

MANALAPAN ZONING BOARD OF ADJUSTMENT  
**MINUTES OF THE REGULAR MEETING**  
**Thursday, September 21, 2023**  
**TOWNSHIP OF MANALAPAN**  
**Manalapan, NJ 07726**  
**Public In-Person Meeting**

Chairman Leviton called the meeting to order with the reading of the Open Public Meetings Act at 7:30 p.m., followed by the salute to the flag.

Board Secretary, Janice Moench, took the roll call of the Board

In attendance at the meeting: Robert Gregowicz, Terry Rosenthal, David Schertz, Joshua Shalika, Adam Weiss, Basil Mantagas, Daniel Pochopin, Michael Wechsler, Stephen Leviton

Absent from the meeting: None

Also, present Albert Marmero, Zoning Board Attorney  
Nancy DeFalco, Zoning Officer  
Janice Moench, Recording Secretary

**MINUTES:**

A Motion was made by Mr. Weiss, Seconded by Mr. Rosenthal to approve the Minutes of September 21, 2023 as written.

Yes: Gregowicz, Rosenthal, Schertz, Shalika, Weiss, Mantagas, Leviton  
No: None  
Abstain: None  
Absent: None  
Not Eligible: Pochopin, Wechsler

**RESOLUTIONS:**

A Motion was made by Mr. Schertz, Seconded by Mr. Weiss, to approve the Resolution of memorialization for **Application ZBE2330, Janowski**.

Yes: Gregowicz, Rosenthal, Schertz, Shalika, Weiss, Mantagas, Leviton  
No: None  
Abstain: None  
Absent: None  
Not Eligible: Pochopin, Wechsler

A Motion was made by Mr. Shalika, Seconded by Mr. Mantagas, to approve the Resolution of memorialization for **Application ZBE2331, Guercio**.

Yes: Gregowicz, Rosenthal, Schertz, Shalika, Weiss, Mantagas, Leviton  
No: None  
Abstain: None  
Absent: None  
Not Eligible: Pochopin, Wechsler

A Motion was made by Mr. Weiss, Seconded by Mr. Shalika, to approve the Resolution of memorialization for **Application ZBE2332, Czyzak**

Yes: Gregowicz, Rosenthal, Schertz, Shalika, Weiss, Mantagas, Leviton  
No: None  
Abstain: None  
Absent: None  
Not Eligible: Pochopin, Wechsler

Mr. Marmero made an announcement for Application ZBE2315, Emma Cibelli. 12 Washingtons Advance. This Application was carried from the August 3, 2023 meeting to this meeting with no further notice to the public. The Applicant proposed an oversized garage and agreed to come back with a revised smaller proposal. The Applicant has since formally withdrawn the Application. The Applicant is no longer seeking approval for proposed garage.

**PUBLIC HEARINGS:**

**Applicant: Kevin Cavanaugh**

**Proposal: Legitimize existing fence in front (street-side) setback**

**Request: Bulk variance relief**

**Location: 2 Iroquois Dr. ~ B/L: 69/8.03**

**Zone: R20**

Board Attorney, Albert Marmero, Esq. swore in the Applicant, Kevin Cavanaugh. The Applicant explained to the Board that he currently has a six-foot fence on the property that sits 25 feet from the property line. The realtor advised being they had a corner property the fence would be permitted at 25 feet back however they would not be permitted to install a permanent structure there.

The Applicant further explained he has a property irregular in shape and a corner lot that presents some hardships. The Applicant advised the Board that he knew of a few neighboring towns that had 10 ft and 15 ft setbacks. Mr. Cavanaugh believed with the advice of the realtor and the setbacks of the neighboring towns, he would be within the guidelines to erect the fence 25 feet off the property line. Mr. Cavanaugh has a very large dog and this was one the main reasons for purchasing the property.

Chair Leviton asked for some clarification on the survey with regard to the date, fencing and revision. Mr. Cavanaugh explained when he purchased the property there was no fence. The previous owner had removed it. Ms. DeFalco explained and clarified the Chairman concerns.

Chair Leviton explained the Municipal Land Use Law ("The MLUL") governs the Board. The MLUL stipulates that the application must be considered as if the fence is not currently there.

Chair Leviton asked the Board members if they had any questions or comments of the Applicant. Mr. Wechsler confirmed with the Applicant that there was no fence when he purchased the home and no permit was obtained prior to erecting the fence. Mr. Cavanaugh said when he looked into the permit he was advised he would have to appear before a Board and it would be a few months before there would be availability on the agenda. The Applicant is partially handicapped and has 115-pound dog that needs a place to go. This was one of the main reasons for purchasing

the property. Mr. Cavanaugh explained that his dog was attacked on the property by another dog since he has purchased the home. The dog is gentle but still very strong. The dog can pull his wife to the ground and it is not so easy for his wife to handle while he is at work. The dog is part of the family. Mr. Cavanaugh further explained his intention is to install an in-ground pool and enjoy the property.

Mr. Pochopin explain he drove by the property and the rear of the fence looks compromised. His concern was if the dog would be able to get out of the fence. Mr. Cavanaugh explained there is a netted fence going across the rear. This was to make sure no deer or other animals gain access to the property. Mr. Pochopin asked the applicant if he would consider moving the fence.

Chair Leviton explained the rear of the fence is not before the Board. The fence along Mohawk lane requires setback relief. Chair Leviton reminded the Applicant, to keep his testimony to the hardship of the land.

Mr. Mantagas confirmed the hardship with Applicant. The lot is a corner lot and irregularly shaped. The Applicant would lose most of the yard by placing the fence in the conforming location.

Mr. Schertz asked when the Applicant erected the fence. The Applicant stated the fence was installed last summer and he moved in - in March.

Mr. Shalika asked if the Applicant checked with his neighbors prior to installing the fence. The Applicant confirmed he asked his neighbors and there were no issues. Additionally he completed all of the noticing required within a 200 ft radius. The previous owner did not take care of the property. The neighbors were pleased when Mr. Cavanaugh moved in and cleaned up the property. Mr. Shalika asked how far the fence was from the tree line. The trees are approximately 15 feet from the road and the fence is approximately 10 ft from the tree line.

Mr. Rosenthal asked the Applicant if he thought he was within the requirements when he installed the fence. The Applicant explained he thought 25 ft was a fair setback. He is originally from New York.

Mr. Gregowicz asked the Applicant what made him apply for the variance. Mr. Cavanaugh said he received a letter from the Zoning Department to address the issue.

Ms. DeFalco explained the fence came to the Townships attention via a complaint. Ms. DeFalco explained that as soon as Mr. Cavanaugh received violation letter he came to the office to remedy the situation and file for the variance relief.

Chair Leviton and Ms. DeFalco discussed that there are no sightline issues. Countless residents can see the fence; Chairman is sensitive to the fact that if the fence were to be conforming half the property would be lost.

Ms. DeFalco explained that for the first 25 ft the ordinance requires no fencing at all. At 25 ft, a 3 ft fence is permitted to the setback. Then at the said setback, a 6 ft fence is permitted. The Applicant's violation is the height. Fencing is permitted at the 25 ft; it is the height that is in violation.

Chair Leviton explained the ordinances exist to maintain the community feel and atmosphere. It is the Zoning Board's job to enforce the ordinance or grant the relief.

Chair Leviton opened the meeting to the public for questions or comments regarding this Application. Seeing there was none, Chair Leviton closed public.

Mr. Marmero agreed with Ms. DeFalco on the relief. The height is the issue where the fence requirement would be 3 ft in height where the Applicant has 6 ft. In addition, one area is 24 ft from the property line so additional relief would be required for that.

A Motion of approval was by made by Mr. Weiss, Seconded by Mr. Shalika for application ZBE2327.

Yes: Gregowicz, Rosenthal, Schertz, Shalika, Weiss, Mantagas,  
Pochopin, Leviton  
No: Wechsler  
Abstain: None  
Absent: None  
Not Eligible: None

Chair Leviton read the Executive Session Resolution. The Board returned to the open meeting at 8:28pm.

Chair Leviton opened the meeting to the public for questions or comments regarding any non-agenda items.

Being there were no other public items, Chair Leviton open and closed public.

**ADJOURNMENT:**

A Motion was offered by Mr. Wechsler to adjourn the meeting at 8:30 PM. All were in favor and none opposed.

Respectfully Submitted,

Janice Moench  
Recording Secretary

A RECORDING OF THE ZONING BOARD OF ADJUSTMENT IS AVAILABLE FOR REVIEW, IN THE PLANNING/ZONING BOARD OFFICE BY APPOINTMENT.