

VOORHEES TOWNSHIP ZONING BOARD OF ADJUSTMENT MINUTES JANUARY 24, 2013

The Chairman called the meeting to order and stated it was being held in compliance with the "Open Public Meetings Act" and has been duly noticed and published by law.

ROLL CALL:

PRESENT:Mr. Weil, Mr. Cohen, Mr. Daddario, Mr. Leoncio, Mr. Senges, Mr. Rohymeyer from CME, the board engineer, Mr. Joseph Marrazzo, board attorney and Valerie Marchitto, board secretary

ABSENT: Mr. Kerr, Mr. Cupersmith, Mr. Willard and Mrs. Kirshbaum

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Meeting started at 7:35pm

Mr. Daddario was sworn in for his Oath of Office by Mr. Marrazzo.

APPROVAL OF MINUTES:-Reorganization -January 10, 2013

Motion was made to approve the minutes by Mr. Weil; Seconded by Mr. Cohen; Abstention: Mr. Daddario, the remaining voice vote was in favor.

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APPROVAL OF RESOLUTIONS:

Zoning Board Solicitor -Stuart Platt

A motion was made by Mr. Weil; Seconded by Mr. Cohen; Abstention: Mr. Daddario. The remaining voice vote was in favor

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Conflict Engineer-ERI

Motion was made by Mr. Weil; Seconded by Mr. Cohen; Abstention: Mr. Daddario. The remaining voice vote was in favor.

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Board Secretary-Valerie Marchitto

Motion was made by Mr. Weil; Seconded by Mr. Cohen; Abstention: Mr. Daddario. The remaining voice vote was in favor.

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Development Review Committee

Motion was made by Mr. Weil; Seconded by Mr. Cohen; Abstention: Mr. Daddario. The remaining voice vote was in favor

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Board Engineer-CME

A motion was made by Mr. Weil; Seconded by Mr. Cohen; Abstention: Mr. Daddario. The remaining voice vote was in favor

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Completeness Review Committee

Motion was made by Mr. Weil; Seconded by Mr. Leoncio; Abstention: Mr. Daddario. The remaining voice vote was in favor

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CORRESPONDENCE:

The board secretary stated that Mrs. D’Elia sent a letter in and it was emailed to the board members to have her case continued and needed the next hearing date given to her this evening. She was present for any issues or questions, the board may have. The Chairman gave her the date of March 14<sup>th</sup>, 2013. She is able to make that meeting for her case. She was told that the board will have to check with the conflict attorney to make sure he can attend and if that date works, this will be the night she will be heard. She extended her action date until March 31, 2013. The Chairman asked for a motion for this continuance by Mr. Weil; Seconded by Mr. Cohen. The remaining voice vote was in favor.

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Malli/Patel

Block 180, Lot 7

1409 Chestnut Avenue

The application is continued from October 11, 2012 meetings; there are several bulk variances or (C ) variances at the requirements as outlined in 152.015 of the code with the township of Voorhees associated with the proposed residential dwelling are being requested for a rear yard setback, height variance, accessory structures in the front yard area and other variances or waivers deemed necessary and appropriate by the board.

The applicant was before the board this evening –Dr. Malli, along with his engineer, Bruce McKenna (Monarch Surveyors and Engineers) and his legal counsel, Jeffrey Baron, Esq.

Mr. Jeff Baron stated that he is representing Dr. Malli and his wife this evening. The proposal is a residential dwelling with some amenities that kicked off a waiver. He would like to put up standards with lights in the front yard, actual finished structures with the lights on them and also a fountain in the front yard. His setback is violated in the front (a little over 3 ft) and rear yard. In the rear, the building is conforming, the deck shortens the rear yard and the setback to 8 ft less than what is permitted by the ordinance. There is fencing in certain areas at 6 ft high, solid, decorative fence, solid. There is an issue about the density variance. Mr. Baron spoke with the zoning board solicitor, Stuart Platt about the density variance that was created by a subdivision. There is a resolution by the Planning Board that was granted for a subdivision –this was all part of one lot at one time. The front section is located in 01 zone; the rear section is in the MDR zone-which they are here for this evening. Because of the split zoning of the lot-there was a subdivision granted and the Planning Board knew that this lot would be definitely undersized, so from a density standpoint, the lot was created with the intension that a residence could go on the property; This all occurred in the year 2011. Mr. Platt stated that he was at the Planning Board meeting for this subdivision, it was with a clear understanding that the front would be used for residence in the 01 and the rear it would be residential as well. As one lot, you could build two residences-the actual lot line was adjusted and by adjusting this, one lot was bigger and one lot was smaller. Mr. Marrazzo, the board solicitor this evening stated that he did speak with Stuart Platt, Esq. his partner, and this is all true. The variances needed are a front yard setback variance, a rear yard variance, rear yard length variance and several waivers for the amenities and a height variance (permitted is 35 ft, they are asking 38 ft). The height variance is not a D variance, it is a bulk variance. Mr. Baron stated it is 4 variances and 3 waivers. Mr. Senges asked about what waivers are needed. Mr. Baron stated that the waivers are for the distances for the amenities. Mr. Senges stated that he considers it variances by how they review the applications. Mr. Baron stated that the waivers that he is following are from the board engineer’s review letter from CME. Mr. Rohmeyer, the zoning board engineer stated that the three waivers are for the fence and the landscaping; the setbacks for the amenities. Mr. Senges asked Mr. Rohmeyer why he felt the fence was a waiver. Mr. Rohmeyer stated it is for the fact that the fence location and where it is found in the ordinance book. Mr. Baron stated that the height is permissible in some locations-it is coming across on the side and it would look weird if

they reduced the height. They will do the evergreen plantings-it is on the front edge of the building. Mr. Marrazzo stated that it looks like the garage from the exhibit is forward of the building itself, it is also outside the building envelope-so it would need a variance. Mr. Baron stated that the house itself is conforming-but the garage is closer than 35 feet-so it is the garage that needs the variance, not the house itself-the renderings were submitted to the board. Mr. Senges asked how deep the garage is? Mr. Baron stated 24 ft (23'9") . Mr. Baron wanted his client to testify and how this all came about and what he was looking to do with building his home.

The applicant and professionals were sworn in for testimony by Mr. Marrazzo. Dr. Mali, and Bruce McKenna-from Monarch Engineering were sworn in and their credentials were accepted./

Mr. Baron asked Dr. Mali where he lived. He resides at 1416 Spruce Street and has lived there since 2003. He has been looking for a location to build a home for his family and this is the lot that he has selected. The home would be occupied by him, his wife, his mother and father and one child. The home is 2349 sf and the second story is slightly smaller than that; the home would justify the area needed for his family. The garage would be used for the parking of their vehicles. They now have two vehicles and then one would be at the landing in the front of the garage. They are not proposing the circular driveway to be used for parking, unless they had guests. Mr. Baron wanted him to explain why he needs the fence and why the 6 ft high. He would like a 6 ft high solid fence in the rear to reduce the noise level. In the future they are looking to put in a pool-so it would serve for privacy as well. They will have a circular driveway, which guest will park in the driveway if needed. There are no unusual rooms to the house, such as a billard room, gym, etc. They would like the fence on the side of the building. Dr. Mali stated that from where the basement comes out-the stairs comes out-where the building of the fence-there is a walk out basement-the steps will be protected for a safety point of view. Mr. Senges stated that this is the smallest that the house could be to protect and accommodate your family ? There are 5 people in their family; they need a 4 bedroom house, stated Dr. Mali and he felt that it was a reasonable size. Apparently it is not a reasonable size for this lot, stated Mr. Senges, since it barely fits. Mr. Baron stated that it meets the lot requirements-this part is legal; the second part is that you need a full sized bedroom and a full sized bedroom for your parents. There is a bedroom for their child; there is a spare bedroom for any guests. Mr. Baron stated that there is nothing unusual about this home, such as billiard's room or a gym; you don't have something out of keeping with a normal residential dwelling. Mr. Weil asked what the square footage of the home is going to be. The applicant answered 2349 on the first floor (footprint). Mr. Senges stated that the total square footage is over 4,000 sf (3960-Dr. Mali stated). This does not count the garage which is 710 square feet. Mr. Senges stated that it is actually a 4600 sf structure. Mr. Baron stated that it does make a difference that his parents are living with him as part of his family. The reason for the height variance is that the home as been made so small from the back, that the pitch of the house had to be increased; had it been bigger, the pitch would have been less; it sounds like a lot if you hear 4,000 sf . Mr. Baron asked Dr. Mali to explain why they are building the garage to the side of house, instead of even with the front of the house. If you pushed the garage back, you would have lost room in the house, or you would have had to make the garage smaller. Mr. Senges stated that these things are all nice, but you do not have the ideal lot for the ideal layout. Mr. Senges stated that it is not what you want, but what you can prove. He would like to not have to deviate from the plan.

Mr. Baron asked Dr. Mali to provide information why they want lighted piers. Dr. Mali stated that there are no street lights. It also delineates the driveway, so a person can know where to pull in and go out. Mr. Baron asked about the fountain out front as well. Dr. Mali stated that it is for aesthetics. Mr. Senges stated that the lighted piers would be for a safety reason, but they would like them to be 5 feet off the sidewalks -Mr. Baron stated that he has explained this to Dr. Mali and if this is a condition, he will agree and accept that condition. They would like the lighted piers out front, which would be 24x24 to depict their driveway in being able to pull in for safety reasons. Mr. Senges stated that they have had many piers before the board and their take is that it would be at least 5 feet off the sideway for the safety of the kids on bikes. The board stated that they like to be consistent. Mr. Senges stated that they have allowed these in the past with previous applications.

Mr. Marrazzo stated he wanted the applicant to be asked if the plantings were in agreement with him with the fence. The fence would be for consistency. The fence is also for the play area. Mr. Senges

stated that anything forward of the rear corner has to be less than 6 ft-they are applying for a variance throughout. The fence is 16 ft on one side and 20 over on the other, so it would probably be one on 10 foot on centers; they would get two on one side and one on the other as far as plantings. Mr. Rohmeyer stated that he requested that they resubmit a plan in what they are proposing, the species, and the size of the plantings. Mr. Baron stated that they did not want to use arborvitaes. The applicant agreed that they will resubmit the drawings to the board engineer.

Mr. McKenna gave his credentials to the board and they were accepted.

Mr. McKenna wanted to go over the engineered plan that was submitted to the board. He showed the board where the 6 ft located. The fence will be in the rear, along the side lines, back and they will tie back into the building-back near the garage—right where the steps go to the basement. Mr. Baron stated that all of this is conforming because it is beyond the rear corner of the house; but when you come to this corner forward and across—that is where it is non-conforming. Mr. McKenna stated that on the side of the house there is a service walk that goes to the rear of the house. Mr. Baron wanted to go over the variances that they are asking for and Mr. McKenna stated that they would go through the CME letter. There is a minimum front yard variance of 31.8 ft where 35 if required; as far as the garage - 31.8 to the front of the garage. This discrepancy is only 3.2 ft. Mr. Baron stated that interestedly, Mr. McKenna had done an aerial investigation of all the setback of all the structures along that street. Mr. Marrazzo marked that in as exhibit A-2. Mr. McKenna wanted to give the board a feel for what Chestnut Avenue looks like between 4<sup>th</sup> and 5<sup>th</sup> Avenue-this is the last track left on this block. Most of the houses are 20-30 feet off the right of way line. In 1999, it was his understanding that they updated the Master Plan as well as the Zoning Ordinance and they upped it from 30 ft to 35 ft; so all these existing houses—they conformed to the 30 ft at that time. It will be in character to what is out there now with the setbacks. Mr. Baron stated that they need to prove that the benefits outweigh the detriment-what they are offering to the board this evening, under the subsection F-it stated you should permit residential uses in appropriate locations to satisfy the needs of the citizens in New Jersey. Mr. McKenna-stated in his opinion from a planning standpoint-it all looks to be the same character in that area, even though the setback is now 35 ft. Mr. McKenna stated he does not feel that there is a detriment; he believed it was consistent with the feel of the neighborhood. The side of the deck is 20 ft out and 30 ft long-is it 12 ft from the house back and 30 ft wide. Mr. Baron stated that this is the only thing that is non-conformance. Mr. Baron asked Mr. McKenna if the small encroachment of the deck, if it is reasonable from a planning standpoint-he was in agreement; he felt there were no detriments that would accrue. Mr. Baron asked if the fence would minimize the impact of the deck-Mr. McKenna stated yes-it would definitely. There was no detriment of the size of the deck. Mr. McKenna stated that setback on the side yard for the front driveway along the westerly property line. They are proposing a sidewalk along the front of the property-there is already a curb out there-the sidewalk will be an extension from Fifth Avenue to Fourth. Mr. McKenna stated that the piers will be at least 5ft off sidewalk-there will be 4 ft grass area, 4 ft sidewalk. Mr. Marrazzo stated that the variance you are asking for regarding the pier—only handles the westerly side yard. Mr. McKenna agreed to what Mr. Marrazzo stated. Mr. Rohmeyer stated that the 14.5 dimension is to the driveway-that is correct; not the column. Mr. Baron stated that he did not measure the outside of the pier-he measured the inside of the pier. Mr. Baron stated that he wanted to use 10 ft from the side property line. Mr. Senges asked how wide the piers would be on the property. Mr. McKenna stated he felt the dimensions would be 24x24. Mr. Senges stated that if you were 12 ft for the distance it would work out to be okay. Mr. Baron did not want to spend any time on the fountain. Mr. Baron stated that the piers would be 12 ft on one side from the side yard setback and 14 ft on the other side; so they need a variance.

Mr. McKenna stated that the zoning height required for the home would be 35ft, the applicant is asking for 38 ft. The architect, he believed needed the height to allow for the pitch of the roof to allow to act for storage. Mr. Baron stated that if the roof could be lower, the proportion of the roof to the structure it would look a little out of place; it would be a low roof. Mr. Senges asked what the height of the first floor ceiling? It is 10 ft first floor ceiling, 9 foot 2<sup>nd</sup> floor ceiling. Mr. Senges stated that you could reduce the height to be 9 ft on the first floor and 8 ft on the second floor-that could reduce it by 2 ft. Mr. Senges stated that you could reduce it a little. Mr. Baron stated that he does not have his architect here this evening-if you read the architectural plans; it reads 8 ft on the first floor-Mr. Senges stated that it did not make sense. Mr. Rohmeyer stated that the attic is about 17 ft to the peak-there is always a

concern with a significant volume of space in an attic that it can be converted to habitable space-in the future(9 on 12). A typical architectural standard for a roof –you could bring it down to 12 on 4. Mr. Baron stated that he did speak with the dr of this concern-there is no intention at the present time to finish. Mr. Baron stated that he knew if the house was ever sold-another owner might want to finish this. Mr. Baron asked if the board wanted more testimony on the fence; he stated that is a cut sheet on the bottom showing that it is vinyl, earth color –neutral. Mr. Baron stated that if you look at the architectural rendering –A-301-the fascade on the building is a stone veneer up to the roof line, the roof shingles and then the rest of the structure on the side and the rear for the most part vinyl siding. Mr. Senges asked about the character of the neighborhood-as far as the height. Mr. Senges stated no, that it is higher and it will stick out. Mr. Marrazzo asked if there were any gates on the pillars? Mr. Baron stated no, there are no gates-it is open. Mr. McKenna indicated all the trees and they will agree to the compensatory tree ordinance-Mr. Baron stated that as long as it is reasonable. Mr. Baron stated that they will comply with the 70% clearing max. clearing limit. Mr. Rohmeyer stated that there is a wire fence down the side lot line-Mr. McKenna stated that it has been there for ages, they will remove it –it is on their property, but it is somebody else’s fence and it has always been there-Mr. McKenna stated that he knows about it. Mr. Rohmeyer stated that the lights will not be over the property line-Mr. McKenna agreed to have a resubmission of a revised plan and a report will be sent back to the zoning board by Mr. Rohmeyer. Mr. Senges asked the board if they had any questions. Mr. Cohen wanted to know about the property to the right. Mr. Cohen asked if there were trailers on the left side. They were looking at an aerial and it seemed to look like pods on the property. Mr. McKenna stated that they have removable storage equipment. Mr. Senges asked if the Zoning Department could look into this property. If there is a concern to the township, someone from the zoning office will check out. Mr. Rohmeyer stated that by looking at the site plan they were defined as car ports on the property.

OPENED TO THE PUBLIC ; SEEING NO ONE TO SPEAK, THE PUBLIC PORTION WAS CLOSED.

Mr. Baron stated that they withdrew their variance for the fountain-it will go nicely on the inside of the home, instead of outside. The piers will be on the inside edge of the sidewalk. Mr. Senges asked Mr. Marrazzo to give the board a recount of the application this evening:

There are agreements that have been put on record, one of which the applicant agrees that the pillars not located less than 5 ft from the sidewalk. Mr. Rohmeyer interrupted-by looking at the plan –if you place a scale on the plan –is at least 6 or 7 ft. Mr. Rohmeyer felt that it should be setbacks off the property line-not the sidewalk. Mr. Rohmeyer stated that it exceeds 3 ft-he stated the way it is depicted-it is 6-7 ft-inside the property line. It should be 7 ft from the property line. Mr. Senges stated that it is always from the sidewalk-if it was 3-5 ft from the inside of the sidewalk –you would approve it to be in the right of way. Mr. Senges stated that you cannot do that; it has to be in the property line. Mr. Baron stated that they are pouring the sidewalk, so it will have to be done very careful; it will also be in the resolution per Mr. Marrazzo that it will not be less than 5 ft of the sidewalk. Mr. Rohmeyer stated that the solicitor stated it very well, that it has to be on private property-minimum of 5 ft off the edge of the sidewalk-it will leave it exactly where it is-at least 5ft. The applicant was in agreement. Mr. Marrazzo stated that they are withdrawing their variance for the fountain; he will provide a lighting footprint and submit the same to the board engineer for review and approval. The existing wire fence will be removed and that the applicant will comply with the maximum of 70% clearing requirement of the ordinance and will also comply with the compensatory tree ordinance as well. Mr. Senges asked if Mr. Baron wanted the vote on the variances separately and individually. The variance requested is 31.8 ft front yard setback for the garage, a rear yard setback of 27 ft where 35 is required, that dimension would go from the edge of the proposed deck to the to the rear property line-the back yard depth of 27 ft where 35 ft is required-for the deck because it conforms everywhere else. There is a request of building height 38 ft, the applicant has asked that the board address that separately from the others. A variance to permit a 6 ft high solid fence within the side yard of the property. The request for the stone piers and the driveway lights has been discussed and they agreed to the dimensions that were discussed by the engineer. The applicant agrees to the planting in front of the fence-the driveway was not necessary-it was 14 ft on one side and 12 ft on the other.

Mr. Weil asked about the height-Mr. Baron stated that if the board does not grant the variance – they will have to build the house 35 ft or come back and ask for more. Mr. Weil stated that they are

talking about conformity-how far out are they with conformity? Mr. Senges stated that they are 3 ft out of the township. Mr. Baron stated that if you lower the height of the ceilings-it takes off the slope-than they could be at 36, if the board would consider. Mr. Marrazzo stated to Mr. Baron tell the board what you want, what is the application for? Mr. Baron stated that they could amend to 36. Mr. Baron stated that the likelihood would be 35. 4, 35. 7-trying to build in a little wiggle room. Mr. Baron stated that they will amend their application to 36 ft, instead of 38 ft in height.

Mr. Senges asked Mr. Rohymeyer if there was anything he wanted the applicant to address. He stated that he would like revised plans sent back in for his review and approval. He would like a lighting detail on the piers as well.

The home will have a clearing limit of 70%; they are going to try to leave the mature trees and have agreed to the tree compensation in the CME review letter.

There is a wire fence that goes down the side yard that is in terrible conditions, it belongs to the neighbor, but they are taking down and the neighbor is in agreement.

OPENED TO THE PUBLIC; SEEING NONE, THE PUBLIC PORTION WAS CLOSED.

There was a mention of Lot 2, which is next to this lot. There seemed to be a storage pod or carport, which seemed to be not in compliance. The Chairman wanted the Zoning Department to look into that issue. The Zoning Board Secretary did mention that she thought this lot went to the Zoning Board for some kind of approval, but would have the office check out tomorrow.

Mr. Baron stated that his client has withdrawn the fountain on the property and if there will be any fountains it will be on the inside of the home.

The client amended the application for the height of the home to be 36 ft. If there is a change in any way because it does not work in building the home, then they will return to the Zoning Board.

The motion was split off into two motions, one would be the the height of the house and the other motion would be the request for the house with the remaining variances and waivers.

A motion was made by Mr. Weil to approve the height of the home to be a max of 36 ft in height, instead of the initial submission of 38 ft; Seconded by Mr. Weil

ROLL CALL VOTE:

AYES: Mr. Weil, Mr. Cohen, Mr. Daddario, Mr. Leoncio

Nays: Mr. Senges

The motion passed 4-1 for the height of the house.

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A motion was made by Mr. Weil to approve the home with the variances and waivers; Seconded by Mr. Daddario with the following conditions:

They agree the pillars will not be less than 5 ft (inside edge) of the edge of the sidewalk-the inside edge of the concrete on private property, not the right of way

They are withdrawing their variance for the fountain

They will resubmit drawings to CME and also provide them with the lighting footprint

They existing wire fence that is in disrepair will be taken down

They will adhere to 70% clearing; they will comply with the compensatory plantings

Roll Call:

AYES:Mr. Weil, Mr. Cohen, Mr. Daddario, Mr. Leoncio and Mr. Senges

NAYS : None

The application passed 5-0. Mr. Marrazzo asked Mr. Baron to explain to his client the 45 day appeal period and the rules on the resolution being memorialized-he agreed.

The meeting was adjourned.

Respectfully submitted,

Valerie S. Marchitto, Board Secretary