

## VOORHEES TOWNSHIP ZONING BOARD OF ADJUSTMENT MINUTES –JANUARY 22, 2015

The meeting was called to order and it was stated that it is an Open Public Meetings Act" and has been duly noticed and published by law.

### ROLL CALL

PRESENT:Mr. Weil, Mr. Willard, Mr. Leoncio, Mr. Daddario, Mr. Kerr, Mr. Cupersmith, Mr. Senges, Mr. Stuart Platt, the board attorney, Mr. Doug Rohymeyer, the board engineer (CME), John Palm, the conflict attorney for case Ferro

ABSENT: Mr. Quaraishi(was present, left feeling sick), Mr. Cohen

### APPROVAL OF MINUTES:

October 23, 2014

Motion was made by Mr. Weil; Seconded by Mr. Willard. Abstain: Mr. Senges. The remaining voice vote was in favor

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November 13, 2014

Motion was made by Mr. Weil; Seconded by Mr. Willard, Abstain: Mr. Senges and Mr. Cupersmith. The remaining voice vote was in favor

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December 11, 2014

Motion was made by Mr. Weil; Seconded by Mr. Willard, Abstain: Mr. Senges and Mr. Leoncio. The remaining voice vote was in favor

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January 14, 2015

Motion was made by Mr. Weil; Seconded by Mr. Willard; Abstain: Mr. Senges and Mr. Kerr. The remaining voice vote was in favor

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### APPROVAL OF RESOLUTIONS:

A group of resolutions(Appointment of the Secretary, Engineer, Solicitor, The development review committee, Completeness Committee) from reorganization were voted on by Mr. Willard with the motion; Seconded by Mr. Cupersmith; Abstention: Mr. Kerr. The remaining voice vote was in favor.

N.H. NITTAL (Compound Pharmacy)

A motion was made by Mr. Willard; Seconded by Mr. Weil; the remaining voice vote was in favor

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A motion was made to appoint a conflict attorney -2015 .Mr. Palm by Mr. Cupersmith; Seconded by Mr. Weil; The remaining voice vote was in favor.

CORRESPONDENCE: A letter was submitted to the office from the Johnson's asking to excuse them from not being able to come to the meeting this evening; they did not do notice. Mr. Johnson has been ill and they asked for an extension for 60 days (March 23, 2015). Stuart Platt, the board solicitor stated to make sure the application is scheduled prior to that date and if still an issue, they should give another note extending their time.

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### BUSINESS:

APURV VAJIFDAR

14 Dorset Drive, Block 199.08, Lot 14

Seeking a variance or relief from Section 154.015 (c) of the Unified Land Development Ordinance for the minimum front yard setback which is 35 feet where the proposed setback of 17 feet from the property line along Radcliffe Drive.

Mr. Vajifdar was sworn in for testimony. He stated that he lives on a corner lot. He has small children, a child 2 and a child 4 years old. He is looking out for the safety of his children. He stated that he has a 10 ft deep pool and has a fence but is looking to have another safety mechanism. This would be the security and safety of his family. He has two front yards and due to the topography and shape of his lot he felt it was critical. The height of the fence would be 6 ft tall and he submitted a white vinyl fence that they would prefer. The photographs he had showed similar situation of other properties, but the Chairman stated it is on a case by case basis.

OPENED TO THE PUBLIC:

SEEING NONE, THE PUBLIC PORTION WAS CLOSED.

Mr. Platt marked in the exhibits as A-1 the digital imaging of a close up

Exhibit A-2 was a similar picture of the fence.

Mr. Weil made a motion to approve what the applicant submitted to the board ; seconded by Mr. Willard.

Roll call

Ayes:Mr. Weil, Mr. Willard, Mr. Daddario, Mr. Kerr, Mr. Leoncio, Mr. Cupersmith and Mr. Senges

Nays:None

The conditions would be that they would have to comply with the fence regulations and permits with construction and zoning, as well as the landscaping requirements that are for the fence for the corner lot. The applicant understood the instructions given to them. The board attorney also explained the resolution and the 45 day appeal process.

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GERARD FERRO

6 Alton Avenue

Block 205, Lot 1.01

Mr. Platt and Mr. Senges recused themselves. Mr. Palm, the conflict attorney came up to handle this case and Mr. Cupersmith, the Vice Chair was sitting in for the Chairman for this case. The applicant is seeking a variance or relief for a fountain in the front yard area with a less than 50' for the front yard setback; for a driveway extension with a side yard setback of 1' where 5' is required and for exceeding maximum impervious coverage of 25% (Actual is 47.5%).

Mr. Willard wanted to put on record that he resides in that development, he is not within the 200 ft list and does not know Mr. Ferro on a personal level, but wanted the board and public to know this information since it is the same development.

Damien Delducca, Esq. was before the board as legal counsel for the applicant along with Mr. Ferro, the owner and Mr. Bryan Hill –engineer from the Petite Group.

The property is north of Haddonfield Berlin Road and near the border of Gibbsboro. This property fronts on Alton Avenue and backs up to Old Egg Harbor Road, which is a paper street, which is part of Gibbsboro. Mr. Ferro has lived in this home for many years now. The primary variance is for impervious coverage. The property is a single family home, Mr. Ferro lives there. The ordinance permits 25% impervious coverage. The existing condition was 40% to 43.1 %. Mr. Ferro constructed 3 things and we are here for those tonight-which is on Mr. Hall's plan which was submitted as exhibit A1.(dated 1/22/14- last revised 12/14/14) Mr. Delducca stated that the items that are in question are cross hatched-the first area is a fountain. Mr. Delducca submitted photo's to the board that were submitted as exhibits and Mr. Palm marked them in 5-photographs A2. He was not sure if the photos were submitted but he was submitting it to Mr. Palm. There is a small apron extension along the road, which are pavers along the street. The third change is a driveway extension; there is a driveway there that goes straight back, he added concrete-that was added because he has a RV and the intention was to park it as far off the street

as possible to get out the way, out of the view from the neighbors. The property is very wooded. The driveway setback is 5 feet for the extension –it is about 1 ft from the side property line-it was called for a variance , it was called that the side yard setback from the property line 30 ft . However, Mr. Palm mentioned 5 feet . The ordinance required 30 ft for a principal structure (house) ; this is a driveway. Mr. Delducca did not see anything in the ordinance-the first time he heard that was today. The front yard setback to the front yard accessory of the right of way. The engineer's review letter-50 ft –the existing condition is 4 .4 ft –the right of way is across the front yard-it is not the same as the curb line. The physical cart way of Alton Avenue starts at the curb line –that is 14 ft from the front wall-that surrounds fountain. He did not believe he needs a variance for that; he believes the 50 ft is the setback for the principal structure. The fountain he thought was a landscaping issue not an accessory structure; the definition in the ordinance he felt was broad. Mr. Weil asked if we had height definition. The ordinance talks about the accessory uses and buildings. Mr. Cupersmith asked how high the fountain is 12 ½ ft from the bottom to the top. Mr. Ferro thought that the fountain was an aestic pleasing feature added to his home. He has lived there a very long time and the fountain was given to him as a gift from his mother. He has a very significant water underground storm recharge system so that there is no impact to the neighbors.

Mr. Rohymeyer stated that the applicant is 9,000 over the max of allowable impervious coverage.

Mr. Delducca stated that there are two final zoning conformances that were signed off in the file-which was marked in as exhibit A-3 from the zoning office signed off by Mr. Murray, who is the zoning officer. Mr. Delducca stated that he was not representing Mr. Ferro back then, but would think if the office had an issue with impervious coverage they would make a notation or let the homeowner know about those issues. He stated that he had a pool house signed off in March 2012 by Mr. Murray. The tunnel received final conformance as well on March 15, 2012. Mr. Delducca would of thought that the property would have been flagged. Mr. Cupersmith wanted to know when the engineer got involved in the picture of this project. Mr. Ferro stated that he thought the fountain was a landscaping installment and started this in 2013 and the job stopped. Mr. Ferro stated that he has the house up for sale and is looking to not have to handle anything else, other than finishing this up. He would like to go to Florida. He cares for his 93 year old mother 7 days a week and the fountain she got for him from an Italian mason –it was a fountain that you assemble-he did not feel he needed an architect or engineer until he received notice from the zoning department. Mr. Ferro stated that this project cost him \$ 150, 000.00. The board had concerns with the depth of the water and the safety of a child getting involved. Mr. Ferro stated that it is 12-14" water (inside the pond itself). The fountain is a functioning fountain with a recirculation pond; it is made out of marble. The planter is 24 inch it is a multi-tier. The fountain does have spillway that goes into a dry bed-it is a dry recirculating pump-it has the equivalent of the old milk crates-so shallow depth of 2 inch. It looks like a paver wall. So the record is clear Mr. Palm wanted to know –is there intent to make this a functioning fountain-it is functioning in the front, it is not functioning in the actual fountain itself. The front is a recirculation pond –it is about 8 gallons of water that it continues to recirculate on one pond. The fountain itself has one pump inside that continues to circulate in a normal fountain –that is not holding water yet(it has not been completed yet-the seams need to be grouted and palmer needs to be installed inside in order for it to retain water). 12-14 inches of water-it will retain. Mr. Cupersmith wanted to know what material the fountain is made out of-Mr. Ferro stated marble. There are no sharp edges. Mr. Rohymeyer wanted the fountain explained so everyone understands. It is a 24 inch deep pit-has 18 inches milk crate material to stop spillway, there is rock on top of that so impossible to get into the water, it just recirculates. Doug asked if you are in the street you will see a waterfall-it is 6 ft wide and you walked over to it and tried to get into it-it is just rock, the water disappears. It is 4.4 off the property line(the main wall is 14 ft from the curb and 4.4 ft from the property line which is the right of way line that runs through the front yard); Mr. Rohymeyer asked how you power this –electric run to it-Mr. Ferro stated there is not but will be electric if he gets approved tonight. No electric in the ground. There is low voltage for the UV lights –no high power. The planter is the second water feature-this is 2 ft off the right of way. Mr. Delducca stated that if you look at the 4<sup>th</sup> picture (A2) –it is a terraced look of the front wall and the main wall is 4 .4 ft off the line; what they show as a plantar is 2 ft off the line-so if you count that-they would need relief for that dimension-if required. Mr. Palm stated that the smaller wall in the front of fountain in that picture-lower, shorter, more narrower wall –is 12 ft off the curb. Doug stated that pool barrier requirements may not apply-because of the water depth-what is stopping any child from walking off the street-14 inches can . The engineer stated that they would have to walk up the driveway-and access it from the front. There is no direct access to the fountain area. Mr. Delducca stated that a child will get into things if they want to ; if that is the case then anything 14inches will have a regulation to enclose it. There is not-that does not

mean that a child cannot get into mischief or unsafe situation. Doug asked if there is room to bring the columns into legal conforming location? Mr. Ferro stated that the pillars were installed when the house was built-he had nothing to do with it; most of the street has the same problem. Most of the street has lanterns has the same location as his home; Doug stated that 5 ft off the front, 5 ft off the side if you were to install the pillars. Doug asked about he driveway extension-he noticed where the RV would be parked –new AC units- Mr. Delducca asked Mr. Ferro to mark with an x where the new HVAC units are located. Doug noticed new PVC conduits-they ran dry PVC pipe up-some point he was going to ask for approval of a shed in that location; when all these items came up he put that idea on hold. It is just dry pipe. Mr. Ferro stated that he is done with construction; he is looking to move out the area.

Mr. Cupersmith stated that he hasn't really seen the need for this fountain-he felt it was a detriment; rather than a positive. He won't say that it is a need-there is no public purpose-Mr. Delducca stated. Mr. Delducca stated that in the land use development that creating a desirable visual environment in purpose of zoning; this significantly outweighs the detriment that goes with it. It makes for a nicer development. He felt that the setback may not meet in the front the 50 ft setback but if that is the case then the board will have a lot of mailboxes and a lot of little other structures that are violating your ordinance. In this case the fountain really sits 10 ft off the curb. It is 12-14 ft from the street. Mr. Willard asked Mr. Ferro would you agree not to fill the walls at any point-Mr. Ferro stated yes; Mr. Willard spoke of safety. This can be a condition of approval. Mr. Rohymeyer asked how does the fountain actually work with the lowest tier? Mr. Ferro stated that the lower tier is independent; it is planter, designed for small plants with a small trickle of water over the top-it is a planter box with a recirculating pump. The lowest tier is 2 inches deep. Mr. Rohymeyer wanted to know if you could separate the two pumps-for safety of the boards concerns. Mr. Ferro stated that he can gate the driveway; he stated it is an adult neighborhood for the most part. He is not opposed to putting a gate to the entrance. Mr. Palm asked their legal council that he knows Mr. Ferro wants to sell this property soon-how would they attach the conditions to the land as opposed to his client. Mr. Delducca stated that they could record a deed re

Mr. Weil spoke about the columns (lamp posts) at the top of the driveway. It is in the right of way-the change of ownership is all in place from 1995. Mr. Delducca stated that they are not asking for you to approve these because they are already existing and the township signed off on this item before Mr. Ferro bought this home; happened when the house was built and it was shown on the sale to Mr. Ferro. The right of way may have changed; Mr. Delducca does not know what happened. Mr. Delducca-stated that those were not recently added. The three things that were added in 2013-the township came and advised Mr. Ferro that he needed to make an application and come before the board for those three areas. These posts have been there 15 years plus, even before Mr. Ferro bought this property. The previous items put in on this property indicates to Mr. Delducca that there was prior approval or some circumstance that did not require an approval. MR. Rohymeyer stated that there was a change of ownership in 1995. There was notes with the change of ownership that the pillars were noted on that change of ownership. Mr. Delducca stated that he did not have anything for 1995. MR. Cupersmith asked Doug the size of the lot, which is 50,000 sq ft-the impervious coverage allowed 25% to be impervious which works out to 12,500 sf allowable; 43% of the lot area which the applicant seeking (which is 9,000 sf over the max allowable impervious) It looks to be in the right of way. The board stated that columns are using set back in at least 5 feet –he stated that the columns were there when he purchased the home years ago.

OPENED TO THE PUBLIC:

MANUEL BARODY

11 ALTON AVENUE

He stated that he loved the fountain.

THE OPEN PUBLIC PORTION WAS CLOSED

The Vice Chairman brought the application back to the board for a motion.

The motion was split off for the three items

Fountain: Motion was made by Mr. Weil; Seconded by Mr. Kerr with the condition that there is some sort of mesh covering within that lower tier in the fountain to prevent anyone from falling in; point of sale disclosure(the existence of the variance and the conditions that would be disclosed); Mr. Weil asked if there was a time line-its an existing condition and Mr. Delducca stated that they will have to put

the mesh in once they put water in the fountain; no questions and if not, its an enforcement issue that will happen. Mr. Palm stated that there is a 45 days for it to be effected and appeal time. It will be 60 days after the appeal time (roughly about June 1, 2015).

ROLL CALL:

AYES: Mr. Weil, Mr. Daddario, Mr. Kerr, Mr. Willard, Mr. Leoncio

NAYS: Mr. Cupersmith(he did not see the need; the deteriments did not outweigh)

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Driveway (setback of 1 ft where 5 ft is required)

Motion was made by Mr. Weil; Seconded by Mr. Willard

ROLL CALL VOTE:

AYES:Mr. Weil, Mr. Daddario, Mr. Kerr, Mr. Willard, Mr. Leoncio and Mr. Cupersmith

NAYS:None

Impervious Coverage (43.1%)

Motion was made by Mr. Weil; Seconded by Mr. Weil

ROLL CALL:

AYES: Mr. Weil, Mr. Daddario, Mr. Kerr, Mr. Willard, Mr. Leoncio

NAYS:None

Abstention: Mr. Cupersmith

The meeting was adjourned.

Respectfully submitted:

Valerie S. Marchitto