

Borough of Kinnelon

Board of Adjustment

June 13, 2017

The regular monthly meeting of the Kinnelon Board of Adjustment was called to order by Chairman John Carpenter at 8:00p.m., Tuesday, June 13, 2017 in the Municipal Building.

It was posted that adequate notice of this meeting had been given in accordance with the Sunshine Law by posting a notice on the municipal bulletin board, by publication of a legal notice in the Suburban Trends on January 2017 and by sending the meeting date to the Daily Record and Herald News on January 2017.

Present and answering roll call were Mr. Carpenter, Mrs. Minett, Mr. Ruocco, Mrs. Canale, Mr. Diani and Mrs. Maletsky. Mr. Ott was absent from this meeting.

Mr. Carpenter asked if everyone would please rise for the Pledge of Allegiance.

A motion to approve the May 2, 2017 minutes was offered by Mr. Ruocco, second by Mrs. Canale with the affirmative "yes" vote of all on roll call. Mrs. Maletsky abstained.

Application #1462 Lisa Locarno, 11 Decker Terr. The applicant is asking for a side yard variance for a 12X14 Shed. **Carried from the May 2, 2017 meeting.**

Mr. Locarno stated that they had reviewed all there options and have a long list of cost to move the shed and things that would have to be damaged. Mr. Locarno said that the shed cost isn't in our budget to move it.

Mr. Carpenter asked if they were sticking with the location it is at now and Mr. Locarno said yes.

Mr. Locarno stated that in order to move the shed the fence and shed would be damaged to fit through the gate and the cost of that would be \$300 to \$500. Mr. Locarno stated that the shed was pushed onto the site so it would have to be moved with a wench. There would be lawn damage, 5 trees removed, require a bucket loader and the cost would be around \$2,000. Mr. Locarno said the backyard is very moist and a large amount of fill would have to be brought in. The fence would have to be redone and reaproved. The total cost for the shed to be moved is around ten thousand dollars. Mr. Locarno also stated that the shed was reduced in size from the original structure.

Mr. Carpenter asked Mr. Boorady if he could elaborate on the technical comments 4 and 5.

Mr. Boorady stated in the letter dated February 28, 2017 regarding comment #4 that when the applicant is seeking after the fact approvals if the board votes yes the applicant still has to go to the building department to make sure that it was constructed to code. The zone permit is just to have on file, so they know a variance was granted.

Mr. Boorady stated that regarding comment #5 if a shed is less than 100 square feet no real foundation is required, 100-199 square feet 4 inch compact gravel is required and over 200 square feet a foundation is required. Mr. Hagberg would decide what is good enough.

Mrs. Canal asked where the applicant was planning on moving the shed to and Mrs. Locarno said the back corner on the right side and there was no room by the pool because of the equipment.

Mr. Diani asked if the two original item that were there put in legally. Mr. Locarno said that the gazebo was there when we moved in and the metal shed we put up.

Mr. Carpenter opened the meeting to the public and hearing no one opened it back up to the Board.

Mr. Ruocco made a motion to approve the shed subject to the technical comments from Mr. Booradys letter. There was no second so this motion fails.

Mrs. Canale made a motion to deny the application, second by Mr. Diani. Mrs. Maletsky (abstained), Mr. Ruocco (No), Mr. Diani (yes), Mrs. Canale (yes), Mrs. Minett (yes) and Mr. Carpenter (no). This application was denied.

Application #1463 Noreen Cuccinello, 15 Fiddlers Elbow. The applicant is asking for a side yard variance to install an A/C unit. **Carried from the May 2, 2017 meeting.**

A motion to deem this application complete was offered by Mr. Diani, second by Mrs. Canale with the affirmative "yes" vote of all on roll call.

Mr. Bacchetta swore in Mrs. Cuccinello.

Mr. Carpenter stated that we have received all your documents and it looks very complete.

In hearing no questions from the board, Mr. Carpenter opened the meeting to the public.

In hearing no one opened the meeting back to the board.

A motion to approve the application was offered by Mr. .Diani, second by Mrs. Maletsky with the affirmative "yes" vote of all on roll call.

Application #1402 Joseph Maturo, 7 Westcrest Trail. The Applicant is asking for after-the fact setback dimensions and lot coverage that exceeded the approvals by Resolution #1402, September 2014. **Carried from the May 2, 2017 meeting.**

A motion to deem the application complete was offered by Mrs. Maletsky, second by Mr. Ruocco with the affirmative "yes" vote of all on roll call.

Mr. Boorady read his Engineer report into the record dated June 14, 2016

Mr. Bacchetta swore in Mr. Joseph Maturo and Mr. Mark Palus the Engineer.

The Board recognized Mr. Palus as an expert in the field of engineering.

Mr. Palus stated that Mr. Maturo lives in Fayson Lakes in an older log cabin (back in 2008) for about 5-6 years. Mr. Maturo travels a lot for work and back in 2014 there was a water leak in the home while he was away on business. The board granted a variances back in 2014. Mr. Palus stated that there was an inspection done unfortunately the foundation also has to be replaced and this is how the setbacks changed. Mr. Palus stated that the house didn't get larger but was getting squared up.

Mr. Palus stated that the original foundation wasn't straight lines and in building the house the right way we have some deviations from the original location. Mr. Palus also stated that the driveway got larger.

Mr. Palus stated that the side walk was to originally come down into the garage and was changed to go to Westcrest trail. There is a utility pole in the corner and if it was dug up for the steps it would disturb the electric.

Mr. Diani stated that Westcrest isn't a dead end street there is a paper road that runs to Elm Trail and the name is different so the Fire Department doesn't get confused.

Mr. Palus stated that a foundation location survey was done that identified the setbacks.

Mr. Diani stated that there were no approvals to demolish the foundation.

Mr. Carpenter asked why the contractor would allow it knowing it wasn't meeting the approvals.

Mr. Diani asked why it wasn't brought back to the board when it was decided it had to be demolished.

Mrs. Canale stated that there was a change in the building request.

Mr. Palus stated that the foundation location survey was accepted and approved by the Kinnelon Construction Official. Mr. Palus stated that no one was trying to sneak anything passed anyone.

Mr. Carpenter asked who the contractor was for this job and Mr. Maturo stated himself and John Bradies.

Mr. Palus stated that the decision to put the retaining walls on the north side of the property around the utility pole by the municipality and the utility company which caused it to go on the right-of-way.

Mr. Carpenter asked who made the decision and Mr. Palus stated Kinnelon Construction.

Mr. Carpenter stated that if the decision was made by the construction department or the borough engineer I could swallow it but not by a contractor.

Mr. Diani asked if anyone has checked the height of the building and Mr. Palus stated that it is under the 35 foot height requirement.

Mr. Maturo said he gave the information about the site to Dan Hagberg and he said just have it drawn up and submitted, Mr. Hagberg signed off on it and we built it.

Mrs. Maletsky asked that even though you weren't within the setbacks.

Mr. Diani asked if Mr. Maturo had the Foundation drawing and approval from Dan and Mr. Maturo said not with me.

Mr. Bacchetta asked Mr. Maturo if he meant that anytime changes came up a conversation was had with Mr. Hagberg and he told you to have the architect redraw the foundation and Mr. Maturo said just the foundation location survey.

Mr. Carpenter said that we need that drawing because if the setbacks aren't on there then the pervious variances were still valid.

Mr. Palus stated that he thought maybe it was so minimal of a change Mr. Hagberg let him build it.

Mr. Carpenter opened the meeting to the Public.

Mr. and Mrs. Denny from 7 Partridge Trail came up.

Mr. Denny asked Mr. Maturo when he bought the house again and Mr. Maturo said in 2008. Mr. Maturo said that first Mr. luisi owned it then he bought it from him.

Mr. Denny asked how high the house was and Mr. Palus said 34.1 feet and Mr. Denny said it seems higher than that.

Mrs. Denny asked what the pipe was coming out of the house and Mr. Maturo said it from the boiler.

Mr. Palus stated that to help with the problem with the neighbor Mr. Maturo will put up a screening by the stone wall. Mr. Palus stated that they were done with their case.

Mr. Bacchetta swore in Mr. Steven and Mrs. Valerie Denny.

Mrs. Denny stated that when the original application came before the board they were never noticed and when we called the town they said there was nothing they could do about it now.

Mr. Carpenter asked if Mr. Maturo went to the Tax Assessor to get the list and Mr. Palus said yes and handed in all the requirements.

Mrs. Denny said that they want the AC unit moved and the pipe sounds like a jet.

Mr. Maturo said that's the boiler.

Mr. Diani said on the plans its shows three AC units and Mr. Palus stated that there is and will be only two. Mr. Diani stated that he will not approve an application that has encroached on the Borough's right-of-way.

Mr. Palus stated that the Mayor and Council would approve that, this board doesn't.

Mr. Brooday stated that could be a condition of approval that the wall would have to be removed and that would be the recommendation to the Mayor and Council or you can leave it up to the Mayor and Council under the Soil removal permit.

Mr. Diani asked if the walls were in the right-of-way in 2014 and Mr. Palus stated no they weren't.

Mrs. Maletsky said that's what we were trying to get at and we wouldn't approve that.

Mr. Palus stated that's what is on the plan is what's there now.

Mr. Denny stated that the house is very high and also very loud from the pipe and AC.

Mr. Carpenter asked what kind of heating was there and Mr. Maturo stated that it is a forced air boiler.

Mr. Palus stated that he would look into some sort of enclosure that wouldn't be a fire hazard.

Mr. Boorady stated that he has been seeing these on the newer homes.

Mr. Denny stated that he had nothing else to say.

Mr. Carpenter stated that he was uncomfortable not having the items Mr. Diani was talking about.

Mr. Diani stated that he was concerned that the neighbor is having these issues with the noise and would like the drawing changed to what reflects what's there and some kind of engineer review to see what can be done to litigate the noise.

Mr. Bacchetta stated that he doesn't think the board can ask for that and Mr. Diani stated that he is suggesting they take it into consideration.

Mr. Palus stated that they would look into it.

Mr. Diani stated that he can't make them do it but suggest that since you have a neighbor that is concerned you would take that into consideration.

Mr. Carpenter stated that he wants the true AC location, exact setbacks and the height checked.

Mr. Bacchetta stated that the board would also like what was submitted to Mr. Hagberg (new foundation location survey) with Mr. Hagberg approval and response.

Mr. Carpenter stated yes because then according to their testimony Mr. Hagberg gave them approval to violate the variance.

Mr. Bacchetta stated that Mr. Diani wants plans to show what's there now but the walls are in the right-of-way and Mr. Diani stated that he wants the walls removed.

Mr. Boorady said the applicant has rested in the testimony, the neighbor has made comments and the board is not going to make a favorable vote until some changes are made to accommodate the neighbor and the board. Mr. Boorady asked the applicant if they are willing to address them.

Mr. Palus stated that it makes sense, we have recently added the AC units to the plan, purposed planting near the property line and will do research to provide some kind of structure or enclosure around the heat pipe.

Mr. Boorady stated that he will meet with the engineer and the surveyor to go over the calculations of the building height so we have them before the next meeting. The Board also wanted the stone wall removed, the plans should show that.

Mrs. Canale asked if the AC units were part of the original application and variances, Mr. Carpenter stated that they were approved but they are not in the same location they are 2 feet off from the original approvals.

A motion made by Mrs. Maletsky to notify the Mayor and Council regarding concerns of the encroachments in the right-of-way and everything be removed, second by Mr. Ruocco with the affirmative "yes" vote of all on roll call.

Mr. Carpenter stated that this application will be carried to the August 1st meeting.

Application #1465 Daniel Perez, 6 Harrison Road. The applicant is asking for a front and rear yard variance to expand the second floor and construct a two-car-garage.

A motion to deem the application complete was made by Mr. Diani, second by Mrs. Maletsky with the affirmative "yes" vote of all on roll call.

Mr. Boorady read the engineers report into the record.

Mr. Bacchetta sworn in Mr. Daniel Perez and William Vonderhorst.

Mr. Vonderhorst stated that it's a split level house would like to raise the wall, raise the roof to get a bigger master bedroom and a master bathroom. There is a one car garage and would like to add a second garage flush with the existing garage. Mr. Vonderhorst stated that they would also like to enlarge the deck area.

Mr. Carpenter stated that you will be going off the same footprint just going up and asked if the foundation is ok and Mr. Vonderhorst stated yes.

Mrs. Minett are you purposing any other light besides the two shown.

Mr. Vonderhorst stated that there would be no lights invading others property.

Mr. Carpenter opened the meeting to the public and hearing no one opened it back up to the board.

A motion to approve the application subject to Mr. Booradys engineer report was made by Mrs. Maletsky, second by Mr. Diani with the affirmative "yes" vote of all on roll call.

A motion to approve the bills was offered by Mrs. Maletsky, second by Mr. Diani with the affirmative "yes" vote of all on roll call.

A motion to approve resolution #1460 Canning was offered by Mr. Diani, second by Mrs. Maletsky with the affirmative "yes" vote of all on roll call.

Mr. Bacchetta stated that he has received a summons and a complaint with the Pio Costa application and they are appealing the board's decision. Mr. Bacchetta stated that if the Board would like me to defend it there will need to be a motion.

A motion to have Mr. Bacchetta defend the board decision was offered by Mr. Diani , second by Mrs. Maletsky with the affirmative "yes" vote of all on roll call.

A motion to adjourn at 10:07 p.m. was offered by Mrs. Maletsky, second by Mr. Ruocco with the affirmative "yes" vote of all on roll call.

Submitted by:

Jennifer Highers
Board of Adjustment

Cc: All Board Members
Board Attorney