

MANALAPAN ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
Thursday, August 5, 2021
TOWNSHIP OF MANALAPAN
Manalapan, NJ 07726

PUBLIC MEETING~VIA HD OFFICE SUITES

Open Public Meetings Act: Stephen Leviton

Roll Call: Janice Moench

In attendance at the meeting: Larry Cooper, Robert Gregowicz, Mollie Kamen, Terry Rosenthal, David Schertz, Adam Weiss, Basil Mantagas, Stephen Leviton

Absent from the meeting: Rob DiTota, Joshua Shalika

Also present John Miller, Zoning Board Attorney
Nancy DeFalco, Zoning Officer
Janice Moench, Recording Secretary

MINUTES:

A Motion was made by Mr. Cooper, Seconded by Mr. Weiss to approve the Minutes of **July 1, 2021** as written.

Yes: Cooper, Gregowicz, Kamen, Rosenthal, Schertz, Leviton
No: None
Abstain: None
Absent: DiTota, Shalika, Weiss
Not Eligible: Mantagas

RESOLUTIONS:

A Motion was made by Mr. Schertz, Seconded by Mr. Rosenthal to approve the Resolution of memorialization for **Application ZBE2109~ Taylor Palmer, Jr.**

Yes: Gregowicz, Kamen, Rosenthal, Kamen, Schertz, Leviton
No: None
Abstain: None
Absent: Weiss, Shalika, DiTota
Not Eligible: Cooper

Mr. Weiss joined the meeting at 7:37pm.

PUBLIC HEARINGS:

Application No. ZBE2114 (carried from 7.1.21) zcco

Applicant: Edward & Sandra Farrell (Marc & Jessica Doronila)
Proposal: Legitimize pre-existing non-conforming improvements
Request: Bulk variances
Location: 8 Camelot Court
Block/Lot: 414/15
Zone: R20

Board Attorney John Miller, Esq. reminded the Applicant, Mr. Doronila that he was sworn in at the last meeting on July 1, 2021 and remains under oath.

Chair Leviton reminded the Applicant the Board had given him time from the previous meeting to review the property and advise how he wanted to proceed with regard to the remaining shed on the property.

Mr. Doronila advised he would be removing the “pool” shed and the moving the “tool” shed into conformance. The shed in the rear will be 10 feet from the rear property line and 15 feet from the side yard.

Mr. Cooper asked if there would be electric or plumbing in the tool shed. Mr. Doronila confirmed there would be no electric and no plumbing in the remaining shed.

Ms. DeFalco reviewed the variance relief as follows:

- Minimum street side setback for the pool patio is 10 feet, where a 6-foot setback exists.
- Minimum front yard setback for the pool patio is 10 feet, where a 14-foot setback exists.
- Minimum front yard setback for the existing deck is 75 feet, where a 65-foot setback exists.
- Minimum setback for fencing is 25 feet, with a 3 feet maximum fence height. The existing fencing is 6-foot high.

Chair Leviton opened the meeting to the public for questions or comments on this application. Seeing there were no comments, Chair Leviton closed the public portion.

A Motion of approval was by made by Mr. Cooper and Seconded by Ms. Kamen for application ZBE2114

YES:	Cooper, Gregowicz, Kamen, Rosenthal, Schertz, Leviton
NO:	None
ABSENT:	Weiss, DiTota, Shalika
ABSTAIN:	None
NOT ELIGIBLE:	Mantagas

Application No. ZBE2127

Applicant: Jason Polner
Proposal: Proposed addition in setback
Request: Bulk variance
Location: 3 Spruce Way
Block/Lot: 330/8
Zone: R20

Mr. Miller swore in the Applicant, Jason Polner. Mr. Polner explained he was before the Board seeking bulk variance relief for a proposed addition to his home. Mr. Polner explained his property is located on a corner lot with the home situated on a diagonal creating a hardship. The Applicant proposed a 16 foot by 16-foot addition off the existing kitchen and an 8-foot by 12-foot laundry/mudroom addition.

Chair Leviton opened the meeting up to hear questions and/or concerns from the Board members.

Ms. Kamen asked Ms. DeFalco if there were any neighboring concerns regarding the application.

Ms. Moench explained a neighbor who received the notice called the office for clarification on the proposed addition.

Mr. Mantagas asked for clarification on what rooms were being expanded in the addition. Mr. Polner explained he planned to expand the laundry room and eat-in-kitchen area along with the basement.

Mr. Cooper asked the Applicant if the rear yard was level and if there was a way to configure the addition to comply with the zoning regulations. Mr. Polner explained that would not be possible being the edge of his home is currently 27.5 feet to the rear property line.

Mr. Weiss asked for clarification on the basement. Mr. Polner explained he planned to open a 36-inch opening to gain access into the proposed basement addition. This addition would be in place of a crawl space that would have been necessary.

Mr. Miller asked Mr. Polner to provide testimony regarding the proposed patio. Mr. Polner explained when stepping out of the proposed addition, instead of stepping on grass he would like to construct a patio (on grade) in addition to the existing patio to "square-off" the area aesthetically. The proposed patio will not require variance relief because it is on grade.

Ms. DeFalco confirmed relief would not be required for the patio being it will be on grade.

Chair Leviton opened the meeting to the public for questions or comments on this application. Seeing there were no comments, Chair Leviton closed the public portion.

A Motion of approval was by made by Mr. Weiss and Seconded by Mr. Schertz for application ZBE2127

YES:	Cooper, Gregowicz, Kamen, Rosenthal, Schertz, Weiss, Leviton
NO:	None
ABSENT:	DiTota, Shalikar
ABSTAIN:	None
NOT ELIGIBLE:	Mantagas

Application No. ZBE2120 (ZCCO)

Applicant: Pachi Patel/Elberts
Proposal: Legitimize pre-existing non-conforming improvements
Request: Bulk variance
Location: 120 Pension Rd
Block/Lot: 1314/13.05
Zone: R20

Prior to start of the application Chair Leviton put on the record the Mr. Elbert and Mr. Leviton grew up in the same neighborhood and were friendly. Chair Leviton noted they have not seen each other in many years and have no financial dealings with one another. Chair Leviton explained he did not feel the need to recuse himself from the application however, he deferred to the Board Attorney for legal directions. Mr. Miller agreed with Chair Leviton there was no need for recusal. Mr. Miller explained it is common for Board members to know neighbors in town.

Mr. Miller swore in the Applicants, Ivy and Scott H. Elbert (Buyers) and Kumar Patel (seller)

Chair Leviton asked for clarification on the Certificates of Occupancy (“CCO”) issued. Specifically if a temporary, CCO was issued. Ms. DeFalco explained that the Building Department might have issued a CCO, however the Zoning CCO will be issued once the Board makes a decision. Chair Leviton confirmed the Elberts would be responsible to bring the property into conformance should the Board not act favorably on this Application. The Applicants closed on the home and the Elberts currently reside in the home.

Ms. DeFalco explained when the Applicant applied for the ZCCO application the Zoning Department was able to compare the current survey (which is the way the property exists today) to the permits we have on file. Zoning was able to see the patio was expanded and the gazebo was added.

Scott Elbert testified that he was proposing to legitimize the existing two-tiered patio and pergola on the property. The following bulk variance relief was required:

- Minimum rear yard setback for the existing patio is 50 ft, where a 1-ft setback exists.
- Minimum rear yard setback for the existing pergola is 10 ft where a 5 ft setback exists.

Mr. Patel, explained that the stone patio and pergola existed in the same location when he purchased the property in 2018. He stated that the prior owner of the home, Zack Malinowski, constructed the improvements.

Ms. DeFalco, Township Zoning Officer, testified that Zack and Renata Malinowski had obtained a zoning permit dated April 7, 2015 to construct a 40-foot by 20-foot flat stone patio and outdoor fire pit with a 2-foot high sitting wall. Ms. DeFalco stated that the Malinowski’s constructed the existing non-conforming two-tiered stone patio with a sitting wall.

Mr. Elbert then testified that the property is L-shaped and irregular in size. He stated that the existing stone patio was located one foot from the property line. Mr. Elbert explained that the owner of Lot 22.06 located behind the property constructed a semi-circular retaining wall which faces the stone patio on his property. There is an approximate 12-foot wide area existing between his stone patio and the neighbor’s retaining wall. Mr. Elbert does not own any portion of Lot 22.06. The Board advised Mr. Elbert that Lot 22.06 was not part of the application, and could not be used as evidence for its variance proofs.

Mr. Elbert and Mr. Patel then both testified that the two-tiered stone patio was aesthetically pleasing and therefore a benefit to the community.

Chair Leviton opened the meeting to the Board members for questions or comments on the Application.

Mr. Rosenthal confirmed with the applicants that the owners prior to the Patel’s expanded the patio with no approvals. Mr. Rosenthal further confirmed a very small portion of the patio was located zero feet from the rear setback.

Mr. Mantagas asked the applicants if the neighbors who built the retaining wall have access to the property behind it. Mr. Elbert explained they would most likely have to come around the block to the Elbert’s property to access that portion of the property.

Mr. Cooper asked for clarification on the permit for the expansion of the patio and if the electric was included on the permit. Ms. DeFalco explained if the Board should approve the application the Applicant would be responsible to obtain electrical permits through the construction department.

Mr. Weiss stated he had concerns on the portion of the patio located at a zero lot line. However the property owner located behind the property denied himself access with the wall/improvement he constructed. Mr. Weiss stated Mr. Patel and Mr. Elbert inherited the issue.

Chair Leviton explained he does not see the encroachment as zero because it is at a minimal point of the property due to the irregular shape of land. The Municipal Land Use Law could not anticipate a lot where the rear yard and the side yard are identical.

Mr. Miller and Ms. DeFalco together with Mr. Elbert clarified the encroachment to be one foot from the rear setback not zero.

Chair Leviton opened the meeting to the public for questions or comments on this Application. Seeing there were no comments, Chair Leviton closed the public portion.

A Motion of approval was by made by Mr. Weiss, and Seconded by Mr. Gregowicz, for application ZBE2120

YES:	Cooper, Gregowicz, Kamen, Rosenthal, Schertz, Weiss, Leviton
NO:	None
ABSENT:	DiTota, Shalika
ABSTAIN:	None
NOT ELIGIBLE:	Mantagas

Chair Leviton opened the meeting to the public for questions or comments. There was an inquiry regarding the Yum & Chill aka Taco Bell application. Ms. Moench clarified the Applicant would be noticing with a new date. Most likely, the August 19, 2021 meeting date. Being there were no further questions or comments from the public Chair Leviton closed the public portion.

ADJOURNMENT:

A Motion for adjournment was offered by Mr. Cooper to adjourn the meeting at 9:00 PM. All were in favor and none were opposed.

Respectfully Submitted,

Janice Moench
Recording Secretary

RECORDED COMPACT DISCS OF THE ZONING BOARD OF ADJUSTMENT ARE AVAILABLE FOR REVIEW, IN THE PLANNING/ZONING BOARD OFFICE BY APPOINTMENT.