The Chairman called the meeting to order and stated it was being held in compliance with the “Open Public Meeting Act” and had been duly noticed and published as required by law.

ROLL CALL

Present: Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Daddario, Mr. Leoncio, Mr. Senges.

Absent: Mr. Cupersmith, Mr. Pannu.

Also, present: Chris Norman, Board Solicitor, Jim Winckowski, CME, Stella Sytnik, Zoning Board Secretary, Corrine Tarcelli.

**MINUTES FOR APPROVAL**

Mr. Weil motioned to approve the Minutes from the January 9th Zoning Board Reorganization hearing; seconded by Mr. Cohen; none (0) against.

**RESOLUTIONS FOR APPROVAL**

Mr. Cohen motioned to approve the following seven (7) RESOLUTIONS; seconded by Mr. Willard; none (0) against:

**RESOLUTON NO. 20-01** appointing Zoning Board Solicitor

**RESOLUTON NO. 20-02** appointing Zoning Board Engineer

**RESOLUTON NO. 20-03** appointing Zoning Board Secretary

**RESOLUTON NO. 20-04** appointing Zoning Board Chairman

**RESOLUTON NO. 20-05** appointing Zoning Board Vice-Chairman

**RESOLUTON NO. 20-06** appointing Zoning Board Development Review Committee

**RESOLUTON NO. 20-07** appointing Zoning Board Completeness Review Committee

Ayes: Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Daddario, Mr. Leoncio, Mr. Senges.

Nays: None

**NEW BUSINESS**

**Donovan and Candise Miles**

2 Prospect Avenue

Block 18, Lot 1.01

Mr. Norman summarized the application stating that the Applicant is seeking Bulk Variance relief from Section 150.14(B)(1)(b), where fences not exceeding 6’ in height may only be installed in rear yards of interior lots or side yards of corner lots and from Section 150.14(B)(2)(a), where no fence shall be erected, altered or reconstructed forward of any building(s) in the front yard or within the required front yard setback applicable to such property, and the proposed 6’ high fencing would be installed in a secondary front yard at a 0’ setback from the Alpha Avenue right-of-way where a setback of 39.52’ is required; and all other variances, waivers and/or other relief as may be deemed necessary by the Board and/or its professionals.

Mr. and Mrs. Miles were sworn in to testify. Mr. Senges requested the Applicant summarizes their request. He further stated when requesting a variance, it is important to establish the need for the variance. He also mentioned that during the caucus discussion, Board discovered an additional zoning ordinance portion the Applicant will need a relief from, namely that two (2) fences can never back up to one another. Therefore, the Applicant will either have to tie into their neighbor’s fence or obtain an additional variance as required by the ordinance for a five (5) ft. setback.

The Applicant testified he needed a fence because of the constant foot traffic on his property from the nearby train station. The couple has an 8-year old son who needs space to run around; and a dog currently tied up for safety reasons. For those two reasons the Applicant feels he needs the variance.

Mr. Senges confirmed the property is in fact a corner property and the 35 ft. setback is an undue hardship inherent to the property.

Mr. Norman confirmed the neighbor’s white vinyl fence has a zero (0) ft. setback.

Hearing no further comments or questions from the Applicant or the Board, the meeting was opened to the public.

Mr. Stan Flory, 4 Prospect Avenue, was sworn in to testify. Mr. Flory resides on the right side of the Applicant’s property. He confirmed he currently does not have a fence and does not mind sharing the fence with the Applicant.

Mr. Paul, 111 Homer Avenue, was sworn in to testify. He stated he has an existing shed and testified that the fence variance was granted at the time he was building the shed. Mr. Paul gave permission to share his fence.

Seeing no one further from the public, the public portion was closed.

Mr. Weil motioned to approve the application as summarized by the Solicitor, with the condition that one portion of the fence would be shared; seconded by Mr. Cohen.

Ayes: Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Daddario, Mr. Leoncio, Mr. Senges.

Nays: None

**HE FIG G LLC**

1004 Laurel Oak Rd.

Block 198, Lot 10.06

Mr. Norman summarized the application stating the Applicant is seeking relief from Voorhees Code Section 152.062 and the limitation set forth in Use Variance Approval Resolution No. 19-08 to revise the limit for toddler programing from children two (2) years and older to children under the age of two (2) years. No changes to the internal or external features of the site or building or the operation of the Guidepost Montessori School at the Property are contemplated or proposed as a result of the requested modification; and all other variances, waivers and/or other relief as may be deemed necessary by the Board and/or its professionals.

Mr. Prime, Attorney on behalf of the Applicant, stated the Montessori School has been opened for a few weeks and is fully operational. He further stated at the end of 2018 the Board granted the use to the Applicant for YALE school and at that time the Applicant testified the age of children. The Applicant indicated since they opened, there has been an increase in the demand for children under the age of two. Therefore, he would like to modify the initial use variance to allow children under the age of two (2) years old to attend. Since it is strictly an age modification, the Applicant brought in a professional planner to confirm that there is no change to the property.

Having heard Mr. Prime’s testimony, the Chairman expressed concern about the operational aspect of the school should the age modification be granted. Mr. Senges stated he felt as though it is inconceivable that there would be no operational changes with the change in the age of the children.

Mr. Elon Walshe, Vice-President Construction and Development and Montessori School owner was sworn in to testify. Mr. Senges asked whether Mr. Walshe had necessary qualifications to testify about operational aspects. Mr. Walshe responded that personally no but he is qualified to speak on behalf of the company. Mr. Senges reiterated he strongly feels there is a need for testimony from someone on behalf of the school who has first-hand operational knowledge.

Mr. Prime expressed his confidence in that Mr. Walshe is indeed qualified to testify. He added Mr. Miller, Planner on behalf of the Applicant, can provide additional testimony.

Mr. Walshe stated the school is governed by the State and they also have their own standards for supervision. He offered a specific example about change in class sizes and age cutoffs and stated the range of children are roughly 18 months, could be less, could be more. In some cases cutoffs are strict, in some cases when children are younger, there are less maximum group sizes. There are hard guidelines required for the number of teachers and students which translates into physical size of the building. They don’t plan on changing anything in the building. They don’t need more teachers to accomplish what they are doing. The reason they are seeking a variance is that they have a demand for slightly younger children; and that is good for the growth of the school.

Mr. Senges inquired about adjustments in personnel required to be made in order to add younger children. The Chairman further explained that in his opinion caring for a young infant should require some additional personnel and resources. Even though the application states no changes, Mr. Senges is not convinced. Adding younger children must require change(s), e.g. in furniture, etc. Mr. Senges asked Mr. Walshe if he could present state requirements. Mr. Walshe did not have the numbers and indicated that Montessori is a school and not a day care. The staff are educators regardless of the children’s age.

Mr. Norman requested Mr. Walshe to clarify if the establishment is in fact a school or a day care center. To that end, Mr. Walshe confirmed that they choose to be known as a school as it fits their educational model best.

Mr. Senges confirmed the Board needs to know exactly how the younger age groups need to be cared for and what changes in operations are going to be required by State law. Until the Board knows this, he feels as though they would not be able to approve the application.

Mr. Prime asked if it would be advisable to bring in another expert and what type of expert it should be. Mr. Senges explained that it has to be a person who runs the school on a day-to-day basis.

Mr. Walshe suggested it could be their Assistant Director, or Director of the School Success, or Director of Compliance. Mr. Senges agreed to hear any or all of the above as long as they have the knowledge and ability to provide safety to the children and that the school has the ability to meet State guidelines. Based on the information provided, most likely there will have to be two (2) individuals.

Mr. Miller, Professional Planner on behalf of the Applicant, was sworn in to testify. He stated the purpose and condition of the required variance satisfies both positive and negative criteria. The condition is only being varied to a minor extent. In essence if the applicant can show the facility will not change which is evident in this case, it is not going to result in any intensification of the use. So to that extent Mr. Miller believes the purpose of the original condition is maintained. Benefits outweigh the detriment. In terms of negative criteria, there is nothing in this condition that would impact the zoning plan and the application is consistent with land use pattern. The number of students does not change, 132 students remain, only the age changes. It provides the same general societal benefit.

Mr. Prime asked the Chairman to reconsider and accept the application tonight.

Mr. Senges pointed out the Applicant has no knowledge and/or expertise and the Board can certainly vote if Mr. Prime would want the Board to vote at this time.

Questions from the Board included the staffing plan. How it will be serving smaller age groups and how it will affect the day-to-day operations. Also, from a planning perspective, would Mr. Walsh have a different summation for a day care versus a school? Mr. Walsh responded there would be no physical changes to operations, no changes to parking, no additional teachers; a day care is considered a different use.

Another observation from the Board members is by adding a different age group, the proportion of younger to older kids is skewed. The Board wants to make sure the school is not turning into a day care.

Mr. Senges questioned if Mr. Prime wishes the Board members vote on the application. Mr. Prime declined and mentioned that he would like to continue the application for the next possible date.

Hearing no further comments or questions from the Applicant or the Board, the meeting was opened to the public.

Seeing no one further from the public, the public portion was closed.

Mr. Weil motioned to continue with the application to March 12, 2020; seconded by Mr. Cohen. Mr. Norman stated the action date would have to be extended. Mr. Prime agreed and will forward same in writing. The continuance will not have to be noticed.

Ayes: Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Daddario, Mr. Leoncio, Mr. Senges.

Nays: None

**Christopher Unger and Erica Fine**

29 Ashton Drive

Block 304.01, Lot 11

Mr. Norman summarized the case stating the Applicant is seeking Bulk Variance relief from Section 150.12(B)(1) to allow a fire pit area to remain with a side-yard setback of 2.7 feet, where in no event shall any improvement be permitted within 5’ of a side or rear property line; from Section 150.13(A)(1) to allow the rear yard coverage to remain at 38.2% where a maximum of 25% rear yard occupancy is permitted; Section 150.13(A)(6) to allow the fire pit area to remain with a rear yard setback of 9.2 feet where a minimum of 15 feet is required; from Section 150.13(A)(6); to allow the garden wall to remain at 13 feet from the rear property line where a minimum of 15 feet is required; from Section 150.13(A)(6) to allow the pool surround to remain at 12.6 feet from the rear property line where a minimum of 15 feet is required; from Section 152.015(D)(3) to allow the fire pit area to remain with a side yard setback of 2.7 feet where a minimum of 15 is required; and seeking any and all other variances, waivers and/or other relief as may be deemed necessary by the Board and/or its professionals.

Mr. Unger and Ms. Fine were sworn in to testify.

Mr. Winckowski, Engineer for the Board, noted a correction stating the Applicant will require a variance from 30.6% impervious coverage where 25% is required.

Mr. Senges stated typically the Board would require the presence of the contractor to know exactly what happened. The Board would then let the contractor know that they cannot do business in Voorhees. However, based on the Applicant’s letter, the Board determined that having the contractor appear would be a problem.

Mr. Winckowksi stated the Board should request an explanation of the hardships as to why the improvements are needed and what conditions exist that would warrant the relief. He further stated the Board needs to focus on conditions of the lot which is irregularly shaped with a rear corner cut off. There are three (3) components to review that require bulk variances; the fire pit with surrounding patio, decorative landscaped walled planter, and the pool and its running patio which warranted a retaining wall. The wall was required to support the pool because of the topographical issue. Hardships for relief for the 317 sq. ft. overage from the drainage standpoint is still acceptable. All runoff water goes into the stormwater management. The fire pit is the most egregious issue. Mr. Winckowski further stated the original plan for the pool was conforming, but the need for variances arose because of the slope on the property. He then mentioned that there is no issue with the stormwater runoff.

Mr. Senges stated this is not a situation of forgiveness. If the Applicants came before the Board when they were building, there wouldn’t be issues for approval. The Board now will need to hear testimony that supports the need for the variances. There are no infringements caused upon neighbors, no water runoffs; other than those created by the landscaper. The most egregious thing is the Applicant had an approved plan that they didn’t follow. Their defense is the landscaper was negligent.

Mr. Norman marked the letter as Exhibit A-1, dated December 23, 2019.

Ms. Fine stated that perhaps it was not possible to stick to the plan because of the steep slope and that if they were aware, they would have applied for variances. She pointed out their letter summarized they really tried to do everything correctly and the required variances do not cause any hardships on their neighbors.

Mr. Unger added the reason of choosing that particular place for the fire pit is because it was the only flat spot. They have a 6-year old daughter and the slope presented a safety issue for her. Mr. Unger further stated he did not want to remove any additional trees and there are no homes located behind their property.

The meeting was opened to the public.

Mr. Mohammad Shariff, 30 Ashton Drive, was sworn in to testify. Mr. Shariff extended his support to the applicants and stated that since they have moved in, they take great pride in their home. Their children go to school together. The only issue was with the contractor, not the improvements. He has no complaints. Moreover, his family is using their facilities.

Mr. Morgan Hebert, 30 Forrest Hills, was sworn in to testify. Mr. Hebert confirmed that they live in the back of the property. They have 6 ft. fence blocking the Applicant’s fire pit. It is not a distraction at all, he only wishes there was an access gate to the fire pit. Mr. Hebert is very supportive of what they have done to the property.

Mr. Adam Carna, 27 Ashton Drive, was sworn in to testify. Mr. Carna stated he moved in before the Applicant did. Mr. Carna is very happy with what the couple has done with the property as the previous owner kept the property messy and dirty. He also utilizes the pool and further stated there is no issue with water runoff.

Seeing no one further from the public, the public portion was closed.

Mr. Weil motioned to grant all the requested relief; seconded by Mr. Cohen.

Ayes: Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Daddario, Mr. Leoncio, Mr. Senges.

Nays: None

Seeing no further business Mr. Senges made a motion to adjourn, seconded by Mr. Weil.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Stella R. Sytnik

Zoning Board Secretary