing of the children's playhouse shall match those of the existing single family home.
- (7) The applicant shall install and must maintain a line of arbor vitae along the rear properties so as to shield neighboring Lot 7's view of the playhouse. Should the arbor vitae die, it must be replaced. It must be at least 6 ft. tall at planting, and be installed in a manner consistent with the landscape plan marked into evidence as Exhibit 4.
- (8) The applicant shall be required to sign the easement agreement marked into evidence as Exhibit A-1. Should the applicant ever be notified that the children's playhouse needs to be removed in order for the Township of Aberdeen to access the easement, the applicant must comply with that directive.
- (9) The applicant understands and agrees that the use variance granted by this resolution is specifically limited to the specific children's playhouse, currently under construction on the applicant's property. Upon destruction, removal or demolishing of the children's playhouse, this use variance shall cease and not go with the land. The applicant is not being granted permission to perpetually construct children's playhouses on this property.

Mr. Leckstein says the remainder of the conditions are the normal conditions contained in the Board's resolutions, including approval of other agencies of the Township, payment of all fees and taxes, the approval will be deemed void by abandonment if a permit is not issued within one year, and that all representations made under oath by the applicant are deemed conditions of this approval, and misrepresentations by the applicant shall be a deemed violation of this approval, and that the application relieves the Board of any responsibility, and that the applicant must publish notice.

Mr. Santapaola, answering Mr. Leckstein, says he understands each condition and is OK with each of them.

Mr. Leckstein again stresses to the Board members he is not telling them to approve this application; he merely did this resolution in case the Board does approve it and given the time of year.

Mr. Phelps says there is no one else in the audience with questions for this applicant.

Mrs. Friedman moves to grant approval for this application, seconded by Mr. Bucco.

Yes: Mr. Bucco, Mrs. Friedman, Mr. Phillips, Mr. Byock

No: Mr. Phelps

Abstain: None

Mr. Leckstein explains to the applicant since this was a 4 to 1 vote, the applicant needed five vote to be approved, so the application is denied. Mr. Santapaola asks if he can appeal that; Mr. Leckstein says at the next meeting we will have the resolution denying the application, and then he can appeal to the Superior Court.

Mr. Leckstein asks Mr. Phelps if the shed was also included in his denial. Mr. Phelps says it was not, just the playhouse. Mr. Leckstein tells Mr. Santapaola that the shed was already approved, but the playhouse will have to come down.

Mr. Santapaola asks if there is any reason Mr. Phelps denied it, is there anything he can change to make it work for Mr. Phelps, since it is a structure that he has invested a lot of money in. Mr. Phelps responds that in his opinion it is a bit much. It is overly big, humungus. He took a ride in the area, and there are no other playhouses. Mr. Santapaola says he realizes and knows that. He put a lot into it, he is going to take care of it to make sure with the arbor vitae there will be no obstructions, and it is going to look nice. There is just so much invested in it.

Mr. Leckstein tells Mr. Phelps the vote is in, but if he is inclined to change his mind, the application could be carried.

Mr. Phelps asks Mr. Lombardo what was his initial objection. Mr. Lombardo responds his initial objection was the size and the height over the top of the fence. If he couldn't see it, it wouldn't bother him. But as you can see from the pictures, the height is over the top of the fence.

Mr. Phelps, asking Mr. Santapaola if it is so high because of the door, the applicant replies that he had to order a special door 77-1/2 inches. The only thing really high is the peak, 45 inches, a steep peak so he doesn't have to worry about any snow.

Mr. Phelps asks why he didn't have it engineered. The applicant responds it is a playhouse. He has built sheds before. Mr. Phelps says the reason he says that is because he is an engineer, and if the applicant is worried about the pitch of the roof and his daughter is going to be in there, if anything happens to the roof he should have taken that into consideration, or like a shed already engineered and stamped. He asks if the applicant took that into consideration. Mr. Santapaola replies he is not an engineer but has a knowledge of building, it is well built, you can come look at it.

Mr. Leckstein says to Mr. Phelps the applicant would need a building permit for this playhouse.

Mr. Phelps asks Mr. Santapaola if he has any doubts that the building is not structurally sound. The applicant states he has no doubt that it is structurally sound. Mr. Leckstein says the building inspector will go in and if it is not built to code he will have to take it down.

Mr. Santapaola says even if there are specific issues, he will correct them. He doesn't think there is anything major.

Mr. Phelps says that he will change his vote to yes, which now approves the application.

Mr. Bucco moves to memorialize the resolution with all conditions and corrections, seconded by Mrs. Friedman.

Yes: Mr. Bucco, Mrs. Friedman, Mr. Phillips, Mr. Phelps, Mr. Byock

No: None

Abstain: None

Meeting adjourned.







