

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. Weil, Mr. Willard, Mr. Daddario, Mr. Leoncio, Mr. Cupersmith, Mr. Senges, Ms. Tulman.

Absent: Mr. Cohen, Mr. Pannu.

Also, present: Stuart Platt, Board Solicitor; Ben Matlack, CME; Stella Sytnik, Zoning Board Secretary.

Mr. Platt swore in Mr. Daddario for the next 4-year term as a Board Member.

RESOLUTIONS FOR APPROVAL

Mr. Cupersmith motioned to approve the following seven (7) Resolutions; seconded by Mr. Weil; none (0) against:

RESOLUTON NO. 21-01 appointing Zoning Board Solicitor

RESOLUTON NO. 21-02 appointing Zoning Board Engineer

RESOLUTON NO. 21-03 appointing Zoning Board Secretary

RESOLUTON NO. 21-04 appointing Zoning Board Chairman

RESOLUTON NO. 21-05 appointing Zoning Board Vice-Chairman

RESOLUTON NO. 21-06 appointing Zoning Board Development Review Committee

RESOLUTON NO. 21-07 appointing Zoning Board Completeness Review Committee

Ayes: Mr. Weil, Mr. Willard, Mr. Cupersmith, Ms. Tulman, Mr. Senges.

Abstain: Daddario, Leoncio

Nays: None

Mr. Weil motioned to approve the following Resolution seconded by Mr. Cupersmith; none (0) against:

RESOLUTON NO. 20-18 Seth and Ilana Scholl seeking relief from prior conditions of Use Variance and Minor Subdivision approval.

Ayes: Mr. Weil, Mr. Daddario, Mr. Leoncio, Ms. Tulman, Mr. Cupersmith, Mr. Senges.

Abstain: Mr. Willard

Nays: None

MINUTES FOR APPROVAL

Mr. Weil motioned to approve the Minutes from the January 7th Zoning Board Reorganization meeting; seconded by Mr. Cupersmith; two (2) abstentions, none (0) against.

Ayes: Mr. Weil, Mr. Willard, Mr. Leoncio, Ms. Tilman, Mr. Cupersmith, Mr. Senges

Abstain: Mr. Daddario, Mr. Leoncio

Nays: None

NEW BUSINESS**Good Starts, LLC**

2 Eastwood Court
Block 230.17, Lot 11

Mr. Platt summarized the application stating that the applicant is seeking bulk variance relief from Section 150.12 (B)(1)(2) of the Voorhees Township Zoning Ordinances to allow the previously installed 6 ft high vinyl fencing to remain as installed within a side yard where fencing exceeding 4 ft in height is prohibited from being installed outside of a rear yard.

Mr. Platt invited the applicants and witnesses to join as panelists.

Mr. Paul Schultz, the applicants' attorney, introduced the owner of Good Starts LLC, Chrystien Santos, and his tenant Joseph Graixinha.

Mr. Platt swore in Mr. Santos residing at 12 Notre Dame Drive, Delran, NJ 08075, and Mr. Graixinha residing at 2 Eastwood Court.

Mr. Schultz summarized his clients' request. Mr. Graixinha moved in the house on 2 Eastwood Court and made improvements. In the process of doing multiple improvements, he installed a 6 ft fence where it is not allowed by the Ordinance. It was brought to his attention by the code inspector when he applied for other permits. They are asking for forgiveness and would like to provide justification as to why Mr. Graixinha needs a high fence.

Mr. Schultz asked Mr. Santos to give Mr. Graixinha authority to speak to justify his need for the high fence.

Mr. Senges asked about the nature of Good Starts LLC business. Mr. Santos explained it is a building company, they buy old properties, fix, renovate and sell them.

Mr. Senges asked if all these improvements have been done since the time of his tenant's ownership.

Mr. Santos confirmed it is correct and added that they were trying to obtain other permits. While applying for other permits, they submitted a survey and mention a new vinyl fence. This is where he believes some miscommunication occurred. They thought the fence was included in the permits, but it was not. They found out later that it was not part of the other permits' application.

Mr. Schultz noted there is a couple of small permitting issues his clients are resolving with Ms. Bradley who indicated the fence issue is a log jam item and needs to be addressed first.

Mr. Senges asked about the nature of other permits.

Mr. Shultz stated one of them is a permit to install gazebo and there is not much else. There are decorative stones by the trees for landscaping, the landscaping is not finished. They applied for permits to do the landscaping.

When addressing the fence issue, Mr. Santos noted it was a mistake not to apply for the fence permit.

Mr. Schultz asked Mr. Graixinha to explain why the 6 ft fence was needed. He believes his client's testimony would demonstrate benefits and lack of negatives.

Mr. Graixinha stated he lives with his fiancé and two boys, 13 and 15. They have a swimming pool. The two (2) reasons for a 6 ft solid vinyl fence are privacy and security. They have small kids. They want to make sure no one is in the harm's way.

Mr. Senges explained the Ordinance does not prohibit fences; however, one cannot install a fence higher than 4 ft forward of the rear of the house which was righteously noted by the Zoning Officer. The Chairman asked why higher fence forward of the rear property line in that specific location was necessary.

Using previously submitted to the Board photographs, Mr. Graixinha explained that his house model Tesoro has a little nook and French doors. The French doors face neighbors' backyard, it is a big door, and they would like some privacy, that is why he went further with the fence.

Mr. Graixinha apologized for not being proactive and not knowing about the fence regulations. Had he known the Ordinance requirements, he would not have done it.

Mr. Senges advised he is well familiar with Tesoro models and understands why Mr. Graixinha needs privacy by utilizing the space on the patio. He is not infringing on the neighbors. In this case, his side faces the neighbor's backyard whereas typically it would face the side. This is because the neighbors occupy a corner lot property.

Mr. Schultz asked Mr. Graixinha if the fence is well maintained and if it is consistent with the types of fencing in the neighborhood.

Mr. Graixinha answered affirmative to both questions.

Mr. Schultz asked Mr. Graixinha if anybody complained or indicated any problems with the fence.

Mr. Graixinha stated there were no complaints, and he believes it was an improvement for the neighborhood.

Mr. Schultz advised the Board this concludes his presentation.

Mr. Senges addressed the Board for any questions or comments.

Seeing no questions from the Board, engineer or attorney, Mr. Senges closed this portion of the meeting and opened it to the public.

Ms. Julie Morgan residing at 5 Eastwood Court was sworn in by Mr. Platt.

Ms. Morgan testified she has no offence with the fence. She likes what the tenant did with the house. It looks beautiful, upgraded, it enhanced the property and the entire block. Everything looks top notch, totally positive improvement.

Mr. John Cassidy residing at 6 Eastwood Court was sworn in by Mr. Platt.

Mr. Cassidy stated he has been living there for six (6) years. Before Mr. Graixinha moved in, the house was not in good shape. He completely renovated the house. He and his family are great people, generous to the neighbors. Mr. Cassidy admires the fence and oftentimes tells his wife he would like a similar fence.

Seeing no further comments from the public, Mr. Senges closed public portion and brought it back to the Board for additional comments or a motion.

Mr. Weil motioned to grant relief as outlined by Mr. Platt seconded by Mr. Willard.

Yay: Mr. Weil, Mr. Willard, Mr. Daddario, Mr. Leoncio, Ms. Tulman, Mr. Cupersmith, Mr. Senges.

Nay: none

Abstentions: none

Mr. Platt confirmed the motion carries and asked Mr. Schultz to further advise his client on obtaining all the necessary permits.

Mr. Schultz thanked the Chairman and Board members.

Mr. Senges invited the next Applicant.

Dr. Michael Rear

3 Alton Avenue
Block 206, Lot 8.02

Mr. Platt summarized the application stating the Applicant is seeking relief for continuation of existing conditions or variances in the R100A Zone (MDR), to allow setback for accessory structure or improvement at the existing residence, being sheds, and location as existing (§152.015[D][3]), with number and square footage size on existing concrete slab/patio (§150.13A.7), with bathroom (4' x 6') addition to home existing under 15' from the side yard (§152.015.D.3) and, while overall impervious coverage is compliant, variance if found rear yard is more than 25% (§150.013.A.1), and fence height and setback (§150-14), and continuation of pre-existing conditions, and such other and further variances or waivers as the Board may deem necessary and warranted.

Mr. Platt advised the Board that there is lot of things that need to be explained to the Board.

Mr. Robert Mintz, Dr. Rear's attorney, joined the meeting.

Mr. Platt swore in Dr. Rear, the applicant and his next-door neighbor Mr. Donald McDonald who will be testifying on behalf of the applicant.

Mr. Mintz gave an overview of the property referencing submitted survey, photographs, aerial and topographic survey. He advised the Board that Dr. Rear learned there were open and not approved permits prior to purchasing. Dr. Rear purchased the house from a widow. He did not want her to deal with these issues, so he took responsibility upon himself.

Mr. Mintz summarized the steps Dr. Rear took in his attempt to address the open permits issue: he removed two (2) sheds out of four (4). The remaining sheds exceed 200 sq. ft. requirement as they are 224 sq. ft. in aggregate; they are next to each other. An addition was a 4' x 6' bathroom, 10.6 ft from the yard where 15 ft is required, but there is a sidewalk in the front of the house and the addition is contained within that sidewalk. Gazebo is about 9 ft from the side as well as patio and pavers, and there is 6 ft vinyl fence on the inside of the property and gazebo is shielded by that fence. Therefore, one variance they are asking for is to allow the shed in the side yard. There is enough space behind the shed. The fencing would allow for privacy.

Before calling Dr. Rear to testify, Mr. Platt outlined all requested variances to the Board members for clarification. Mr. Platt then discussed each variance with Mr. Mintz in minute details.

Mr. Matlack noted the shed setback was one (1) foot.

Mr. Senges asked for clarification of which sheds were removed and which remained.

Mr. Mintz provided explanation for the sheds' status referencing the survey; confirmed by Dr. Rear.

Mr. Platt noted the three (3) required variances for the sheds as follows: one shed exceeds square footage, another shed is in the side and not in rear, and it does not meet setback requirements.

Mr. Matlack confirmed no variances required for two (2) sheds since they no longer exist. However, two remaining sheds are still over the limit as they are 224 sq. ft. in aggregate.

Mr. Platt asked the applicant to clarify several items, such as whether the patio and pavers are around the pool or around gazebo, if those patio and pavers are within the side yard setback requirements, whether the vinyl fence variance was required, and if any part of the 6 ft fence is forward of the rear building.

Mr. Matlack asked about setbacks of the side for the bathroom addition.

Mr. Platt advised they needed to apply for a fence variance. The resume was prepared by the Zoning Officer and is rather vague.

Mr. Mintz asked and was told that yes, they do need to apply for a fence variance.

Mr. Platt asked if there were any other variances before they go back to the fence.

Mr. Mintz noted accessory uses in rear yard cover 27.3% as opposed to required 25% but it was before Dr. Rear removed the sheds. He added the excess now is no more than 2.3%.

Mr. Senges addressed the fence issue by stating they ran into a similar situation with a Zoning Officer, whereas the applicant was denied replacing the fence because it was outside their property line.

Mr. Platt acknowledged they can never approve the encroachment. To avoid encroachment is a condition of any approval.

Mr. Platt pointed out they already have 6 (six) or 7 (seven) variances, and even though it is not a quantity but a quality of variances that matters, nevertheless the encroachment needs to be eliminated.

Mr. Mintz promised they will comply with the Board's mandate.

Mr. Platt added if they get permission to have encroachment, it would be between the two property owners. The Board cannot allow encroachment as a matter of law, and the encroachment will need to be removed. Dr. Rear will have to relocate that portion of the fence to make sure it is within his property line.

Dr. Rear acknowledged he understands and agrees.

Mr. Platt apologized to the Board on behalf of the Zoning Officer for a poorly written resume. He added this is not a clear application.

Mr. Platt asked Mr. Senges how he wants to deal with it.

Mr. Mintz brought to the Board's attention they are taking all these responsibilities from the previous owner, she is a widow and they tried to make sure she did not have to deal with all these issues.

Mr. Platt noted Mr. Mintz's client purchased the property from the previous owner, so the Board goes through the same analysis, and the fact is the variances are there. He added they do not hold his client accountable, but on the other hand, they apply the same rules, so his client must justify the variances.

Mr. Platt asked if the Applicant has a planner present.

Mr. Mintz answered negative.

Mr. Senges suggested to review all the variances as well as justification for each, one by one.

Mr. Mintz asked his client to confirm his opening remarks were accurate and correct. Dr. Rear confirmed they were.

Mr. Mintz asked his client to testify what the sheds were for, if the pool equipment could be stored in the outside, if there were a pool and a fishpond in the backyard, if the gazebo is located off the fence and if there is 2.5 ft distance between gazebo and the property line, and the shape of the lot.

Mr. Senges asked Mr. Mintz which of the variances he was addressing in this testimony.

Mr. Mintz responded he was leading up to the fact that the lot is of the irregular shape. With respect to both sheds, there is a fence behind it that may need to be addressed but it provides privacy and shields the sheds. He further asked his client if the sheds are within the allowed height, under 8 ft. Dr. Rear confirmed they are. Any other improvements causing drainage issues with the neighbors' properties? Dr. Rear replied no, not to his knowledge. Is it accurate that his next-door neighbor to the east has an L-shaped lot and his patio sits to the rear of Mr. McDonald's fence? It faces away from his house. Dr. Rear confirmed that is correct.

Mr. Senges inquired about justification for the setbacks.

Mr. Mintz responded by first confirming with his client that the inground pool limits the space where the shed can be placed.

Mr. Mintz further noted that the improvements promote ability to store equipment indoors. Dr. Rear confirmed that otherwise it will be an eye sore.

Mr. Mintz added utilization of the home will provide the source for renewable energy.

Mr. Platt noted the fact that somebody can put solar panels is not a justification. Mr. Platt further advised the Board that this sort of argument can be made for any case, and that by doing something nice of itself is not a justification to grant this type of variances.

Mr. Mintz stated he was hoping this Zoning Board would recognize the value of the proposition and that this is one of the purposes of a Zoning Board.

Mr. Platt explained this has nothing to do with the variances. The Board needs testimony they are not able to store equipment in the garage or at home. Solar panels are not justification for variances.

Mr. Mintz reached out to other issues such as fence and sheds' setbacks justification. He noted that besides privacy and the fact that they are not causing any negative impact, the sheds are sought for storage purposes.

Mr. Senges pointed out there is plenty of room to move the shed. The Township has plenty of residents who do not have 224 sq. ft. sheds and there are plenty of companies who move sheds if it needs to be moved.

Mr. Weil added the shed is right on the property line because the fence is encroaching on another property.

Mr. Mintz agreed with the Chairman's point regarding the move of the shed to the back of the property.

Mr. Senges pointed out some trees may need to be removed from the righthand side as well.

Mr. Platt pointed out to Mr. Mintz that the Board comprised of volunteers is not supposed to redesign their application to add measurements. He suggested the Chairman should request the application to be "cleaned up" before re-submitting to the Board.

Mr. Mintz mentioned they have a clear sense from the Board that if they move the shed to a compliant location it would be sufficient; the only real concern is the gazebo; they want to leave it where it is. He asked permission for the neighbor to testify to that there is no objections from his end. If the Board concur, they should be able to reach a conclusion tonight.

Mr. Senges inquired if Mr. Mintz would be willing to amend the entire application and would only ask for the gazebo variance.

Upon confirming with his client, Mr. Mintz answered affirmative.

Mr. Platt asked about the second shed and if they would be willing to remove it to comply with the 200 sq. ft. in aggregate requirement.

Dr. Rear answered affirmative.

After deliberations and further discussion about pavers, bathroom addition, fence, and rear property accessory structures coverage, the Chairman and Mr. Mintz came to an agreement.

Mr. Senges asked about the fishpond depth and whether it met the Ordinance requirements.

Dr. Rear confirmed it did as it was only 2 ft. deep. He added the Zoning Officer did not make any comments about the fishpond while reviewing the application.

Mr. Platt asked if there was any more testimony.

Mr. Mintz invited Mr. Donald McDonald residing at 5 Alton Avenue to testify and speak up if he had any objections to the variances for the gazebo.

Mr. McDonald stated he has lived there for 36 years. He never had any negative effects of the gazebo, no drainage issues; also, other neighbors having pools would be consistent with Dr. Rear's property.

Mr. Senges stated he has no further questions.

Mr. Weil asked whether the pond and pool should not count unfavorably and be included in the 25% rear yard coverage.

Mr. Platt explained the Ordinance requires no more than 25% in the back yard with accessory uses, regardless of where it is impervious or not, so both pond and pool should be included in calculations.

Mr. Matlack presented calculations to confirm that if they removed 8 x 8 shed it would still be 26.99% where 25% maximum required. It is 313 sq. ft over maximum allowable which is about 1.5 parking space as a reference.

Mr. Platt asked Mr. Matlack if as an engineer he sees the drainage and runoff issues as potential detriment, were they to allow all these structures in the backyard.

Mr. Matlack noted everything drains in the rear of the property, into the wetlands and woods; so no, it will not be a major detriment. He asked the applicant if they moved the sheds, will they be doing any additional grading.

Dr. Rear confirmed grading is not anticipated.

Mr. Senges asked Mr. Mintz about the gazebo variance.

Mr. Mintz stated the location of the gazebo is constrained by the inground fishpond and pool. He asked to consider Mr. Mc Donald's testimony and to allow his client to leave it as is.

Mr. Platt concluded the applicant came a long way complying with the Ordinance by removing one shed, relocating the other shed. He added the bathroom addition is not going to result in drainage based on the Board engineer's assessment. Mr. Platt believes gazebo can be moved or removed. He asked members of the Board to think whether the applicant presented enough reasons for justification to leave the gazebo. He added the Board never allows folks to inconvenience neighbors for their own enjoyment; however, in this case, the neighbor, Mr. Mc Donald is ok with the gazebo. Mr. Platt further advised the Board to consider the fact that they should try to avoid detriment such as light noise to the neighbor on the other side of the fence. He is leaving it up to the Board. The Board needs to make a decision if it promotes some goal of zoning and is allowed within residential uses. It must benefit the public. In his opinion and from the totality standpoint of the entire application, it would be purely the Board's decision.

Mr. Senges asked if there is electric or lighting inside the gazebo and if there is, would the applicant be willing to disconnect the lighting.

Dr. Rear confirmed there is lighting inside the gazebo and he would absolutely be willing to disconnect it.

Mr. Weil noted that based on the arial, it looks like the subject home is back further from the neighborhood house and he does not think it is such a stretch for the gazebo.

Seeing nothing further from the applicant and/or the Board, Mr. Senges opened the floor to the public.

With no one in the public to comment on the application, the Chairman closed public portion and brought it back to the board for a motion.

Mr. Platt presented the motion stating the applicant agreed to amend the application by doing the following:

1. The applicant will relocate the 160 sq ft vinyl shed into the rear yard area outside of any setbacks and will not change the grading of the rear yard in order to do that.

2. The applicant will remove the 64 square foot shed and all other sheds except for the above from the property.
3. The applicant will reduce the height of the fence outside of the rear yard area to four feet as required by the Ordinance.
4. The applicant will not install any lighting in the gazebo.

The applicant shall remove the fence encroachment on the eastern side of the property so Mr. Platt stated the above would be amended application with all the conditions. He asked if Mr. Mintz took exception to anything he had said and if he agrees with amended application and stipulations that Mr. Platt put in.

Mr. Mintz confirmed that he did.

Mr. Platt asked if Dr. Rear agrees with everything he has heard. Dr. Rear confirmed that he did.

Mr. Platt suggested they should put time limitation to get the fence reduced and shed relocated and whether 120 days to do that would be reasonable.

Mr. Mintz responded he believes this is adequate and he agrees.

Mr. Senges thanked Mr. Platt on behalf of the Board and noted how much they appreciate his assistance with this application and that they could not have done it without Mr. Platt's guidance.

Mr. Weil motioned to accept the amended application as outlined by Mr. Platt seconded by Mr. Cupersmith.

Ayes: Mr. Weil, Mr. Willard, Mr. Daddario, Ms. Tulman, Mr. Cupersmith, Mr. Senges.

Nay: none

Abstentions: Mr. Leoncio

Mr. Platt stated the motion carries and the amended application is granted.

Mr. Mintz thanked Mr. Platt for his input and the Board members for their patience and time.

Mr. Platt thanked Dr. Rear on behalf of the Board for his willingness to comply. He stated this is not a punishment and added Dr. Rear did a great job convincing the Board he will be compliant with any requirements. Mr. Platt further noted that Mr. Mintz will guide him in terms of building permits as it will be stated in the resolution.

Mr. Senges asked the Board for any additional discussion.

Mr. Cupersmith expressed concern over recently emerged sound issues during zoom meetings.

Ms. Tulman suggested to purchase a specific model of a mic with a headset to improve sound quality to those who experience difficulties with hearing others and/or being heard.

With no further business to discuss, Mr. Cupersmith motioned to adjourn the meeting seconded by Mr. Weil.