

The Chairman called the meeting via zoom 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. Pannu, Mr. Senges.

Absent: Mr. Daddario, Mr. Cupersmith.

Also, present: Chris Norman, Board Solicitor, Stella R. Sytnik, Zoning Board Secretary.

MINUTES FOR APPROVAL

Mr. Weil motioned to approve the Minutes from the July 9th Zoning Board meeting; seconded by Mr. Cohen; none (0) against; Mr. Pannu abstained.

RESOLUTIONS FOR APPROVAL

Mr. Weil motioned to approve **RESOLUTON NO. 20-12** seconded by Mr. Willard; none (0) against.

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

Nays: None.

Abstention: Mr. Pannu.

Mr. Weil motioned to approve **RESOLUTON NO. 20-13** seconded by Mr. Willard; none (0) against.

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

Nays: None.

Abstention: Mr. Pannu.

NEW BUSINESS

Chris Libich & Melanie Buck

13 Holly Oak Drive East
Block 202.04, Lot 2

Mr. Norman summarized the Application stating the Applicant is seeking relief to permit 4.5’ high fencing in side yard 10’ from the corner property line.

Mr. Norman swore Mr. Libich in before the testimony.

Mr. Libich explained to the Board he wants to build the fence primarily for safety of the two (2) small children. There is a lot of traffic. This is the only flat open area naturally enclosed by trees and landscaping.

Mr. Senges asked if there were other structures in Mr. Libich’s backyard.

Mr. Libich confirmed there were a shed and a patio.

Mr. Senges noted it looked like Mr. Libich's property being a corner property is being hampered by two (2) front yard setbacks. He updated the Board it appeared as though to meet the setback requirements - which they call hardships - would be impossible in this situation.

Mr. Libich agreed that if they were to put the fence where the Ordinance requires, there won't be any area left for any activities, particularly because the trees take space and the land behind the house slopes away; so it would be a hardship. He would definitely want to save the trees.

Mr. Senges opened the floor to the Board for comments and questions.

Mr. Cohen commented that he lives in the same development and it is definitely a hardship because it is a corner lot property. It is indeed heavily traveled, and he understands the reasons for the relief request.

Mr. Thomas Di Cinti residing at 3 Holly Oak Drive was sworn in by the Solicitor.

The submitted plan did not show his property; therefore, Mr. Di Cinti was promoted to a panelist to be able to share the drawing of his property with pink and yellow identifying his property line and proposed fence location.

Mr. Di Cinti advised the Board that the way this fence would be located if installed, it would be up to the street practically, which is the front of his house.

He had a conversation with another neighbor, and they are not comfortable. He is open to alternatives but not to the way it is proposed.

Mr. Senges asked about the distance from the driveway to the fence. Mr. Di Cinti replied it is about 4 or 5 feet, but let's say 5 feet. He has a row of abrovidis through entire length of his driveway, so visually he won't be able to see the fence itself; however, from the street you see the fence. His concern is that it will affect the value of his property should he decide to sell it. Also, he does not know anyone in the Lost Tree development who will have a fence so comes out almost to the curb.

Mr. Senges asked the Applicant if the fence was 10 ft from the curb. Mr. Libich confirmed that it was. Mr. Senges inquired whether Mr. Libich would be amenable to moving it further in from the curb. Mr. Libich said that he would as long as it would be acceptable.

Mr. Senges asked Mr. Di Cinti if it would be acceptable to him and Mr. Di Cinti answered negative as it would still come in front of his house.

Mr. Senges confirmed with the Solicitor the Ordinance requirements of 35 ft from the sidewalk. He further if Mr. Libich could come in 35 ft, he would be in compliance with the Ordinance, and won't be needing to come in front of the Board. However, he is requesting 20 ft hence the application. He added most of the proposed fences in these situations are solid, this one is see-through.

Mr. Di Cinti expressed his concern that the fence comes so far forward to which Mr. Libich objected that there is only a small portion of the fence that comes that far out. Besides he would be willing to adjust landscaping.

Mr. Cohen reiterated it is a real hardship for the Applicant as majority of his property is in the front.

Di Cinti stated it was not his fault.

Mr. Di Cinti expressed his concern about new residents coming in a year and asked the Chairman if they would have been approved for the fence. Mr. Senges confirmed they will have to come in front of the Board for approval.

Mr. Senges explained applicants typically require to put up a solid fence, not aluminum. He shared historical data in that any corner lot is an inherent hardship. Normally, fencing is not allowed more than 10 feet from the curb. The site triangle in this situation is not on the side, it is in the rear yard. He believes without the exception they would approve this type of fence however not 10 ft from the curb.

Mr. Senges asked for a possible compromise. He stated the Board members want to make all parties happy, but they don't want to interfere with their property and use of their backyard. The fence goes 10 ft x 10 ft so it is a 100 ft backyard. If Mr. Libich were to come up with 20 ft setback, he would only lose 10 ft of the backyard property. Unfortunately, he would need to cut some trees.

Mr. Senges asked for all possible options to resolve the issue. He added they Board likes to see neighbors compromise.

Mr. Norman advised that the Applicant has the option to put the application the way it is. Alternatively, he has a legal right to amend it.

Mr. Norman further explained by "amended" he means more footage from the curb and additional landscaping.

Mr. Senges asked Mr. Libich would be willing to move the fence as far as 20 ft off the curb. Mr. Libich asked for clarification.

Mr. Norman clarified the Township will be fine with 15 ft plus landscaping 6 ft of abrovidis.

Mr. Di Cinti expressed his preference to be as far back as possible. He pointed out to the Board that they are setting up a precedence.

Mr. Senges replied they had set up a precedence long time ago. He added they Board reviews similar applications 8-10 times per year, and they get approved, as in the recent example last month.

Mr. Norman advised all that this property is very unique and presents a pronounced hardship. From a legal perspective, this is not setting up any precedent because the property is so unique.

Mr. Di Cinti commented once again on the lack of appeal for potential buyers. He noted, however, he does understand the issue of safety for kids and grandkids.

Mr. Senges acknowledged this is the best compromise that could have been achieved under the circumstances. Seeing no one from the public willing to speak on behalf of the Application, Mr. Senges brought it back to the Board for the discussion and/or a vote.

Mr. Norman read the motion to amend the application and its current variance of 10 ft. The variance will be 15 ft in from the edge of the sidewalk, buffered on the street side by 6 ft high abrovidis and any existing 6 ft high rhododendrons, and a minimum of 5 ft from the next-door neighbor's driveway.

Mr. Cohen motioned to approve the Application seconded by Mr. Weil.

Ayes: Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Leoncio. Mr. Pannu.

Nays: None

Abstention: Mr. Senges

Mr. Norman advised the Applicant that there is 45 days right of appeal from the date of the publication of the notice of decision. He noted the Board approved it tonight, and it is Mr. Libich's decision if he wishes to proceed or wait for 45 days appeal timeline to expire.

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

Stella R. Sytnik
Zoning Board Secretary